

Tuesday
February 24, 1998

Federal Register

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- WHEN:** March 24, 1998 at 9:00 am.
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Title 3—**Executive Order 13075 of February 19, 1998****The President****Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Establishment. (a) There is hereby established the Special Oversight Board for Department of Defense Investigations of Gulf War Chemical and Biological Incidents (“Special Oversight Board”). The Special Oversight Board shall be composed of not more than seven members appointed by the President. The members of the Special Oversight Board shall have expertise relevant to the functions of the Special Oversight Board and shall not be full-time officials or employees of the executive branch of the Federal Government.

(b) The President shall designate a Chairperson and a Vice Chairperson from among the members of the Special Oversight Board.

Sec. 2. Functions. (a) The Special Oversight Board shall report to the President through the Secretary of Defense.

(b) The Special Oversight Board shall provide advice and recommendations based on its review of Department of Defense investigations into possible detections of, and exposures to, chemical or biological weapons agents and environmental and other factors that may have contributed to Gulf War illnesses.

(c) It shall not be a function of the Special Oversight Board to conduct scientific research.

(d) It shall not be a function of the Special Oversight Board to provide advice or recommendations on any legal liability of the Federal Government for any claims or potential claims against the Federal Government.

(e) The Special Oversight Board shall submit an interim report within 9 months of its first meeting and a final report within 18 months of its first meeting, unless otherwise directed by the President.

Sec. 3. Administration. (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Special Oversight Board with such information as it may require for purposes of carrying out its functions.

(b) Special Oversight Board members may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). The administrative staff for the Special Oversight Board shall be compensated in accordance with Federal law.

(c) To the extent permitted by law, and subject to the availability of appropriations, the Department of Defense shall provide the Special Oversight Board with such funds as may be necessary for the performance of its functions.

Sec. 4. General Provisions. (a) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, that are applicable to the Special Oversight Board, except that of reporting annually to the Congress, shall be performed by the Secretary of Defense, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Special Oversight Board shall terminate 30 days after submitting its final report.

(c) This order is intended only to improve the internal management of the executive branch and it is not intended, and shall not be construed, to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,
February 19, 1998.

[FR Doc. 98-4816
Filed 2-23-98; 8:45 am]
Billing code 3195-01-P

Rules and Regulations

Federal Register

Vol. 63, No. 36

Tuesday, February 24, 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.

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

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 210 and 226

Child and Adult Care Food Program:

Improved Targeting of Day Care Home Reimbursements

RIN 0584-AC42

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Child and Adult Care Food Program regulations governing reimbursement for meals served in family day care homes by incorporating changes resulting from the Department's review of comments received on a January 7, 1997, interim rule. These changes and clarifications involve: The appropriate use of school and census data for making tier I day care home determinations; documentation requirements for tier I classifications; tier II day care home options for reimbursement, including use of child care vouchers; calculating claiming percentages/blended rates using attendance and enrollment lists; and procedures for verifying household applications of children enrolled in day care homes. This final rule also amends the National School Lunch Program regulations to facilitate tier I day care home determinations by requiring school food authorities to provide elementary school attendance area information to sponsoring organizations. These revisions implement in final form the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to target higher CACFP reimbursements to low-income children and providers.

EFFECTIVE DATE: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, Department of Agriculture, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302, or telephone (703) 305-2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). This rule is expected to have a significant impact on a substantial number of small entities. Specifically, it will impact day care homes classified as tier II day care homes. Additional discussion of this impact is contained in the Economic Impact Analysis following this rule.

Executive Order 12372

The Child and Adult Care Food Program (CACFP) and the National School Lunch Program (NSLP) are listed in the Catalog of Federal Domestic Assistance Under No. 10.559 and 10.555, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

Unfunded Mandate Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Food and Consumer Service generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of

UMRA generally requires the Food and Consumer Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

This final rule contains information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The final rule contains changes to the information collection requirements that were not included in the interim rule. Specifically, the final rule contains changes based on recent day care home participation data and on information contained in a recent study, and a requirement that school food authorities provide, upon request, elementary school attendance area information for schools in which 50 percent or more of enrolled children have been certified eligible for free or reduced price meals. In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the information collection or recordkeeping requirements included in this final rule have been submitted for approval to OMB. When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

Title: Child and Adult Care Food Program: Improved Targeting of Day Care Home Reimbursements.

Description: Under this final rule, some existing recordkeeping activities contained in 7 CFR parts 210 and 226 would be affected. The OMB control numbers are 0584-0006 and 0584-0055, respectively.

Description of Respondents: State agencies, school food authorities and sponsoring organization of family day care homes.

Estimated Annual Recordkeeping Burden: Changes in the annual burden

hours and participation figures from the interim rule are based on recent participation data and information contained in a recent study, Early Childhood and Child Care Study, Profile of Participants in the CACFP: Final Report, Volume 1, prepared in May of 1997. Specifically, adjustments were made in the number of National School Lunch Program State Agencies (SA), the number of sponsoring organizations of family day care homes, and the annual frequency of sponsoring organization's recordkeeping requirements. In addition, an adjustment was made to the projected number of households of tier II children who complete and submit an application. The use of this data results in the deletion of 23,813 reporting hours and the addition of 12,208 recordkeeping burden hours from the burden hours used in the interim rule estimate of burden hours to the Child and Adult Care Food Program.

The final rule also requires that school food authorities provide, when available and upon request by Child and Adult Care Food Program sponsoring organizations, elementary school attendance area information for schools in which 50 percent or more of enrolled children have been certified eligible for free or reduced price meals. This provision was not specifically addressed in the interim rule because the Department assumed that attendance area information would be publicly available to sponsoring organizations. However, given the importance of attendance area information in making tier 1 day care home determinations using school data, and commenter concern regarding the availability of attendance area information, the final rule requires school food authorities to provide this information. The final rule does not require the creation or collection of new data, but rather the provision, upon request, of attendance area information that already exists, thereby imposing a minimal burden. The inclusion of this provision results in the addition of 39,752 reporting burden hours to the burdens for the National School Lunch Program.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the EFFECTIVE DATE section of this preamble. Prior to any judicial challenge to the

provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the CACFP: (1) Institution appeal procedures are set forth in 7 CFR 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR part 3015.

This rule implements in final form the amendments set forth under sections 708(e) (1) and (3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. 104-193, which was enacted on August 22, 1996. In accordance with section 708(k)(3)(A) of PRWORA, the Department published an interim rule, instead of a proposed rule, on January 7, 1997 (62 FR 889). Due to errors contained in the preamble and regulatory text of the rule published on January 7, 1997, the Department published a correction document on February 6, 1997 (62 FR 5519), and extended the original 90-day comment period to 120 days, through May 7, 1997.

Among other things, this final rule amends § 210.9(b)(20) of the National School Lunch Program regulations to require that school food authorities provide, when available and upon request by CACFP sponsoring organizations, elementary school attendance area information for schools in which 50 percent or more of enrolled children have been determined eligible for free or reduced price meals. This provision was not specifically addressed in the interim rule published on January 7, 1997 (62 FR 889) because the Department assumed that such information would be publicly available to sponsoring organizations. However, a number of sponsoring organizations have expressed concern about their ability to obtain this information. Attendance area information is essential to making tier I day care home determinations using school data, an option specifically required by the PRWORA amendments. In addition, the requirement to provide attendance area information only pertains to those school food authorities in which such information already exists, thereby imposing a minimal burden. For these reasons, the Administrator of the Food and Consumer Service has determined, in accordance with 5 U.S.C. 553(b)(3)(B), that it is impracticable and contrary to the public interest to take prior public comment and that good cause therefore exists for promulgating this provision in the final rule without prior public notice and comment.

In addition, this final rule amends § 226.15(f) to include criteria on the appropriate use of school and census data for making tier I day care home determinations. These criteria place primary emphasis on the use of elementary school free and reduced price enrollment data. The preamble to the interim rule expressed the Department's strong preference for school data over census data, stated several reasons for this preference, and indicated that the Department would subsequently issue guidance for use by sponsoring organizations in making tier I day care home determinations. The Department issued this guidance on March 10, 1997. Because the criteria were not set forth in the interim rule, there was no opportunity for formal public comment. However, sponsoring organizations have made their initial tier I determinations in accordance with the criteria set forth in the March 10 guidance, and in this final rule. For this reason, the Administrator of the Food and Consumer Service has determined, in accordance with 5 U.S.C. 553(b)(3)(B), that it is impracticable and contrary to the public interest to take prior public comment and that good cause therefore exists for promulgating this provision in the final rule without prior public notice and comment.

The final rule is being published based on comments received on the interim rule, in accordance with the requirement contained in section 708(k)(3)(B) of PRWORA. The Department anticipates that it may later propose additional changes to address issues that arise after implementation of the two-tiered reimbursement structure on July 1, 1997.

Background

This rule implements in final form the amendments set forth under sections 708(e) (1) and (3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, which was enacted on August 22, 1996. In accordance with section 708(k)(3)(A) of PRWORA, the Department published an interim rule, instead of a proposed rule, on January 7, 1997 (62 FR 889).

In addition to requiring that an interim rule be published by January 1, 1997, section 708(k)(3)(B) of PRWORA also required the Department to publish a final rule on these provisions by July 1, 1997. These extremely short timeframes limited the Department's ability to benefit from public input in the development of the interim or final rule. Thus, although the Department allowed 120 days for public comment on the interim rule, the requirement to

publish a final rule by the date for implementation of the two-tiered system (July 1, 1997) meant that the final rule could not reflect any knowledge gained by the Department, State agencies, or sponsoring organizations in operating the two-tiered system.

The Department recognizes the importance of State and local-level input in developing effective program regulations that carry out the intent of PRWORA while minimizing administrative burden. Therefore, the Department is interested in receiving comments on implementation and operation during the first year of the two-tiered system. Based on the comments received, the Department may develop, at a later date, a proposed rule to implement any needed changes within the statutory framework.

In an effort to improve the targeting of benefits to low-income children, PRWORA establishes a two-tiered system for reimbursing meals served in family day care homes participating in the Child and Adult Care Food Program (CACFP), effective July 1, 1997. Under this system, tier I day care homes are those that are located in low-income areas or those in which the provider's household income is at or below 185 percent of the Federal income poverty guidelines. All meals served to enrolled children in tier I day care homes are reimbursed at essentially the same rates as prior to the two-tiered system, as adjusted for inflation, regardless of the income levels of enrolled children's households. Tier II day care homes are those which do not meet the location or provider income criteria for a tier I day care home. All meals served in tier II day care homes are reimbursed at lower rates, unless the provider elects to have the sponsoring organization identify children from income-eligible households. In that case, meals served to identified income-eligible children are reimbursed at the tier I rates.

The Department received 713 comments on the interim rule published in the **Federal Register** on January 7, 1997. Of these, 21 were from State agencies administering the CACFP or National School Lunch Program (NSLP); 140 from sponsoring organizations of day care homes; 352 from day care home providers; 5 from advocacy groups; 192 from parents and other members of the general public; and 3 from others, including one from a State Representative, one from a public school system, and one from a school administrator's association.

In general, commenters were opposed to the changes made to the CACFP by Public Law 104-193. Of the commenters, 583 specifically expressed

concern about the negative impact they anticipate that these provisions will have on child care and, therefore, on children, including: (1) Potentially significant dropout of providers from the CACFP, which could result in an increase in the number of "underground," unlicensed day care homes; (2) a possible increase in day care rates if tier II providers choose to "pass along" the effect of lost meal reimbursement to parents in the form of higher day care rates; (3) a potential decrease in the quality of meals served to children in CACFP day care homes, due to the lower reimbursement rates; and (4) an overall decrease in available quality child care at a time when new work requirements resulting from welfare reform necessitate an increased supply. Instead of the two-tiered reimbursement system set forth in PRWORA, 103 commenters suggested that budgetary savings could be achieved by maintaining one set of rates, but by lowering them. Only three commenters expressed support for the two-tiered reimbursement system.

Several of the concerns expressed by commenters were addressed in the economic impact analysis, which was published as an appendix to the interim rule (62 FR 904). Overall, it is expected that non-low-income providers and parents will bear most of the costs resulting from the two-tiered reimbursement system—as was the intent of PRWORA. First, as a result of the two-tiered reimbursement system, the annual rate of growth of the number of day care home providers participating in the CACFP is expected to decline. This anticipated decline in the annual rate of growth is attributed to a combination of decreased incentive for non-low-income providers to join the program, due to the lower reimbursement rates, and an increase in the number of these providers leaving the program. Similarly, the decreased CACFP reimbursements may cause some currently regulated and sponsored homes not only to drop out of the CACFP, but also to consider moving out of licensed care altogether.

As noted by some of the commenters, providers who remain in the program and operate tier II day care homes will most likely respond to their decrease in revenues from the CACFP through some combination of raising child care fees, absorbing the loss, and reducing their operating costs. Though many factors influence a provider's response, including the competitiveness of the child care market in which the provider operates, affected providers (tier II) will probably choose to pass some of their revenue loss on to their clientele,

primarily non-low-income parents, through higher child care fees. To cut operating costs, tier II providers may also change their management practices relating to food service and developmental opportunities and materials. Providers may decide that certain snacks under the old, higher CACFP reimbursements will not be served under the new, lower rates, such as an afternoon snack. Providers might also respond by decreasing meal portions, although by specifying minimum serving sizes, CACFP regulations limit the extent to which this could be done. Among other comparisons, the CACFP study mandated by section 708(l)(1)(E) of PRWORA will compare the nutritional quality of meals served in post-tiering tier II day care homes with the quality of meals served in those day care homes before tiering.

The comments received on the provisions of the interim rule, and the Department's response to them, are discussed in greater detail in the preamble that follows. Although the Department carefully considered all of the comments received, many of the changes recommended by commenters are not feasible under the language of PRWORA. Any provisions that are not discussed in the preamble to this final rule were not addressed by commenters, and are retained as set forth in the interim rule. However, in several cases, the preamble addresses provisions on which the Department received no comments, in order to bring to readers' attention certain significant provisions of PRWORA and the interim rule.

Tier I Day Care Homes

Definition

The interim rule, in § 226.2, defined a "tier I day care home" as:

(a) A day care home that is operated by a provider whose household meets the income standards for free or reduced-price meals, as determined by the sponsoring organization based on a completed free and reduced price application, and whose income is verified by the sponsoring organization of the home in accordance with § 226.23(h)(6);

(b) A day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price meals; or

(c) A day care home that is located in a geographic area, as defined by FCS based on census data, in which at least 50 percent of the children residing in the area are members of households which meet the income standards for free or reduced price meals.

The definition promulgated in the interim rule was based on the definition

of "tier I family or group day care home" contained in section 17(f)(3)(A)(ii)(I) of the National School Lunch Act (NSLA), as amended by section 708(e)(1) of Public Law 104-193.

No comments were received on the definition of "tier I day care home" as added by § 226.2 of the interim rule. Therefore, this final rule retains the definition of "tier I day care home" as set forth in the interim rule.

Provision of Area Data

Unless a provider demonstrates that household income meets the free or reduced price eligibility standards, a sponsoring organization must use elementary school or census data—referred to collectively in this preamble as "area data"—to qualify the day care home as a tier I day care home. Section 708(e)(3) of PRWORA amended section 17(f)(3) of the NSLA to set forth requirements pertaining to the provision of area data for use in making tier I day care home determinations.

School Data

Based on the provisions of PRWORA, the interim rule added § 210.9(b)(20) to the NSLP regulations to require that school food authorities provide (by March 1, 1997, and by December 31 each year thereafter) the State agency that administers the NSLP with a list of all elementary schools under their jurisdiction in which 50 percent or more of enrolled children have been determined eligible for free or reduced price meals as of the last operating day of October. Similarly, § 210.19(f) as added by the interim rule requires each State agency that administers the NSLP to provide (by March 15, 1997, and by February 1 each year thereafter) the State agency that administers the CACFP with a list of all elementary schools in the State in which 50 percent or more of enrolled children have been determined eligible for free or reduced price meals. Section 210.19(f) also requires the State agency that administers the NSLP to provide the list to any sponsoring organization that requests it. In addition, § 226.6(f) as amended by the interim rule requires the State agency that administers the CACFP to provide its sponsoring organizations with this list of elementary schools by April 1, 1997, and by February 15 each year thereafter.

The Department received 64 comments concerning the provision of elementary school free and reduced price enrollment data for the CACFP. Of these, five commenters objected to the requirements because they believe that they place an unnecessary burden on school food authorities and/or NSLP

State agencies. For example, two commenters pointed out that this requirement is unrelated to the administration of the NSLP. The Department agrees that provision of these data is not directly related to administration of the NSLP, and is cognizant of the modest administrative burden it may place on State and local entities. Nevertheless, section 17(f)(3)(E)(ii) of the NSLA, as amended by section 708(e)(3) of PRWORA, explicitly requires that NSLP State agencies annually provide this data in order to facilitate tier I day care home classifications in the CACFP. Despite commenters who indicated that this is a new reporting burden, § 210.8(c) of the NSLP regulations previously required that school food authorities report the total number of enrolled free, reduced price, and paid children to the NSLP State agency on the October claim for reimbursement. In order to submit this data, school food authorities must already consolidate the enrollment data submitted by individual schools. In addition, while there was no prior Federal requirement that school food authorities report the names of participating schools to the State agency, many States already collected this information. Finally, although PRWORA required NSLP State agencies to provide the list directly to sponsoring organizations upon request, the interim rule requires that NSLP State agencies also provide it to CACFP State agencies, which will provide it to all sponsoring organizations. We expect that this requirement will reduce the number of requests received by NSLP State agencies from sponsoring organizations, thereby further minimizing the burden associated with this provision. Finally, the burden is also minimized due to the fact that more than three-fourths of States operate the CACFP out of the same State agency as the NSLP.

In addition, two commenters recommended that the annual February 15 date by which the CACFP State agency must provide the list of schools to sponsoring organizations be changed to April 1 or April 15, in order to provide the CACFP State agency additional time to assemble the data and distribute it to sponsoring organizations. While the interim rule requires that the CACFP State agency provide the school data to sponsoring organizations by February 15, which is only two weeks after its receipt from the NSLP State agency, the form in which the data is received from the NSLP State agency should not require any work by the CACFP State agency beyond duplicating and mailing the data to sponsoring

organizations. In the Department's opinion, two weeks is sufficient time to perform this task. Furthermore, it is critical that the data be provided in as timely a manner as possible after receipt by the CACFP State agency, so that sponsoring organizations are able to make their tiering determinations with current information.

Therefore, this final rule makes no change to §§ 210.9(b)(20) and 210.19(f) regarding the requirement that school food authorities and NSLP State agencies, respectively, provide free and reduced price enrollment data for use by CACFP sponsoring organizations. In addition, no change is being made to the February 15 annual date by which the CACFP State agency must provide sponsoring organizations with the school data, contained in § 226.6(f)(9).

Sixteen commenters on the interim rule indicated that the free and reduced price enrollment data used in the CACFP should be based on a month other than October. These commenters expressed concerns that requiring October data will impose a new reporting burden on school food authorities and NSLP State agencies, and that data from another month would be more reflective of schools' free and reduced price enrollment. With regard to whether data from another month would more accurately reflect the free and reduced price enrollment of schools, five commenters recommended specific months that should be used instead of October, including January, March, May and June. Four commenters recommended that each NSLP State agency decide on the appropriate month for provision of data. In addition, 12 commenters questioned whether sponsoring organizations could themselves obtain updates of free and reduced price enrollment data from school food authorities or individual schools more frequently than annually, and one commenter recommended that NSLP State agencies provide updated data to sponsoring organizations on a monthly basis. Finally, 185 commenters expressed concern about the accuracy of the school data provided.

The Department continues to believe that October data accurately reflects the free and reduced price enrollment of schools, and also imposes the least burden on school food authorities. Nevertheless, in response to commenter concerns, this final rule permits NSLP State agencies to establish the list of schools on free and reduced price data on data from a month other than October.

At a minimum, PRWORA and the interim rule require that free and reduced price enrollment data be

provided to sponsoring organizations on an annual basis. In the interests of minimizing any burden associated with provision of this data, and the potential for administrative confusion which could result from monthly fluctuations in the data, this final rule does not require that data be provided more frequently than annually, and permits State agencies to update the list of schools more frequently only under unusual circumstances.

The circumstances under which State agencies may update the list help address commenters' concerns regarding the accuracy of the data provided. If, for example, free and reduced price data for a newly opened school becomes available after the list has already been provided, it would be logical for the NSLP State agency to provide to the CACFP State agency and requesting sponsoring organizations the new data for this particular school, and any other schools affected by its opening. Similarly if, after the list of schools is provided, it is discovered that data provided by a particular school food authority is several years old, the NSLP State agency should provide new data on those schools. However, this means that routine monthly fluctuations in a school's free and reduced price data may not be used to qualify or disqualify a home from tier I status after its initial determination of eligibility has been made. Although PRWORA and the interim rule explicitly allow a State agency to change a tier I determination if information becomes available indicating that a home is no longer in a qualified area, this should be done only when there has been a substantial, sustained shift in an area's socioeconomic makeup, not when there are minor fluctuations in a school's free and reduced price enrollment from one month to the next. In order to ensure that all sponsoring organizations (whose service areas often overlap) have equal access to any updated information, and to help ensure the integrity of the data provided, sponsoring organizations will not be permitted to use free and reduced price information obtained directly from local school food authorities without the express prior consent of the State agency administering the CACFP. Sponsoring organizations that become aware of particular circumstances that they believe would warrant the issuance of new data should notify the CACFP State agency, which can communicate with the NSLP State agency as necessary.

Accordingly, this final rule amends §§ 210.9(b)(20) and 210.19(f) to permit NSLP State agencies to base the list of free and reduced price schools for the

CACFP on data as of the last operating day of the preceding October, or another month specified by the NSLP State agency. In order to accommodate NSLP State agencies which select a month other than October, § 210.9(b)(20) is also amended by adding language to clarify that school food authorities must annually provide the list of schools to the NSLP State agency by December 31, or, if data is based on a month other than October, within 60 calendar days following the end of the selected month. Similarly, § 210.19(f) is amended by adding language that NSLP State agencies must annually provide the list of schools to the CACFP State agency by February 1, or within 90 calendar days following the end of the month designated by the NSLP State agency if data is based on a month other than October. In addition, § 226.6(f)(9) is amended to clarify that the CACFP State agency must annually provide the list of schools to sponsoring organizations by February 15, or within 15 calendar days of receipt of the list from the NSLP State agency if data is based on a month other than October. Section 210.19(f) is further amended in this final rule to permit NSLP State agencies to provide updated free and reduced price enrollment data on individual schools, but only when unusual circumstances render the initial data obsolete.

In addition, the Department received 272 comments which expressed concern about the availability or accessibility of elementary school attendance area information, which is necessary for sponsoring organizations to obtain in order to be able to use the free and reduced price enrollment data.

First, many commenters suggested methods of classifying tier I day care homes which would greatly reduce, or even eliminate the need for attendance area information. For example, 38 commenters suggested that State agencies be given the authority to qualify larger geographic areas, such as cities or school districts, as tier I areas, thus eliminating the need for individual elementary school attendance area information for those areas. Similarly, six commenters suggested using data from the elementary school geographically closest to the provider, instead of data from the school serving the provider. Finally, 15 commenters recommended that sponsoring organizations be permitted to accept a provider's self-declaration of the elementary school serving the day care home as sufficient proof of the home's location in the school attendance area. Several of these commenters also recommended that sponsors be required to verify provider self-declarations

through obtaining elementary school attendance information for a sample of their providers.

Although the Department appreciates commenters' suggestions and recognizes that they potentially would reduce the burden of obtaining attendance area information, none of the suggested alternatives is permissible under the provisions of PRWORA. Due to the definition contained in section 17(f)(3)(A)(ii)(I) of the NSLA, as added by section 708(e)(1) of PRWORA, which describes a "tier I day care home" in part as a day care home "served by a school enrolling elementary students," it would be contrary to the law to permit larger geographic areas to qualify as tier I areas, or to use data from the elementary school geographically closest to a provider's home. In addition, as discussed in a memorandum issued on April 25, 1997, a sponsor may not rely on a provider's self-declaration of elementary school attendance area for making a tier I determination. To comply with the law and the interim rule, a sponsor must independently substantiate and document any attendance area information obtained from its providers. (Additional discussion of provider self-declaration of elementary school attendance areas may be found later in this preamble under "Documentation Requirements.")

In addition, 62 of the commenters indicated that obtaining elementary school attendance area information for schools with a free and reduced price enrollment of 50 percent or more is burdensome and difficult for sponsoring organizations. Another of the concerns, expressed by nine commenters, was that school districts will not release attendance area information to sponsoring organizations due to concerns about liability for erroneous tier I classifications made using school data. In addition, 11 commenters indicated that there is no attendance area information available for some school districts, and 50 commenters indicated a concern that sponsoring organizations will have difficulty keeping up with school boundaries because they change frequently. Finally, 42 commenters suggested that NSLP State agencies be required to provide attendance area information, either directly to sponsoring organizations or through the CACFP State agency, along with the list of elementary schools in which 50 percent or more of enrolled children are determined eligible for free or reduced price meals. Many of these commenters indicated that NSLP State agency provision of attendance area information would eliminate

duplication of effort by sponsoring organizations, and ensure that the information obtained and used by sponsors is consistent.

When the interim rule was drafted, it was assumed that attendance area information would be publicly available to sponsoring organizations. In response to concerns expressed on this issue after publication of the interim rule, the Department issued a memorandum on February 10, 1997, in which NSLP State agencies were asked to urge their local school food authorities to make attendance area information available to sponsoring organizations upon their request.

Requiring NSLP State agencies to collect attendance area information from all elementary schools in the State with 50 percent or more of enrolled children identified as eligible for free or reduced price meals would, in most cases, place a substantial burden on NSLP State agencies. In addition, the Department believes it is unnecessary to impose an additional information collection requirement on NSLP State agencies when the information that sponsoring organizations need to make tier I day care home determinations is usually maintained by the local school district, and not by the NSLP State agency. Although NSLP State agencies are required by PRWORA and the interim rule to collect data from school food authorities regarding schools with 50 percent or more free and reduced price enrollees, attendance area information for individual schools is significantly more complex and varied.

However, given the significant commenter concern regarding the availability of attendance area information, this final rule requires school food authorities to provide elementary school attendance area information, when it is available for the schools under their jurisdiction, upon request by sponsoring organizations. We are requiring that the information be provided "when it is available" in recognition of the fact that not all school districts have distinct attendance areas attached to each of their elementary schools. The Department wishes to emphasize that it does not intend for school food authorities to create new information, but rather to provide sponsoring organizations only with attendance area information that already exists.

With regard to commenter concerns about a school district's liability if erroneous tier I day care home classifications are made based on school data, school districts should be assured, as previously indicated in our February 10, 1997, memorandum, that they will

not be held financially or otherwise liable by FCS for erroneous tier I classifications, whether due to a sponsoring organization's misuse of attendance area information, or due to an inadvertent error by the school district when providing the information. Conversely, sponsoring organizations will not be liable for erroneous information obtained from school food authorities as long as the sponsoring organization takes action to correct misclassifications made with erroneous school data as soon as it learns of the errors.

As indicated above, many commenters expressed concern that sponsoring organizations will have difficulty maintaining up-to-date boundary information because boundaries for some schools change frequently. The Department recognizes that changes to a school's boundaries made during a school year may not be immediately known by the sponsor. However, the Department expects sponsoring organizations to make reasonable efforts to use current boundary information when making tier I determinations with school data. Therefore, this final rule requires that sponsoring organizations obtain current attendance area information at a minimum on an annual basis, for use in classifying new day care homes that enter the program. However, as discussed above with regard to changes in a school's percentage of free and reduced price enrollment from year to year, the Department does not expect sponsoring organizations to routinely reclassify tier I day care homes before the three-year period has expired based on shifts in an elementary school's boundaries.

Accordingly, this final rule amends § 210.9(b)(20) by adding the requirement that school food authorities provide elementary school attendance area information, upon request by sponsoring organizations, when it is available for the schools under their jurisdiction. In addition, § 226.15(f) is amended by adding the requirement that when making tier I day care home determinations based on school data, sponsoring organizations shall use attendance area information that has been obtained, or verified with appropriate school officials to be current, within the last school year.

Census Data

Section 708(e)(3) of PRWORA amended section 17(f)(3)(E)(i) of the NSLA to require that the Secretary provide each CACFP State agency with appropriate census data showing the areas of the State in which at least 50

percent of children are from households meeting the income standards for free or reduced price meals. In addition, § 226.6(f)(9) as amended by the interim rule requires CACFP State agencies to make the census data available to sponsoring organizations.

A special tabulation of data showing, for each census block group in the country, the percentage of children age 0-18 who are from households meeting the income standards for free or reduced price meals has been used for determining area eligibility for the Summer Food Service Program (SFSP) since 1994. By January 1997, the Department had provided this special tabulation to all CACFP State agencies that do not also administer the SFSP. In addition, since the CACFP defines a child as age 12 and under, a special tabulation of census data for children ages 0-12 was provided to all CACFP State agencies in March 1997. Because the 0-12 tabulation was not initially made available to State agencies, they were instructed that they could permit sponsoring organizations to use either of the special tabulations for determining tier I day care home eligibility for the purposes of implementation. However, after September 30, 1997, all sponsoring organizations must use the special tabulation of census data for children ages 0-12 since that data corresponds with the definition of "child" in the CACFP.

No comments were received concerning the provision of census data. Therefore, this final rule retains the requirement contained in § 226.6(f) as added by the interim rule that State agencies provide sponsoring organizations census data.

Making Tier I Day Care Home Determinations

By requiring that school and census data ultimately be provided to sponsoring organizations, PRWORA places the responsibility for determining which day care homes are eligible as tier I day care homes on sponsoring organizations. This is accomplished by applying the school or census data provided by the CACFP State agency, or by determining and verifying that the households of day care home providers are eligible for free or reduced price meals.

Appropriate Use of Area Data

With regard to using area data for making tier I day care home determinations, the preamble to the interim rule expressed the Department's strong preference that sponsoring organizations use elementary school free and reduced price eligibility data over

census data in making tier I day care home determinations. The preamble also stated several reasons for this preference, and indicated that the Department would issue subsequent guidance for use by sponsoring organizations in making tier I day care home determinations.

The Department issued guidance on the use of elementary school and census data for making tier I day care home determinations in the form of a March 10, 1997, memorandum, well in advance of the April 1, 1997, regulatory deadline at § 226.6(f)(2) for sponsors' submission of management plan amendments which detailed their system for making tier I determinations. That guidance indicated that, because it is typically more recent and more representative of a given area's current socioeconomic status, school data must be consulted first when using area data to try to qualify a day care home as a tier I day care home. The only exceptions to this rule are in cases in which busing, or other "district-wide" bases of attendance, such as magnet or charter schools, result in school data not being representative of an attendance area, or when attendance areas are not used by the school district. In these cases, census data should generally be consulted by sponsoring organizations instead of school data.

In addition, the guidance indicated that if, after reasonable efforts are made, a sponsoring organization is unable to obtain local elementary school attendance area information, as discussed above, the sponsor may use census data to determine a day care home's eligibility as a tier I day care home. The Department did not attempt to define "reasonable efforts," but rather provided discretion to State agencies to provide additional guidance in this area to sponsoring organizations.

Finally, the guidance delineated circumstances in which sponsoring organizations may consult census data after having consulted school data which fails to support a tier I determination. These circumstances were: (1) Rural areas with geographically large elementary school attendance areas; or (2) other areas in which an elementary school's free and reduced price enrollment is above 40 percent. This approach enables sponsoring organizations to identify "pockets of poverty" with higher concentrations of low-income children which are not evident when only consulting the list of schools with 50 percent or more of enrolled children determined eligible for free or reduced price meals. The March 10 guidance pointed out, however, that NSLP State

agencies were only required by § 210.19(f), as amended by the interim rule, to provide a list of elementary schools in the State in which at least 50 percent of enrolled children are determined eligible for free or reduced price meals.

The Department received 166 comments on the appropriate use of school and census data, all of which indicated that there should be no restrictions on the use of school or census data for making tier I day care home determinations. Thirty-one of these commenters indicated their belief that PRWORA does not indicate a preference for one data source over another. Forty commenters indicated that the Department's policy restricting the use of census data to specific circumstances was contrary to what they believed to be PRWORA's intent to serve the maximum number of low-income children. Eleven commenters objected to the Department's position that school data should not generally be used in cases with significant student busing or other district-wide bases of attendance, such as magnet schools. Two commenters indicated that CACFP policy should not be based on comparisons to the SFSP because the programs are very different.

The Department prefers school data over census data because, in most cases, school data is more capable of accurately documenting an area's current socioeconomic status. Thus, placing primary reliance on school data for making tier I day care home determinations on the basis of area data is necessary to achieve the targeting goals of PRWORA. In addition, section 17(f)(3)(E)(ii)(II) of the NSLA, as amended by section 708(e)(3) of PRWORA, requires that in determining "whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I)," State agencies and sponsoring organizations "shall use the most current available data at the time of the determination." Subparagraph (A)(ii)(I) of section 17(f)(3) of the NSLA encompasses all of the methods (i.e., elementary school data, census data, and provider's household income) for making tier I determinations. In most instances, free and reduced price applications are collected annually by elementary schools. Therefore, these data are a far more recent statement of individual and aggregate economic circumstances than census data, which was collected in 1990.

One hundred twenty-two commenters expressed concern that elementary school free and reduced price data does not necessarily accurately reflect an

area's economic circumstances. These commenters cited several reasons, including that many low-income families choose not to apply for school meal benefits, and therefore, are not included in the school data. Although it is true that not all eligible households submit free and reduced price school meal applications on behalf of their school-age children, studies such as the National Evaluation of School Nutrition Programs (Abt Associates, 1983) have demonstrated that low-income households are more likely to apply on behalf of their elementary-age children than low-income households with older children. In addition, the special tabulation of census block group data is based on data submitted by a sample drawn from one out of every six American households. As such, it provides an excellent basis for generalizing about poverty at the national, State, and county levels. However, the average census block group includes approximately 400 housing units containing about 900 persons, and the one in six income sample is drawn randomly from all census block groups, not equally from within each block group. As a result, there is no way of predicting how many households within a particular block group completed and returned the household income questionnaire to the Bureau of the Census. The average number of households in a block group with school-age children which returned the questionnaire is unlikely to be greater than the average number of households with children enrolled in the local elementary school. Thus, census data for a particular block group is typically less accurate than school data.

Despite the shortcomings of census data, the Department believes that its inclusion in the law as a potential source for documenting a day care home's eligibility as a tier I day care home was purposeful and logical. There are, as noted above, certain circumstances in which school data does not more accurately portray the surrounding area's socioeconomic status than census data. In addition, if an area's socioeconomic makeup has not changed substantially since the census data were collected in 1990, there may also be other circumstances, such as rural and urban "pockets of poverty," in which census block group data can appropriately identify an eligible portion of an otherwise ineligible elementary school attendance area.

With regard to commenter objections to the Department's position that school data should not generally be used in cases with significant student busing or

other district-wide bases of attendance, the Department would like to reiterate that it promulgated this policy because in cases with district-wide bases of attendance, the school data does not necessarily reflect the household income levels of a particular geographic area. However, the March 10 guidance was not intended to require that, whenever busing occurred, census data would have to be used. Pupil busing might be used for a small portion of the student population and might not affect the elementary school data's ability to accurately portray an area's household income levels. Rather, the guidance was intended to underscore the Department's strong belief that Congress intended sponsoring organizations to utilize area data which best portrays the current household income levels of the area in which a particular day care home is located. Each community's situation may be potentially unique, and the State agency is in the best position to determine when busing or other circumstances have diminished the school data's ability to accurately portray an area's current household income levels. In addition, although the two programs are different in many operational respects, the Department believes that basing the CACFP policy on that for the SFSP is warranted in this situation due to the programs' similarities in establishing eligibility based on geographic areas.

Therefore, despite the concerns expressed by commenters, the Department continues to believe that school data is preferable to census data in the majority of cases, and that the policy set forth in the March 10 memorandum is consistent with the intent of Pub. L. 104-193 to utilize the best available data on aggregate socioeconomic conditions in order to better target CACFP benefits to low-income areas. Therefore, this final rule incorporates the criteria on the appropriate use of school and census data for making tier I day care home determinations set forth in the March 10, 1997, memorandum.

When making tiering determinations based on area data, sponsoring organizations are expected to make reasonable efforts to ensure that day care homes located within the geographic limits of an eligible school attendance area or census block group are classified as tier I homes only when appropriate. That is, if a sponsoring organization believes that a segment of an otherwise eligible elementary school attendance area is non-needy, the sponsoring organization must take additional steps to ensure that homes within the attendance area have been

appropriately classified. For example, although sponsors should consult school data first in most circumstances, it is possible that some socioeconomically diverse school attendance areas which meet the 50 percent threshold might include substantial segments which are well above the criteria for free or reduced price meals. In such cases, in accordance with the law's intent to target higher meal reimbursements to low-income children and providers, it would be necessary for the sponsor to consult census data as well as to determine which part of the elementary school attendance area should be classified as tier I. If a review of the census block group data confirms the sponsoring organization's belief that a segment of an otherwise eligible school attendance area is, in fact, above the criteria for free or reduced price meals, the sponsoring organization must reclassify the homes in that area as tier II day care homes, unless the individual providers can document tier I eligibility on the basis of their household income.

Finally, in order to comply with the March 10 memorandum, 12 commenters requested that NSLP State agencies be required to provide free and reduced price enrollment data on all elementary schools in the State, or at least for all schools with 40 percent or more free or reduced price enrollment, instead of the currently required 50 percent. The Department will not impose a requirement on NSLP State agencies beyond the explicit requirement in section 708(e)(3) of PRWORA that they annually provide a list of elementary schools with 50 percent or more free or reduced price enrollment. However, as indicated in guidance issued by the Department on May 16, 1997, the CACFP State agency can request that the NSLP State agency provide data for schools with between 40 and 49 percent free and reduced price enrollment, or even data for all elementary schools in the State. In fact, we are aware that several NSLP State agencies have already provided the additional data. However, sponsoring organizations which do not have access to data for schools below 50 percent may consult census data to attempt to qualify day care homes located in identifiable "pockets of poverty" as tier I day care homes. There may also be some limited circumstances in which using census data is appropriate to identify "pockets of poverty" even when elementary school free and reduced price enrollment is below 40 percent. In both of these circumstances, however, sponsors must first receive State agency

approval to ensure that determinations are made using the data, whether school or census, that is most reflective of an area's current household income levels.

Accordingly, this final rule amends § 226.15(f) to include the above-described criteria on the appropriate use of school and census data for making tier I day care home determinations.

Verification of Providers' Household Income

The definition of "tier I day care home" contained in section 17(f)(3)(A)(ii)(I) of the NSLA, as amended by section 708(e)(1) of Public Law 104-193, and as added to § 226.2 by the interim rule, requires that a day care home that qualifies as a tier I day care home on the basis of the provider's household income must have this income verified by the sponsoring organization. Therefore, the interim rule added to § 226.23(h)(6) the requirement that sponsoring organizations conduct verification of the provider's household income, for all day care homes that qualify as tier I day care homes on this basis, prior to approving the home as a tier I day care home. This verification must be performed in accordance with the verification performed for "pricing programs" in § 226.23(h)(2)(i), and consists of verifying the income information provided on the application by collecting documentation from the household, such as pay stubs or income tax statements.

The Department received 115 comments on the verification requirements for tier I day care homes. Of these, 71 commenters specifically objected to the verification requirements for tier I day care homes because they believe that the requirements are too burdensome. The Department received 44 comments which suggested that verification be conducted on a sample of applications, as currently required in the NSLP, instead of on all applications. Several of these commenters recommended that the sample consist of 3 percent of all applications; one commenter suggested a 50 percent sample. Three commenters supported more stringent verification than that required in the interim rule; for example, one commenter wanted pricing verification conducted on the applications of households of children enrolled in tier II day care homes. Finally, 17 commenters questioned how to perform the verification, or requested additional guidance, because sponsoring organizations of day care homes are unfamiliar with this type of verification. Seven commenters made recommendations concerning verification procedures.

The Department recognizes that verification of all applications for providers whose homes qualify as tier I homes on the basis of their household income places an additional administrative burden on sponsoring organizations. However, given the significant financial benefit associated with classification of a day care home as a tier I day care home, in the form of tier I reimbursements for meals served to all children enrolled in the home, Congress determined that it was necessary to impose these requirements to ensure that day care homes that are classified as tier I homes on the basis of household income are truly low-income, despite their location in an area which would not qualify them for tier I status. Thus, the explicit language of section 17(f)(3)(A)(ii)(I), as added by section 708(e)(1) of PRWORA, which defines a "tier I day care home" as one which is operated by a "provider whose household meets the income eligibility guidelines . . . and whose income is verified by the sponsoring organization of the home," requires that *all* day care homes qualifying as tier I day care homes on the basis of the provider's household income have income verified prior to participation as a tier I home. Conducting verification on only a sample of the applications, as recommended by commenters, would not meet the requirements of PRWORA. In addition, income verification is an important control for ensuring accurate tiering determinations.

In response to concerns expressed by sponsoring organizations and State agencies about how to perform the required verification for providers whose day care homes qualify as tier I homes on the basis of household income, the Department issued verification guidance for day care homes on May 14, 1997. This guidance was based on the verification guidance issued for the School Nutrition Programs, which is also used by CACFP day care centers.

Therefore, this final rule makes no changes to the requirements for verification of the income information for providers qualifying as tier I day care homes on the basis of their household income contained in the definition of "tier I day care home," and in § 226.23(h)(6) as added by the interim rule.

Misclassification of Tier I Day Care Homes

Based on the fact that there is a significant financial benefit associated with the classification of a day care home as a tier I day care home, § 226.14(a) as amended by the interim

rule requires State agencies to assess overclaims against sponsoring organizations which misclassify day care homes as tier I day care homes, unless the misclassification is determined to be inadvertent under guidance issued by FCS.

The Department received 66 comments on assessing overclaims for misclassification of day care homes. Of these, 16 commenters requested that the first six months or one year of implementation be considered a "grace period" during which overclaims for misclassification are not assessed against sponsoring organizations except in cases of fraud. Twenty-four commenters suggested that the amount under which an overclaim can be "disregarded" in the CACFP, which is currently \$100, be increased. Several of these commenters recommended that the disregard amount be based on a percentage of the sponsor's administrative budget. In addition, 12 commenters requested clarification or expressed concern that sponsoring organizations should not be assessed overclaims for reclassifications made by the State agency, in accordance with § 226.6(f)(9) as amended by the interim rule, based on information to which the sponsor could not reasonably have had access prior to the reclassification by the State agency. Finally, nine commenters requested guidance on how the Department will define "inadvertent" errors.

In accordance with the preamble to the interim rule, the Department issued guidance on assessing overclaims for improper tier I day care home classifications on August 6, 1997.

With regard to commenters' concerns that overclaims not be assessed for reclassifications made by the State agency based on information to which the sponsor could not reasonably have had access prior to the reclassification by the State agency, the Department wishes to stress that assessing an overclaim in such a situation would not be in accordance with the regulation or the August 6, 1997, guidance. In these situations, the sponsoring organization would be directed by the State agency to correct a home's determination, but an overclaim for the previous classification would likely not be appropriate.

In addition, this rule does not authorize a "grace period" during which State agencies would not have to assess overclaims against sponsors except in cases of fraud. This regulation and the guidance provided in support of this regulation do not require the establishment of a claim when the misclassification is inadvertent. The

Department does not intend for State agencies to assess overclaims for every tiering misclassification made by sponsors. As the guidance emphasizes, State agencies need not assess overclaims for occasional or inadvertent errors, but rather for widespread or recurring misclassifications, or a systemic problem that may indicate improper management by the sponsor. Finally, any change to the disregard amount must first be considered in a proposed rule. Thus, the Department cannot implement commenters' recommendations that the current disregard amount in the regulations at § 226.8(e) be changed in this final rule, but will monitor the impact of the two-tiered reimbursement structure on administrative payments and, if warranted, may include a change in a future proposed rulemaking.

Therefore, this final rule makes no changes to the language in § 226.14(a) as amended by the interim rule.

Length of Determinations

Based on section 17(f)(3)(E)(iii) of the NSLA, as amended by section 708(e)(3) of PRWORA, § 226.6(f)(9) as amended by the interim rule requires that determinations of a day care home's eligibility as a tier I day care home be valid for three years if based on school data, or until more recent data are available if based on census data. In addition, § 226.6(f)(9) indicates that a sponsoring organization, the State agency, or FCS may change the determination if information becomes available indicating that a home is no longer in a qualified area.

The Department received 17 comments on the length of tier I determinations. Of these, 12 commenters requested that the Department clarify that State agencies should not routinely require annual redeterminations of tiering status. In contrast, three commenters supported annual redeterminations. Finally, several commenters indicated that sponsors must have access to any information used by State agencies to reclassify a home's status.

The Department agrees with commenters who indicated that redeterminations of a day care home's eligibility as a tier I day care home based on school area data should not routinely occur on an annual basis. Guidance issued by the Department on March 12, 1997, clarified that the State agency should not require that redeterminations be made more frequently than the standards set forth in the law (i.e., three years if based on school data, and until more recent data are available if based on census data)

except in situations in which there is substantial, sustained socioeconomic change, not minor fluctuations in school data.

Accordingly, in response to commenter concern, this final rule amends § 226.6(f)(9) and 226.15(f) to clarify that State agencies should not routinely require annual redeterminations of the tiering status of day care homes based on updated elementary school data.

Documentation Requirements

As discussed above, PRWORA and the interim rule clearly place the responsibility for making tiering determinations on the sponsoring organization. The interim rule amended § 226.15(e)(3) to require sponsoring organizations to collect and maintain documentation sufficient to support their tier I determinations.

The Department received 15 comments on the documentation requirements contained in the interim rule. Specifically, these commenters supported permitting State agencies and/or sponsoring organizations to accept a provider's self-declaration of the elementary school serving the day care home as sufficient documentation of the provider's residence in a particular elementary school attendance area.

In addition to the requirements discussed above, the interim rule amended § 226.6(f)(2) to require each sponsoring organization to submit an amendment to its management plan by April 1, 1997, describing its system for making tier I day care home classifications, subject to review and approval by the State agency. Further, sponsoring organizations are ultimately liable for classifications which are not supported with proper documentation. State agencies must evaluate the documentation used by sponsoring organizations to classify day care homes as tier I homes as part of the review required by § 226.6(l). Finally, § 226.14(a) requires State agencies to assess overclaims against sponsoring organizations for improper classifications, unless the misclassification is determined to be inadvertent under guidance issued by the Department.

As stated in guidance issued by the Department on April 25, 1997, a sponsoring organization's system of classifying a day care home as a tier I home on the basis of elementary school data may involve a sponsoring organization requesting that each provider identify the elementary school serving the home. However, for the purpose of making a tier I

determination, a sponsoring organization may not rely on a provider's self-declaration that it is located within a particular elementary school's attendance area. To comply with PRWORA and the regulations, a sponsor must independently substantiate and document attendance area information obtained from its providers with official source documentation. Most commonly, sponsors would obtain an official school-boundary identifying map, match provider addresses to the map's boundaries, and retain the map as documentation. If such maps were unavailable, the sponsor might instead contact school officials to verify the attendance area of the schools serving its providers and document the results of this contact, either with a letter from school officials to the sponsor, or with a memorandum to the files detailing the information provided by school officials and the name of the official(s) consulted.

These documentation requirements are necessary in order to ensure that tier I classifications are being made in accordance with PRWORA, and to ensure that sponsoring organizations, and not the individual providers, are making tiering determinations, as required by PRWORA. This is especially important given the significant financial benefit to a provider associated with classifying a day care home as a tier I home.

Accordingly, in order to further clarify the documentation requirements for tier I day care home determinations, this final rule amends § 226.15(e)(3) to indicate that sponsoring organizations must document tier I determinations based on school data with official source documentation obtained from the school, as discussed above.

Tier II Day Care Homes

Definition

Section 226.2 as amended by the interim rule defines a "tier II day care home" as a day care home that does not meet the criteria for a tier I day care home. This definition is based on language contained in section 17(f)(3)(A)(iii) of the NSLA, as amended by § 708(e)(1) of PRWORA.

No comments were received on the definition of "tier II day care home" as added by § 226.2 of the interim rule. Therefore, this final rule retains the definition of "tier II day care home" as added by the interim rule.

Election by Providers

In contrast to tier I day care homes, in which all meals served are

reimbursed at the same rates (tier I), meals served in tier II day care homes may be eligible for two levels of reimbursement—the tier I rates for meals served to identified income-eligible children, and tier II rates, which are lower, for meals served to all other children.

Sections 17(f)(3)(A)(iii) (II) and (III) of the NSLA, as amended by PRWORA, clearly give day care home providers, and not their sponsoring organizations, the authority to elect whether income-eligible children are identified by the sponsoring organization. The interim rule amended sections 226.6(f)(2) and 226.18(b)(11) to require that sponsoring organizations inform providers of day care homes classified as tier II day care homes of the options available to them under PRWORA with regard to whether income-eligible children are identified or not. The approach that providers select determines if, and how, sponsors are to establish the eligibility of children enrolled in tier II day care homes.

After publication of the interim rule, the Department received several questions concerning the reimbursement approaches available to tier II day care homes. In response to these questions, the Department issued a memorandum on June 2, 1997, to clarify these provisions and to resolve any confusion on this issue created by the interim rule. The following explanation restates the information contained in the June 2, 1997, memorandum.

Under the first approach set forth in PRWORA and discussed in the interim rule, a day care home provider may elect to have its sponsoring organization attempt to identify all income-eligible children enrolled in the day care home. In that case, for all meals served to enrolled children who are determined by the sponsoring organization to meet the criteria for free or reduced price meals (i.e., they are from households with incomes at or below 185 percent of the Federal income poverty guidelines), the home receives the tier I rates of reimbursement. Meals served to all other enrolled children are reimbursed at the tier II rates of reimbursement, which are lower.

If a provider selects this first approach, the sponsoring organization may establish the eligibility of enrolled children in several ways. First, a child may be identified as income-eligible based on the sponsoring organization's receipt of a completed free and reduced price application which demonstrates that the household's income is at or below 185 percent of the Federal income poverty guidelines. (The Department acknowledges that the term

“income eligibility statement” more accurately describes the purpose of such a form in day care homes. However, this rule refers to “free and reduced price applications,” instead of “income eligibility statements,” in order to maintain consistency with the terminology contained in § 226.23.) In addition, PRWORA also expanded, for tier II day care homes only, the categorical eligibility options found in section 9(d)(2) of the NSLA to include other Federal or State supported child care or other benefit programs with income eligibility limits at or below 185 percent of poverty. Meals served to a child who is a member of a household which participates in, or is subsidized under, such a program would also be eligible for tier I rates of reimbursement. The categorically eligible programs used to demonstrate the eligibility of children enrolled in tier II homes include those programs identified in section 9(d)(2) of the NSLA (i.e., food stamps, certain state programs for Temporary Assistance for Needy Families, and the Food Distribution Program on Indian Reservations), as well as any qualifying Federal programs identified by the Department, or State programs identified by the State agency. (Section 226.23(e) of the regulations, which contains the categorically eligible programs identified in section 9(d)(2) of the NSLA, still contains references to Aid to Families with Dependent Children (AFDC), which was eliminated pursuant to PRWORA and replaced by the program for Temporary Assistance for Needy Families (TANF). The Department will issue a future rulemaking to incorporate the provisions of PRWORA concerning TANF into the CACFP regulations.)

To facilitate the use of expanded categorical eligibility in tier II day care homes, § 226.6(f)(10) as amended by the interim rule requires that State agencies provide all sponsoring organizations, on an annual basis, a list of State-funded programs which meet the criteria for expanded categorical eligibility. In addition, on March 18, 1997, the Department provided to State agencies a list of Federal programs that meet the criteria. As indicated in the preamble to the interim rule, we expect that the process of identifying eligible programs will be ongoing at both the Federal and State levels, especially at first. This may necessitate that the list of eligible programs be updated more frequently than annually, as qualifying programs are identified.

Children from households participating in, or subsidized under, one of these programs could be identified by the sponsor in two ways.

First, instead of providing income information on the free and reduced price application furnished by the sponsoring organization, the household could identify itself as participating in, or subsidized under, one of the categorically eligible programs listed on the application. Alternatively, a free and reduced price application would not be necessary for those children for whom the sponsoring organization or provider knows, on the basis of documented proof, to be categorically eligible for tier I reimbursement. This could occur when a provider receives payment for a child's care in the form of a subsidized voucher (and the voucher program has been identified by the Department or State agency as meeting the income criteria for categorically eligible programs); when the household provides the sponsor or provider with an official letter issued by the welfare or other office documenting the household's participation in a qualifying program, such as the National School Lunch Program; or when the sponsoring organization has legitimate access, for reasons unrelated to the CACFP, to eligibility information for another qualifying program. In these cases, a copy of the child's voucher, or other documentation by the sponsor of the child's participation in the other qualifying program, would be an acceptable alternative to completion of the free and reduced price application. Thus, when a provider elects the first option, the eligibility of each enrolled child may be established by submission of income information on a free and reduced price application, categorical eligibility information on a free and reduced price application, or with a copy of a voucher or other documentation available to the provider or sponsor.

When a household completes a free and reduced price application identifying itself as participating in, or subsidized under, one of the categorically eligible programs, § 226.23(e)(1)(iv) and the definition of “Documentation” in § 226.2 as amended by the interim rule require that such households provide the name of the enrolled child, the name of the qualifying program, and the household's case number for the program, along with the signature of an adult member of the household. Several commenters asked for clarification of the documentation requirements when the categorically eligible program in which the household participates does not issue case numbers to participants. Since not all programs issue case numbers, sponsors may accept a household's

identification on the free and reduced price application of its participation in an approved Federal or State identified categorically eligible program as sufficient documentation for categorically eligible programs that do not utilize case numbers. Though they are not required to do so for free and reduced price applications collected in tier II day care homes, sponsors may verify households' participation in these programs through contact with officials of the categorically eligible program.

The only partial exception to this rule involves the Head Start Program. Because of the restrictions on Head Start categorical eligibility contained in § 9(b)(6)(A)(iii) of the NSLA, the sponsoring organization may not simply accept the household's self-identification of a child as a Head Start participant. Specifically, the NSLA limits Head Start categorical eligibility to Federally funded, income-eligible participants. Because parents of Head Start participants likely will not know whether their children are in Federally funded slots, the sponsoring organization must obtain documentation from the Head Start grantee which certifies that the child is: (1) Enrolled in a Federally funded Head Start slot; and (2) is from a household which meets Head Start's low-income criteria. The Department will issue a rulemaking in the near future to codify this provision of the law. However, sponsoring organizations and State agencies must comply with this provision in the meantime because it is explicitly contained in the law.

The second approach set forth in PRWORA recognizes that some day care providers may not want any of the households of the children in their care to receive free and reduced price applications, a fact pointed out by many commenters on the interim rule. Under this approach, the provider may elect to have the sponsor identify only categorically eligible children, under the expanded categorical eligibility provision, and receive tier I rates of reimbursement for the meals served to these children. In this case, as described above, the sponsor would identify only those children whom the sponsoring organization or provider knows, on the basis of documented proof, to be categorically eligible for tier I benefits, and would have on file only copies of vouchers or other proof of participation in an eligible program rather than free and reduced price applications.

The Department would like to emphasize that the above two approaches to identifying income-eligible children would not permit a provider to selectively identify for its

sponsoring organization those children whom the provider suspects or believes may be income-eligible, based on the provider's personal estimate of a household's socioeconomic status, and have its sponsoring organization send applications only to those households. The only time that a "selective identification" approach may be used is when either the sponsor or provider already possesses documented evidence of the child's or household's participation in, or subsidy under, a categorically eligible program. In these cases, the documentary evidence may be used to establish eligibility in lieu of an application. If a provider selects the first approach discussed above, then all enrolled children for whom the sponsor or provider does not already possess documentation of categorical eligibility would receive applications. Under the second approach above, no applications would be distributed.

In addition, the Department would like to point out that the interim rule required free and reduced price applications to be distributed even when a voucher, or other documented evidence was being used to establish a child's categorical eligibility. Subsequent to the publication of the interim rule, the Department reconsidered its position and concluded that the clear intent of PRWORA is to facilitate identification of income-eligible children in tier II homes by providing an approach under which a tier II day care home may receive tier I rates of reimbursement for eligible children without the distribution of applications to households. The Department's June 2, 1997, memorandum clarified this method, and this final rule removes references in § 226.23(e)(1)(i) to this requirement.

The preamble to the interim rule specifically requested comments on the appropriateness of the use of direct certification to establish an enrolled child's eligibility for tier I rates of reimbursement in a tier II day care home, and indicated that the use of direct certification in day care homes may be addressed in a future proposed rulemaking based on the nature of these comments. Direct certification, which is not permitted under the interim rule, is another method of establishing eligibility without the use of free and reduced price applications. The Department received 15 comments on the use of direct certification in tier II day care homes. Of these, 14 commenters supported direct certification, and one opposed it. Many of these commenters noted that direct certification reduces the paperwork associated with eligibility

determinations, and several commenters also recommended that direct certification be included in this final rule, instead of in a future proposed rulemaking.

Under a system of direct certification, sponsoring organizations would contact the welfare (or other qualifying program) office directly and submit a list of children enrolled in their day care homes. From that list, the welfare office would identify children whose households are participating in the welfare program. It has been the Department's experience in the School Nutrition Programs, because of time and staffing constraints, that social service agencies may be reluctant to respond to these types of requests even from public entities such as school food authorities. Given that many areas are served by several sponsoring organizations that would want eligibility information for direct certification from the same local social service agency, it is possible that social service agencies would not be willing, or able, to handle all of these requests.

The key issue surrounding direct certification, however, involves access to information and household confidentiality. Eligibility information could only be released for programs which permit sharing of confidential information for purposes of determining eligibility in CACFP. A social service agency (or other government entity) may have significant concerns about sharing confidential information on households' eligibility. Therefore, the Department remains convinced that, if necessary, the appropriate place to address direct certification is in a proposed rulemaking, and not in this final rule.

Finally, under the third approach for tier II day care homes set forth in PRWORA, providers may choose to receive tier II reimbursements for all meals served to enrolled children. This approach recognizes those situations in which the provider believes it to be unlikely that any households of children in care will be income eligible for tier I reimbursements. In this case, the sponsoring organization will not collect any free and reduced price applications from the households of enrolled children, nor will it identify categorically eligible children based on provider or sponsor knowledge. Essentially, tier II homes whose providers elect this approach will operate exactly as they did before implementation of the two-tiered reimbursement structure, except that they will receive lower rates of reimbursement.

Accordingly, this final rule amends § 226.23(e)(1) to clarify the procedures

for determining the income eligibility of children enrolled in tier II day care homes, particularly with respect to the use of vouchers or other documents in lieu of free and reduced price applications, as discussed above. In addition, § 226.18(b)(11) is amended to specify the three options for reimbursement available to providers of tier II day care homes. Finally, § 226.23(e)(1)(iv) and the definition of "Documentation" contained in § 226.2 are amended to indicate that households identifying themselves as participating in, or subsidized under, a categorically eligible program need only provide the program's case number if applicable.

Confidentiality of Household Income Information

The interim rule amended § 226.23(e)(1)(i) to require that sponsoring organizations keep eligibility information concerning individual households confidential. Specifically, sponsoring organizations are prohibited from making this information available to day care home providers. The interim rule does, however, permit sponsoring organizations to inform tier II day care homes of the number of identified income-eligible children, but not the names of these children. As discussed in the preamble to the interim rule, these requirements were promulgated to carry out the clear intent of PRWORA to protect the confidentiality of the households of children enrolled in day care homes.

The preamble to the interim rule specifically requested comments on how best to balance the confidentiality of the households of enrolled children with the needs of tier II day care home providers. The Department received 230 comments on this provision. Of these, 175 commenters expressed their belief that day care providers need to know the eligibility status of each child in their care, so that they can know the exact amount that should be in their reimbursement check each month. Many of these commenters also indicated their belief that the confidentiality of households can be protected as long as the sponsoring organization does not release specific income information from individual households, but only whether or not children in those households have been determined eligible. Others expressed concern that a check on fiscal accountability will be lost if providers do not know how much their sponsors should pay them. Three commenters indicated that providers will leave the program if they cannot know the exact amount to expect in their reimbursement payment. In addition,

seven commenters recommended that sponsors be permitted to include a parent waiver of confidentiality on the free and reduced price application distributed to households. Finally, 31 commenters expressed their support for the interim rule, under which providers are not permitted to know the eligibility status of enrolled children.

Unlike the households of children participating in other Child Nutrition Programs, households whose children are in care in CACFP day care homes do not apply to the home in order to obtain food benefits. Rather, the primary purpose of applying to the day care home is to secure care for their children. Although the children receive the nutritional benefits of the meals provided through the CACFP, the direct financial benefits associated with applying for meals go to participating providers and sponsoring organizations. The household receives only an indirect financial benefit in that the provider's receipt of higher meal reimbursements helps to keep overall day care fees lower. Thus, the Department strongly believes that it would be irresponsible to compromise the confidentiality of these households solely for the administrative convenience of providers or sponsoring organizations.

Further, while it might be convenient for providers to have information on the income status of the households of children in care, it is not necessary for the purposes of administering the Program. In accordance with PRWORA, the sponsoring organization has the responsibility for using the eligibility information to file reimbursement claims with the State agency, and for subsequently paying each provider based on the number of meals served in the home.

Many commenters expressed concern that under the interim rule providers will have no way of ensuring that their reimbursement payments are correct, as mentioned above. The Department recognizes that provider payments must be reliable and accurate. The Department fully expects that State agencies are already examining sponsor payment procedures during administrative reviews to ensure proper payments. In addition, providers who believe that their payments are incorrect may also bring the matter to the attention of the State agency. If a State agency receives repeated complaints from a particular sponsor's providers, it would be appropriate to conduct a special review of that sponsor.

With regard to whether free and reduced price applications may contain a household waiver of confidentiality which would permit sponsoring

organizations to divulge the eligibility status of enrolled children, the Department strongly discourages such a practice due to PRWORA's emphasis on household confidentiality. However, if a State agency chooses to distribute an application which includes a household confidentiality waiver statement, or allows its sponsoring organizations to do so, this final rule requires that the form also include a statement informing the household that its participation in the program is not in any way dependent upon signing the waiver. Thus, a household may complete the application and choose not to have the information released to the day care home provider.

Accordingly, this final rule amends § 226.23(e)(1)(i) to require that applications that include a household confidentiality waiver statement must also include a statement informing the household that its participation in the program is not dependent upon signing such a waiver.

Finally, the Department would like to point out, as several commenters did, that this provision will not affect the ability of all tier II day care homes with identified income-eligible children to calculate their reimbursement payments, but rather only those tier II day care homes with identified income-eligible children whose sponsoring organizations select the actual count method for reimbursing their homes. For those tier II day care homes whose sponsors select either claiming percentages or blended rates, knowing the claiming percentage or blended rate will enable providers to calculate the precise amount of the reimbursement they will receive each month. (Additional discussion of the reimbursement methods available to sponsoring organizations is contained in the "Meal Counting and Claiming Procedures" section of the preamble below.)

At this time, the Department is not aware of any alternative to the system set forth in the interim rule that would protect the confidentiality of households. Therefore, this final rule retains the provision in the interim rule that prohibits sponsoring organizations from making free and reduced price eligibility information concerning individual households available to day care home providers.

With regard to the process of distributing and collecting free and reduced price applications from the households of children enrolled in tier II day care homes, the Department received 90 comments. Of these, 25 commenters indicated that this activity was burdensome for sponsoring

organizations. Nineteen commenters expressed their concern that the households will not return completed applications because they have no financial incentive to do so. In addition, 35 commenters wanted providers to be involved in the process of distributing and/or collecting free and reduced price applications from the households of enrolled children, indicating their belief that provider involvement will facilitate return of the statements. Four commenters requested that the applications collected for the first year be valid through September 30, 1998, in order to coincide with the fiscal year.

The Department would like to point out that PRWORA's inclusion of "expanded categorical eligibility" for use in tier II day care homes, as previously discussed in this preamble, is one method which is intended to simplify the income eligibility determination process, and thus, encourage the return of completed applications by households. In addition, under the interim rule, as well as guidance issued by the Department on January 24, 1997, it is permissible for sponsors to have their day care home providers distribute free and reduced price applications to individual households of enrolled children, as long as the completed forms are returned by the households directly to the sponsor. If sponsoring organizations choose to have their providers distribute applications to the households of enrolled children, the Department recommends and would anticipate that providers will take the opportunity to explain the purpose of the form and to stress the importance of the household completing the form and returning it to the sponsor. This type of procedure could facilitate the household's return of eligibility information to the sponsoring organization, while at the same time maintaining the confidentiality of the income information provided by the households. However, the Department would also like to point out that either State agencies or sponsors which believe that providers should not have any role in the process of distributing applications to households may prohibit such activity.

Several of the commenters who indicated that providers should be involved in the process of distributing and/or collecting free and reduced price applications recommended that sponsors be allowed to inform providers which of the households of enrolled children have returned applications. Providers, in turn, could periodically urge those households that had not returned the forms to do so. Although

actual income information on individual households would not be released under such a scenario, the Department has serious concerns about this procedure and believes that simply knowing a household has returned a free and reduced price application may lead to assumptions about a family's income status. Therefore, the Department issued guidance on March 12, 1997, informing State agencies and sponsors that sponsors may not be permitted to inform their providers about which of the households of enrolled children have returned applications, as it would be inconsistent with the confidentiality provision of § 226.23(e)(1)(i).

Finally, as indicated above, four commenters recommended that free and reduced price applications collected during implementation be valid through September 30, 1998, to coincide with the fiscal year. In order to facilitate sponsors' implementation of the two-tiered reimbursement system, the Department already has permitted free and reduced price applications which were collected from households between March 1, 1997, and June 30, 1997, to be effective for a one-year period beginning July 1, 1997. Depending on when the applications were actually collected by sponsoring organizations, the information on the applications could be as much as 16 months old when they expire on July 1, 1998. Therefore, although sponsors may collect applications before the end of the one-year period that begins July 1, 1997, in order to have redeterminations coincide with the fiscal year cycle, free and reduced price applications which become effective upon implementation of the two-tiered system on July 1, 1997, may not be valid for more than a one-year period. This requirement helps ensure that individual eligibility determinations are based on up-to-date information, and is also consistent with policy in the other Child Nutrition Programs.

Meal Counting and Claiming Procedures

The two-tiered structure of reimbursement set forth under PRWORA necessitates new meal counting and claiming procedures for use by sponsoring organizations and those tier II day care homes in which there are a mix of income-eligible and non-income-eligible children.

The interim rule amended § 226.13(d) to set forth three methods by which sponsoring organizations may reimburse their tier II day care homes with a mix of income-eligible and non-income-eligible children—actual meal counts, claiming percentages, and blended rates.

The interim rule permits sponsoring organizations to select which of the three methods they will use, though each sponsor must use only one method for all of its homes, and may change this method no more frequently than annually. In addition, if a sponsoring organization selects claiming percentages or blended rates, the interim rule requires that they be recalculated for each home at least every six months, unless the State agency requires the sponsor to recalculate a home's claiming percentage or blended rate before the required semiannual recalculation because it has reason to believe that a home's percentage of income-eligible children has changed significantly or was incorrectly established in the previous calculation.

The preamble to the interim rule requested comments on the "reimbursement categories" method set forth in the law and discussed in the preamble, but not included as an option in the interim rule due to the Department's opinion that it does not offer any distinct advantages over claiming percentages and blended rates. Under the "reimbursement categories" method, sponsoring organizations would either: (1) Establish multiple reimbursement rates within the range defined by the tier I and tier II rates, and then assign a home one of these rates based on the percentage of income-eligible children in the home; or (2) using only the tier I and tier II rates, reimburse all meals served in homes with 50 percent or more income-eligible children at the tier I rates, and all homes with less than 50 percent income-eligible children at the tier II rates. (The preamble to the interim rule describes the "reimbursement categories" method in more detail.) In addition, the interim rule also requested suggestions on other systems of meal counting and claiming that would not place an undue burden on day care home providers or sponsors, but would provide for reimbursement payments that accurately reflect the income level of the households of enrolled children.

The interim rule also amended § 226.13(d) to set forth the meal counting requirements for day care homes. Under these regulations, providers of tier II day care homes whose sponsoring organization uses the actual count method of reimbursement are required to record and submit to the sponsoring organization the number and types of meals served each day to each enrolled child by name. Providers whose sponsoring organization uses either claiming percentages or blended rates must submit the total number of

meals served, by type, to enrolled children.

The Department received 62 comments on the meal counting and claiming provisions. Of these, 25 commenters commented on whether a State agency could require all sponsoring organizations in the State to use the same method for reimbursing tier II day care homes with a mix of income-eligible and non-income-eligible children: 19 commenters opposed the State selecting one method for all sponsors; six commenters supported it. Several commenters who supported State agency selection of the reimbursement method indicated that allowing sponsoring organizations to select the method would promote unhealthy competition among sponsoring organizations. Many commenters also indicated that State agencies already require providers to keep actual daily meal counts. These commenters believed that such requirements would necessarily force sponsoring organizations to utilize actual counts, thus depriving them of a meaningful choice of reimbursement method.

In response to commenter concern on this issue, the Department would like to reiterate that the choice of reimbursement method is the sponsoring organization's, and not the State agency's. In accordance with § 226.13(d)(3) as added by the interim rule, each sponsoring organization selects the method—either actual counts, claiming percentages, or blended rates—for reimbursing its tier II day care homes with a mix of income-eligible and non-income-eligible children. As discussed in the preamble to the interim rule, the Department decided to allow sponsoring organizations maximum flexibility by permitting them to select the reimbursement method in order to accommodate the varying levels of management sophistication among sponsors. State agencies may not require all sponsors in the State to use the same method.

With regard to commenters' concern that permitting sponsoring organizations to select the method of reimbursement would promote unhealthy competition among sponsoring organizations, none of the methods offers a financial advantage over the other to providers. Providers will choose, as they do now, the sponsoring organization whose services best meet their needs. The Department expects that this decision will be based on a variety of factors, and not exclusively the reimbursement method used by the sponsor.

However, State agencies may require—and many already do, for the purpose of monitoring compliance with licensing requirements concerning the number and ages of children in care, or for integrity or other purposes—that day care home providers maintain actual daily meal counts by child. When a State agency institutes such a requirement, sponsoring organizations still may select either actual counts, claiming percentages, or blended rates as the method they use to reimburse their tier II day care homes with a mix of income-eligible and non-income-eligible children. Sponsors selecting claiming percentages or blended rates will only use total meal counts by type of meal (i.e., breakfast, lunch/supper, supplement), rather than the daily meal counts by child, to calculate a home's reimbursement. Perhaps most significantly, use of claiming percentages or blended rates offers the additional advantage that sponsoring organizations do not have to immediately assess the eligibility status of each newly enrolled child in a day care home. Eligibility determinations for children new to a home need only be done by the time the recalculation of the claiming percentage or blended rate is necessary, which is at least every six months.

In addition, 14 commenters on the meal counting and claiming provisions indicated their belief that sponsoring organizations should only be required to recalculate each home's claiming percentage or blended rate on an annual basis, rather than semiannually as required in the interim rule. Most of these commenters pointed out that PRWORA required only annual recalculation. Four commenters indicated that requiring recalculation on a semiannual basis would add unnecessary paperwork for sponsoring organizations. Finally, two commenters indicated that any integrity concerns surrounding annual redeterminations of claiming percentages or blended rates were already adequately addressed in § 226.13(d)(3) as added by the interim rule, which permits State agencies to require sponsoring organizations to recalculate the claiming percentage or blended rate at any time, as discussed above.

Several commenters were concerned, as mentioned above, that PRWORA and the interim rule were in conflict because PRWORA requires annual redeterminations of claiming percentages or blended rates, while the interim rule requires semiannual redeterminations. The Department would like to point out that section 17(f)(3)(A)(iii)(IV) of the NSLA, as

amended by section 708(e)(1) of PRWORA, sets forth two possible alternatives that may be used by the Secretary for simplified meal counting and claiming, and also gives the Secretary the authority to develop his own simplified procedures. While the alternative of claiming percentages/blended rates as set forth in PRWORA does indicate that the claiming percentage or blended rate be set on an annual basis, PRWORA does not require the Secretary to use either of these specific alternatives. In selecting claiming percentages and blended rates, and by requiring that recalculations be made on a semiannual basis, the discretion provided to the Secretary in PRWORA was being exercised.

Among the reasons for requiring semiannual recalculations was the Department's concern, as discussed in the preamble to the interim rule, that the simplified methods set forth in PRWORA, including claiming percentages and blended rates, do not adequately capture the frequent enrollment changes that are common in many day care homes. Despite one commenter's belief that the policy for recalculations in day care homes should be consistent with that for CACFP centers, the enrollment changes in day care homes affect the claiming percentage or blended rate much more dramatically than enrollment changes in centers do, simply because of the smaller number of children enrolled in a family day care home. Requiring that the claiming percentages and blended rates be recalculated on a semiannual, rather than annual, basis helps balance the need to account for the effects of these enrollment changes by ensuring more current numbers with the Department's desire to minimize administrative burden on sponsors. In addition, the Department is also concerned about the potential for abuse with claiming percentages and blended rates. Again, requiring semiannual instead of annual recalculations, as well as providing the State agency the authority to require a sponsoring organization to perform recalculations any time it has reason to believe that a home's percentage of income-eligible children has changed significantly or was incorrectly established in the previous calculation, will help minimize the potential for abuse associated with this method. Finally, despite commenters who indicated their belief that providing State agencies the authority to require recalculations would adequately address integrity concerns, the Department believes that requiring semiannual recalculations, in

conjunction with providing State agencies this authority, is much more effective in promoting program integrity and maximizing the accuracy of the claiming process.

In response to the request in the interim rule for comments on the "reimbursement categories" method, as well as any alternative methods of reimbursement, the Department received five comments. Two commenters supported the reimbursement categories method. In addition, two commenters recommended the reimbursement categories method discussed in the preamble to the interim rule under which a tier II day care home would receive tier I rates of reimbursement for all meals served as long as at least 50 percent of enrolled children were determined eligible for free or reduced price meals. Finally, one commenter recommended that three tiers of reimbursement be instituted, with the middle tier applicable for all tier II homes with a mix of income-eligible and non-income-eligible children.

These comments did not persuade the Department to relinquish its concerns about the accuracy, complexity, and integrity of the alternative methods of reimbursement. The Department continues to hold the position that neither of the reimbursement categories methods described in PRWORA is acceptable as a means of reimbursing tier II day care homes with a mix of income-eligible and non-income-eligible children, since they are much less accurate in accomplishing the law's goal of targeting reimbursements to low-income children than either claiming percentages or blended rates.

Accordingly, this final rule makes no change in the requirement set forth in the interim rule that sponsoring organizations that select claiming percentages or blended rates as the method for reimbursing their tier II day care homes perform recalculations of the percentages or rates on at least a semiannual basis.

When a sponsoring organization chooses claiming percentages or blended rates for reimbursing its tier II day care homes with a mix of income-eligible and non-income-eligible children, § 226.13(d)(3)(ii) as added by the interim rule requires that the claiming percentage or blended rate be based on "one month's data concerning the number of enrolled children determined eligible for free or reduced price meals." (This provision of the regulations was corrected in a docket published in the **Federal Register** on February 6, 1997 (62 FR 5519)). The preamble to the corrected interim rule

discussed two methods available to sponsoring organizations for making these calculations—attendance lists and enrollment lists—and requested comments on whether both of these alternative methods should continue to be permitted in the final rule.

The sponsoring organization, after having determined the income eligibility of enrolled children, uses the information on the attendance or enrollment list to calculate the home's claiming percentage or blended rate. As discussed in the preamble to the interim rule, the primary difference between attendance and enrollment lists is that attendance lists produce weighted results of participation. That is, an attendance list shows, whether based on days or meals, the *rate* of participation of each child, by name, in the home in the month. In contrast, an enrollment list provides no measure of the rate of participation: a child who participates only one day during the month is counted the same for purposes of the calculation as a child who participates every day during the month. As indicated in the preamble to the interim rule, though the attendance list may impose an additional burden on the sponsor and its day care homes, it provides a higher level of accuracy than an enrollment list. Furthermore, an attendance list based on meals, rather than days, is an actual count of meals provided, by child, for one month, therefore providing the most accurate results on which to base the home's claiming percentage or blended rate.

The Department received three comments on the use of attendance and enrollment lists. Two commenters indicated a preference for attendance lists over enrollment lists. One commenter suggested that each State agency be permitted to decide which method all sponsors in the State will use, instead of sponsors. Since sponsoring organizations have the choice of which method to use for reimbursing their tier II day care homes with a mix of income-eligible and non-income-eligible children, sponsors choosing claiming percentages or blended rates also may select which method—either attendance list or enrollment list—to use in calculating claiming percentages or blended rates for their homes. The Department believes that permitting sponsoring organizations to select the method, instead of the State agency, will provide flexibility to sponsoring organizations, in recognition of their varying sizes and levels of management sophistication. Therefore, this final rule retains both attendance lists and enrollments lists as the methods for sponsoring

organizations to use in calculating claiming percentages or blended rates for their homes. In light of the limited commenter input, the Department will attempt to gather information based on operating experience from State and local program administrators concerning the ramifications of allowing sponsors to choose either method, and may consider proposing changes in this area in a future rulemaking.

In addition, questions were raised subsequent to the publication of the interim rule regarding how to define "attendance" and "enrollment" for the purposes of making these calculations. The Department would like to clarify that, for the purposes of calculations made using either an attendance list or an enrollment list, sponsoring organizations and providers may consider a child "in attendance" or "enrolled" only when the child: (1) is officially enrolled for care (i.e., the provider has the requisite enrollment paperwork for the child); (2) is present in the home for the purpose of child care; and (3) has eaten at least one meal with the other children in care during the claiming period. Thus, the difference between the two methods is not a function of a difference in definitions; rather, it is that an attendance list reflects *weighted* participation (i.e., the frequency of either the child's attendance or the number of meals eaten by the child) and is, therefore, a more mathematically accurate portrayal of the home's meal service during the month.

Accordingly, §§ 226.13(d)(3)(ii) and (iii) are amended by adding specific reference to attendance lists and enrollment lists as the methods available to sponsoring organizations for calculating each home's claiming percentage or blended rate. In addition, in order to ensure consistency of application among all sponsoring organizations, this final rule amends § 226.2 to include the above-discussed definition of enrollment/attendance under the current definition of "enrolled child."

Administrative Funds for Sponsoring Organizations

In accordance with § 226.12(a), during any fiscal year, administrative payments for sponsoring organizations may not exceed the lesser of: (1) Actual expenditures for the costs of administering the Program less income to the Program; or (2) the amount of administrative costs approved by the State agency in the sponsoring organization's budget; or (3) the sum of the products obtained by multiplying each month the number of homes

administered by the sponsoring organization by a set of fixed reimbursement rates. In addition, § 226.12(a) of the regulations indicates that "during any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and food service payments for day care home operations." The interim rule did not make any changes to the regulations concerning administrative payments, including the requirement limiting a sponsor's administrative funds.

Nevertheless, the Department received 14 comments on this provision of the regulations, all of which expressed concern that lower food service payments resulting from the two-tiered reimbursement system will result in some sponsoring organizations being reimbursed for less than their full cost of administering the Program because of the 30 percent cap. Most commenters suggested changing the maximum limit on administrative payments to a figure higher than 30 percent. Some recommended that this regulatory provision be "suspended" until such time as its impact on sponsoring organization operations can be determined. In addition, 28 commenters indicated that sponsoring organizations need additional administrative funds to effectively administer the two-tiered reimbursement system. Finally, six commenters requested that State agencies continue to be required to make administrative fund advances available to sponsoring organizations, a former requirement of State agencies which was made optional under section 708(f) of Pub. L. 104-193.

No changes were made by the interim rule to the provision limiting administrative payments to 30 percent of administrative and food service payments because it is the Department's position that the current limitation on administrative payments is reasonable. Further, the current limitation on administrative payments, by maintaining an appropriate balance between the amount spent by sponsoring organizations on administrative and program meal expenses, helps achieve the Program goal of serving meals to enrolled children within reasonable fiscal limits. The Department recognizes that a limited number of sponsoring organizations, such as those with few homes, a high percentage of tier II day care homes, and a high percentage of non-income-eligible children in these homes, may be affected by this limitation under the two-tiered

reimbursement system. However, at this time the Department does not foresee that this possible consequence of the law will be widespread enough to warrant changing or suspending the current limitation. The study mandated by section 708(l) of PRWORA requires the Department to monitor the number of sponsoring organizations in the CACFP and consider whether changes need to be proposed in a future rulemaking. Absent such evidence, the Department is unwilling to make a change to the administrative reimbursement limit. For similar reasons, it is premature for the Department to propose any change to the current administrative rates paid to sponsors.

As indicated above, section 708(f) of Pub. L. 104-193 amended section 17(f) of the NSLA to make payment of advances to CACFP institutions, including administrative advances to sponsoring organizations of day care homes, optional. Although this provision of PRWORA is already in effect due to its nondiscretionary nature, the Department will make a conforming change to include this provision in the regulations in a future rulemaking. Due to this legislative provision, it is beyond the authority of the Department to *require* that State agencies continue to make advances available to sponsors. Therefore, sponsoring organizations should address concerns regarding advances to their State agencies.

Accordingly, this final rule makes no changes to the regulations governing administrative payments, including the requirement in § 226.12(a) regarding the limitation on administrative payments to sponsoring organizations.

Verification Requirements for Tier II Homes

As discussed in the preamble to the interim rule, no changes were made to the verification requirements for State agencies. Because day care homes are considered "nonpricing programs" (i.e., there is no separate identifiable charge made for meals served to participants), State agencies must follow the provisions of § 226.23(h)(1), for "nonpricing programs," to verify the applications of day care home providers' own children, as well as the applications of households of children enrolled in tier II day care homes. This section requires that State agencies review all free and reduced price applications on file to ensure that: (1) The application has been correctly and completely executed by the household; (2) the sponsoring organization has correctly determined and classified the eligibility of enrolled children; and (3)

the sponsoring organization has accurately reported to the State agency the number of enrolled children who meet the criteria for free or reduced price eligibility and the number who do not. This section also permits State agencies to conduct additional verification to determine the validity of information supplied by households on the application, in accordance with § 226.23(h)(2), the verification procedures for "pricing programs." In addition, State agencies may conduct the required verification in conjunction with the reviews required by § 226.6(l).

The Department received two comments on the verification requirements for applications collected from the households of children enrolled in tier II day care homes. Commenters expressed concern regarding the burden associated with a State agency review of all applications on file, and suggested that State agencies instead be required to review a sample of the applications.

The Department recognizes that the requirement at § 226.23(h)(1) that a State agency review all of the applications maintained by a sponsoring organization could place a significant burden on a State agency, especially when the State agency is conducting a review of a large sponsoring organization with a large number of tier II day care homes for which applications have been collected. Since the verification required for applications collected from the households of children enrolled in tier II day care homes does not include verification of the income information provided by the households (or, for categorically eligible children, confirmation of participation in the categorically eligible programs) as discussed above, it is the Department's position that conducting the required verification on less than 100 percent of the applications strikes a balance between the need for detecting widespread or significant problems and the burden of reviewing all applications on file. Unlike most child care centers or sponsoring organizations of centers, the total number of applications for a sponsoring organization of day care homes may be quite large. Therefore, this final rule requires State agencies to conduct verification, in accordance with § 226.23(h)(1), only of the applications for enrolled children in those tier II day care homes that are selected for inclusion in the required review of the sponsoring organization, in accordance with §§ 226.6(l) (1) and (2), instead of for all of the sponsor's tier II day care homes. However, to help ensure that widespread or significant problems are identified, this final rule requires State

agencies to ensure that the homes selected for review are representative of the sponsor's proportion of tier I, tier II, and tier II day care homes with a mix of income-eligible and non-income-eligible children, and that at least 10 percent of all applications on file in the sponsorship are reviewed as part of the State agency's review. The review requirements for sponsoring organizations and their day care homes are set forth in § 226.6(l). This rule also adds language to clarify that these verification requirements also apply to situations in which vouchers or other documentation are used in lieu of applications, in which case the State agency would review the voucher or other documentation on file.

Finally, the interim rule does not require sponsoring organizations to perform pricing program verification of income eligibility information for children enrolled in day care homes. However, the Department has been asked whether sponsoring organizations have the authority to verify the income information provided by the households of children enrolled in day care homes if they have reason to question the validity of the information. In order to help ensure Program integrity and appropriately targeted reimbursement rates, it is the Department's opinion that sponsoring organizations should have this authority.

Accordingly, this final rule amends § 226.23(h)(6) to explicitly provide sponsoring organizations the authority to conduct pricing verification of the income information provided by the households of children enrolled in day care homes. In addition, this final rule amends § 226.23(h)(1) to require State agencies to conduct nonpricing verification only for the applications of enrolled children in day care homes that are included in the required review of the sponsoring organization.

Other Amendments

This rule also makes technical changes to the definition of "Documentation" in § 226.2, and to §§ 226.23(e)(1) (i) and (iv), to include amendments which were made to these sections in an interim rule published on May 1, 1997 (62 FR 23613), but inadvertently eliminated from the Code of Federal Regulations when the January 7, 1997, interim rule (62 FR 889) on the two-tiered reimbursement system went into effect on July 1, 1997.

List of Subjects

7 CFR Part 210

Breakfast, Children, Food assistance programs, Grant program—Social

programs, Lunch, Meal Supplements, Nutrition, Reporting and recordkeeping requirements, School Nutrition Program, Surplus agricultural commodities.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants, and children, Records, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the interim rule amending 7 CFR parts 210 and 226 which was published at 62 FR 889 on January 7, 1997, is adopted as a final rule with the following changes:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In Section 210.9, paragraph (b)(20) is revised to read as follows:

§ 210.9 Agreement with State agency.

(b) Annual agreement. (20) No later than March 1, 1997, and no later than December 31 of each year thereafter, provide the State agency with a list of all elementary schools under its jurisdiction in which 50 percent or more of enrolled children have been determined eligible for free or reduced price meals as of the last operating day the preceding October. The State agency may designate a month other than October for the collection of this information, in which case the list must be provided to the State agency within 60 calendar days following the end of the month designated by the State agency. In addition, each school food authority shall provide, when available for the schools under its jurisdiction, and upon the request of a sponsoring organization of day care homes of the Child and Adult Care Food Program, information on the boundaries of the attendance areas for the elementary schools identified as having 50 percent or more of enrolled children certified eligible for free or reduced price meals.

3. In § 210.19, paragraph (f) is revised to read as follows:

§ 210.19 Additional responsibilities.

(f) Cooperation with the Child and Adult Care Food Program. On an annual basis, the State agency shall provide the State agency which administers the Child and Adult Care Food Program with a list of all elementary schools in the State participating in the National

School Lunch Program in which 50 percent or more of enrolled children have been determined eligible for free or reduced price meals as of the last operating day of the previous October, or other month specified by the State agency. The first list shall be provided by March 15, 1997; subsequent lists shall be provided by February 1 of each year or, if data is based on a month other than October, within 90 calendar days following the end of the month designated by the State agency. The State agency may provide updated free and reduced price enrollment data on individual schools to the State agency which administers the Child and Adult Care Food Program only when unusual circumstances render the initial data obsolete. In addition, the State agency shall provide the current list, upon request, to sponsoring organizations of day care homes participating in the Child and Adult Care Food Program.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765, and 1766).

2. In § 226.2:

a. Paragraphs (b), (c), and (d) of the definition of "Documentation" are revised; and

b. The definition of "Enrolled child" is amended by adding a sentence at the end.

The revisions and addition read as follows:

§ 226.2 Definitions

Documentation means:

(b) For a child who is a member of a food stamp or FDPIR household or an AFDC assistance unit, "documentation" means the completion of only the following information on a free and reduced price application:

(1) The name(s) and appropriate food stamp, FDPIR or AFDC case number(s) for the child(ren); and

(2) The signature of an adult member of the household; or

(c) For a child in a tier II day care home who is a member of a household participating in a Federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals:

(1) The name(s), appropriate case number(s) (if the program utilizes case numbers), and name(s) of the qualifying program(s) for the child(ren), and the

signature of an adult member of the household; or

(2) If the sponsoring organization or day care home possesses it, official evidence of the household's participation in a qualifying program (submission of a free and reduced price application by the household is not required in this case); or

(d) For an adult participant who is a member of a food stamp or FDPIR household or is an SSI or Medicaid participant, as defined in this section, "documentation" means the completion of only the following information on a free and reduced price application:

(1) The name(s) and appropriate food stamp or FDPIR case number(s) for the participant(s) or the adult participant's SSI or Medicaid identification number, as defined in this section; and

(2) The signature of an adult member of the household.

Enrolled child means * * * In addition, for the purposes of calculations made by sponsoring organizations of family day care homes in accordance with §§ 226.13(d)(3)(ii) and 226.13(d)(3)(iii), "enrolled child" (or "child in attendance") means a child whose parent or guardian has submitted a signed document which indicates that the child is enrolled for child care; who is present in the day care home for the purpose of child care; and who has eaten at least one meal during the claiming period.

3. In § 226.6, paragraph (f)(9) is amended by removing the second sentence of the paragraph and by adding a new sentence in its place, and by adding a new sentence at the end to read as follows:

§ 226.6 State agency administrative responsibilities.

(f) (9) * * * The State agency shall provide the list to sponsoring organizations by April 1, 1997, and by February 15 of each year thereafter, unless the State agency that administers the National School Lunch Program has elected to base data for the list on a month other than October, in which case the State agency shall provide the list to sponsoring organizations within 15 calendar days of its receipt from the State agency that administers the National School Lunch Program. * * * The State agency shall not routinely require annual redeterminations of the tiering status of tier I day care homes based on updated elementary school data.

4. In § 226.13:

a. Paragraph (d)(3)(ii) is amended by adding a new sentence after the first sentence; and

b. The first sentence of paragraph (d)(3)(iii) is revised.

The addition and revision read as follows:

§ 226.13 Food service payments to sponsoring organizations for day care homes.

* * * * *

(d) * * *

(3) * * *

(ii) * * * Sponsoring organizations shall obtain one month's data by collecting either enrollment lists (which show the name of each enrolled child in the day care home), or attendance lists (which show, by days or meals, the rate of participation of each enrolled child in the day care home). * * *

(iii) Determine a blended per-meal rate of reimbursement, not less frequently than semiannually, for each such day care home by adding the products obtained by multiplying the applicable rates of reimbursement for each category (tier I and tier II) by the claiming percentage for that category, as established in accordance with paragraph (d)(3)(ii) of this section. * * *

* * * * *

5. In § 226.15:

a. Paragraph (e)(3) is revised; and

b. Paragraph (f) is amended by adding seven new sentences after the second sentence, and by adding a new sentence at the end.

The additions and revision read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) * * *

(3) Documentation of: The enrollment of each child at day care homes; information used to determine the eligibility of enrolled providers' children for free or reduced price meals; information used to classify day care homes as tier I day care homes, including official source documentation obtained from school officials when the classification is based on elementary school data; and information used to determine the eligibility of enrolled children in tier II day care homes that have been identified as eligible for free or reduced price meals in accordance with § 226.23(e)(1).

* * * * *

(f) * * * When using elementary school or census data for making tier I day care home determinations, a sponsoring organization shall first consult school data, except in cases in which busing or other bases of attendance, such as magnet or charter

schools, result in school data not being representative of an attendance area's household income levels. In these cases, census data should generally be consulted instead of school data. A sponsoring organization may also use census data if, after reasonable efforts are made, as defined by the State agency, the sponsoring organization is unable to obtain local elementary school attendance area information. A sponsoring organization may also consult census data after having consulted school data which fails to support a tier I day care home determination for rural areas with geographically large elementary school attendance areas, for other areas in which an elementary school's free and reduced price enrollment is above 40 percent, or in other cases with State agency approval. However, if a sponsoring organization believes that a segment of an otherwise eligible elementary school attendance area is above the criteria for free or reduced price meals, then the sponsoring organization shall consult census data to determine whether the homes in that area qualify as tier I day care homes based on census data. If census data does not support a tier I classification, then the sponsoring organization shall reclassify homes in segments of such areas as tier II day care homes unless the individual providers can document tier I eligibility on the basis of their household income. When making tier I day care home determinations based on school data, a sponsoring organization shall use attendance area information that it has obtained, or verified with appropriate school officials to be current, within the last school year. * * * The State agency shall not routinely require annual redeterminations of the tiering status of tier I day care homes based on updated elementary school data.

6. In § 226.18, paragraph (b)(11) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) * * *

(11) * * * These options include: electing to have the sponsoring organization attempt to identify all income-eligible children enrolled in the day care home, through collection of free and reduced price applications and/or possession by the sponsoring organization or day care home of other proof of a child or household's participation in a categorically eligible program, and receiving tier I rates of

reimbursement for the meals served to identified income-eligible children; electing to have the sponsoring organization identify only those children for whom the sponsoring organization or day care home possess documentation of the child or household's participation in a categorically eligible program, under the expanded categorical eligibility provision contained in § 226.23(e)(1), and receiving tier I rates of reimbursement for the meals served to these children; or receiving tier II rates of reimbursement for all meals served to enrolled children.

* * * * *

7. In § 226.23:

a. Paragraph (e)(1)(i) is amended by removing the third sentence and adding a new sentence in its place, by adding the words "or FDPIR" after the words "food stamp" each time they appear in the sixth sentence, and by adding a new sentence to the end;

b. Paragraph (e)(1)(iv) is revised;

c. A new paragraph (e)(1)(vi) is added;

d. Paragraph (h)(1) is revised; and

e. Paragraph (h)(6) is amended by adding a new sentence to the end.

The additions and revision read as follows:

§ 226.23 Free and reduced price meals.

* * * * *

(e)(1) * * *

(i) * * * At the request of a provider in a tier II day care home, sponsoring organizations of day care homes shall distribute applications for free and reduced price meals to the households of all children enrolled in the home, except that applications need not be distributed to the households of enrolled children that the sponsoring organization determines eligible for free and reduced price meals under the circumstances described in paragraph (e)(1)(vi) of this section. * * * If a State agency distributes, or chooses to permit its sponsoring organizations to distribute, applications to the households of children enrolled in tier II day care homes which include household confidentiality waiver statements, such applications shall include a statement informing households that their participation in the program is not dependent upon signing the waivers.

* * * * *

(iv) If they so desire, households applying on behalf of children who are members of food stamp or FDPIR households or AFDC assistance units may apply under this paragraph rather than under the procedures described in paragraph (e)(1)(ii) of this section. In

addition, households of children enrolled in tier II day care homes who are participating in a Federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free and reduced price meals may apply under this paragraph rather than under the procedures described in paragraph (e)(1)(ii) of this section. Households applying on behalf of children who are members of food stamp or FDPIR households; AFDC assistance units; or for children enrolled in tier II day care homes, other qualifying Federal or State program, shall be required to provide:

(A) For the child(ren) for whom automatic free meal eligibility is claimed, their names and food stamp, FDPIR, or AFDC case number; or for the households of children enrolled in tier II day care homes, their names and other program case numbers (if the program utilizes case numbers); and

(B) The signature of an adult member of the household as provided for in paragraph (e)(1)(ii)(G) of this section. In accordance with paragraph (e)(1)(ii)(F) of this section, if a case number is provided, it may be used to verify the current certification for the child(ren) for whom free meal benefits are claimed. Whenever households apply for children not receiving food stamp, FDPIR, or AFDC benefits; or for tier II homes, other qualifying Federal or State program benefits, they must apply in accordance with the requirements set forth in paragraph (e)(1)(ii) of this section.

* * * * *

(vi) A sponsoring organization of day care homes may identify enrolled children eligible for free and reduced price meals (i.e., tier I rates), without distributing free and reduced price applications, by documenting the child's or household's participation in or receipt of benefits under a Federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free and reduced price meals. Documentation shall consist of official evidence, available to the tier II day care home or sponsoring organization, and in the possession of the sponsoring organization, of the household's participation in the qualifying program.

* * * * *

(h) * * *

(1) *Verification procedures for nonpricing programs.* Except for sponsoring organizations of family day care homes, State agency verification procedures for nonpricing programs

shall consist of a review of all approved free and reduced price applications on file. For sponsoring organizations of family day care homes, State agency verification procedures shall consist of a review only of the approved free and reduced price applications (or other documentation, if vouchers or other documentation are used in lieu of free and reduced price applications) on file for those day care homes that are required to be reviewed when the sponsoring organization is reviewed, in accordance with the review requirements set forth in section 226.6(l) of this Part. However, the State agency shall ensure that the day care homes selected for review are representative of the proportion of tier I, tier II, and tier II day care homes with a mix of income-eligible and non-income-eligible children in the sponsorship, and shall ensure that at least 10 percent of all free and reduced price applications (or other documentation, if applicable) on file for the sponsorship are verified. The review of applications shall ensure that:

(i) The application has been correctly and completely executed by the household;

(ii) The institution has correctly determined and classified the eligibility of enrolled participants for free or reduced price meals or, for family day care homes, for tier I or tier II reimbursement, based on the information included on the application submitted by the household;

(iii) The institution has accurately reported to the State agency the number of enrolled participants meeting the criteria for free or reduced price meal eligibility or, for day care homes, the number of participants meeting the criteria for tier I reimbursement, and the number of enrolled participants that do not meet the eligibility criteria for those meals; and

(iv) In addition, the State agency may conduct further verification of the information provided by the household on the approved application for program meal eligibility. If this effort is undertaken, the State agency shall conduct this further verification for nonpricing programs in accordance with the procedures described in paragraph (h)(2) of this section.

* * * * *

(6) * * * Sponsoring organizations of day care homes may verify the information on applications submitted by households of children enrolled in day care homes in accordance with the procedures contained in paragraph (h)(2)(i) of this section.

Dated: February 13, 1998.

Shirley R. Watkins,

Under Secretary, Food, Nutrition and Consumer Services.

Economic Impact Analysis

1. Title

Child and Adult Care Food Program: Improved Targeting of Day Care Home Reimbursements.

2. Statutory Authority

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193)

3. Rulemaking Background

The interim and final rules amend the Child and Adult Care Food Program (CACFP) regulations governing reimbursement for meals served in family or group day care homes by incorporating provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). These provisions better target assistance to low income children by reducing the reimbursement for meals served to children who do not qualify for low-income subsidies. Specifically, this rule develops a two tier reimbursement structure for meals served to children enrolled in family or group day care homes. Under this structure, the level of reimbursement for meals served to enrolled children will be determined by: (1) The location of the day care home; (2) the income of the day care provider; or (3) the income of each enrolled child's household. The rules target CACFP meal reimbursement payments to low-income children and the day care home providers who serve them, where low-income is defined as not exceeding 185 percent of the Federal income poverty guidelines. The rules retain essentially near-current reimbursement rates for meals served to children by providers residing in low-income areas or served by providers who are low-income. Near-current reimbursements will also be retained for meals served to children who are identified as low-income even if the provider neither resides in a low-income area nor is low-income. Meals served to all other children will be reimbursed at the lower rates, although the lower rates are still high enough that participation in CACFP is expected to remain strong and new day care homes will continue to join CACFP. The interim rule became effective July 1, 1997; the final rule becomes effective 60 days after publication in the **Federal Register**.

4. Motivation for Statutory Changes and Summary of Findings

Until 1978, eligibility for free and reduced price meals in the Child and Adult Care Food Program (CACFP) was based on essentially the same income thresholds and procedures as those used in the National School Lunch Program: children in households at or below 130 percent of the Federal income poverty guidelines were eligible to have meals served to them reimbursed at the "free" (highest) rate while children in households with incomes above 130 but not exceeding 185 percent of the guidelines were eligible to have their meals reimbursed at the "reduced price" (middle) rate. In 1978, about 70 percent of CACFP enrolled children were from households at or below 185 percent of the Federal income poverty guidelines. The Child Nutrition Amendments of 1978 (Pub. L. 95-627) eliminated individual free and reduced price eligibility determinations (means tests) in CACFP day care homes, which substantially reduced program burden, and established a single reimbursement rate for each type of meal served in day care homes. Public Law 95-627 made no comparable changes to CACFP day care centers. The day care home meal reimbursement rates were set (by rulemaking) slightly below the rates used for meals served to children in CACFP centers with documented incomes below 130 percent of the Federal income poverty guidelines ("free" rates). The burden reduction and single rates in day care homes had the effect of promoting program growth. However, that growth turned out to be primarily among non-needy children (above 185 percent of Federal income poverty guidelines). By the late 1980's, just 30 percent of children in CACFP day care homes were from households with incomes at or below 185 percent of the Federal income poverty guidelines, and by 1995, the proportion had fallen to 22 percent. Public Law 95-627's elimination of individual means testing in CACFP day care homes thus produced a program at odds with the Child Nutrition Program's historical focus of targeting higher benefits to low-income children.

The President and Congress proposed to re-target benefits in CACFP day care homes by retaining the current day care home rates for meals served to low-income children and establishing new, lower rates for meals served to the non-needy. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193) sought to re-target benefits but, to keep program administration burdens down, did not

call for a reinstatement of individual means testing of all day care home participants. Public Law 104-193 effectively retained the current meal reimbursements for meals served in tier I CACFP day care homes, i.e., day care homes operated by low income providers or located in low income areas. In all other CACFP day care homes, tier II homes, a lower rate was established, as these children are less likely to be low income. Public Law 104-193 provides for low income children in tier II day care homes by allowing the higher meal reimbursements to be claimed for all meals served to the children in tier II homes who are individually means tested and found to be needy. These changes, along with others called for by Public Law 104-193, are being implemented by this rule and the interim rule. Public Law 104-193's two tier rate structure is estimated to produce a six year savings of \$1.7 billion (fiscal years 1997-2002).

Despite the reduction in reimbursement rates, the numbers of tier I and tier II day care homes participating in the CACFP are both expected to grow, although at slower rates than projected before Public Law 104-193. That CACFP day care home participation is expected to remain strong is important since welfare reform will lead more low-income parents to enter the workforce, which will increase the demand for day care. Tier I homes will continue to effectively receive the pre-Public Law 104-193 reimbursement rates. While the reimbursements available to tier II homes have been reduced—CACFP weekly revenue for an average tier II home with no documented low income children will drop from \$82 to \$41—CACFP meal reimbursements still represent another source of income for day care homes and in many cases will provide ample incentive to participate in the CACFP. Some would-be tier II providers will find that the lower rates offer insufficient incentive to remain in the CACFP and will leave the program; however, FCS expects that most tier II providers will remain in the CACFP and accommodate the reduced rates through some combination of absorbing the loss, raising child care fees, and making cost-saving operational changes. In addition, there is about a 20 percent annual turnover of homes offering day care services, and these homes regularly offer a fresh group of homes that will probably choose to participate in the CACFP.

Other CACFP organizations are also affected by Public Law 104-193 and this rulemaking. Organizations that sponsor day care homes (sponsors), which have

agreements with State CACFP agencies to operate the CACFP in day care homes have new burdens due to the two tier system. The new sponsor burdens are associated with classifying day care homes as tier I or tier II, determining whether children in tier II homes have incomes below 185 percent of the Federal income poverty guidelines, informing homes of their new rights and responsibilities under this rule, and performing the other administrative duties imposed by this rule. The Department estimates that for sponsors considered as a group, the new, recurring burdens (one-time implementation burdens were not estimated) will represent an average increase of about 2 percent over current burden levels. However, as with any average, some sponsors will realize more than a 2 percent increase in recurring burden (while others will realize less than a 2 percent increase). In addition, implementation burdens during the first year or two of tiering may be significant. State CACFP agencies will see a noticeable increase in recurring burden associated with complying with new tiering related sponsor review requirements, providing sponsors with school and census area-eligibility information, and providing sponsors tiering related technical assistance. State agencies administering the NSLP and school districts also have new responsibilities under this rulemaking, although these responsibilities do not entail substantial new burdens.

5. Comparison of Final Analysis With Interim Analysis

The final analysis makes few technical changes to the interim analysis (in terms of numbers used and assumptions made). All technical changes are based on new CACFP program data, a recently completed study of the CACFP, or comments received on the interim analysis. Updating the analysis with the new program and study data produces improved cost and burden estimates. The changes significantly decrease the total Federal savings expected from the two tier system, with projected six year savings, fiscal years 1997-2002, declining from \$2.2 to \$1.7 billion. Essentially no changes have been made to the analysis' assessment of the effects that the two tier system will have on particular providers, parents, and children.

New CACFP program data was used to update several numbers in the analysis, including the number of CACFP participating day care homes (DCHs), the number of DCH sponsors,

and the average number of DCHs served by sponsors. These updates have a negligible effect on the findings of the analysis.

Since the publication of the interim analysis on January 1, 1997, the Food and Consumer Service has completed the Early Childhood and Child Care Study¹ (ECCCS). The ECCCS is a nationally representative evaluation of the CACFP and includes household income data for DCH providers and children enrolled in DCHs. The data on provider's and enrolled children's household incomes are appreciably different from the figures used in the interim analysis. ECCCS found that 38 percent of DCH providers are low-income while only 22 percent of children enrolled in DCHs are low-income. The interim analysis, based on the best data available at that time, indicated that 22 percent of DCH providers and 30 percent of DCH enrolled children were low-income, which understated the number of low-income providers and overstated the number of low-income DCH children. Together with the provider income data, the income data for DCH enrolled children indicate that low-income providers will probably serve a substantial number of non-low-income children, since 38 percent of providers are low-income while only 22 percent of DCH enrolled children are.

The ECCCS income data have several implications for the analysis. The provider data imply there are more low-income providers than estimated in the interim analysis. This change increases the percentage of DCH meals that will be reimbursed at the higher meal reimbursement rates and is the piece of data responsible for improving the accuracy of the estimate of Federal savings from tiering. The increased percentage of low-income providers also has implications for sponsor burdens. Since sponsors are responsible for identifying which DCHs are eligible for the higher reimbursement rates (tier I) and for verifying the DCHs' tier I eligibility, the increased proportion of DCHs eligible for the higher rates will increase the burden on sponsors for making DCH tier I eligibility determination burdens.

The final analysis is organized nearly the same as the interim, and the analytic section appearing in the interim analysis (numbered 6 in the final analysis and 4 in the interim) has effectively been left unchanged. Section 3, Rulemaking Background, in the final analysis is the same as Section 3, Background, in the interim analysis. Sections 4 and 5, Motivation for Statutory Changes and Summary of

Findings and Comparison of Final Analysis with Interim Analysis, respectively, are new to the final analysis. Section 7, Requirements for Regulatory Analyses, as Established by Regulatory Flexibility Act, is an expanded version of the corresponding section in the interim analysis (numbered 5 there) and now includes a discussion of comments received on the interim analysis. Portions of the analytic section were altered to ensure that the analysis accurately describes the two tier system established by the interim and final rules. Since most changes made by the final rule are minor, these changes did not effect significant changes to the analysis. However, three changes made by the final rule are worth noting because they change burden estimates. These changes concern sponsors' income documentation requirements for low-income children in tier II DCHs, requirements for State agency reviews of low-income documentation during States' reviews of sponsors, and the requirement that school food authorities (SFAs) provide sponsors with school attendance area boundary information.

The final rule attempts to mitigate sponsor burdens on income determination by allowing sponsors to establish the low-income status of a DCH enrolled child through official evidence, in the sponsor's or provider's possession, that the child's household participates in a Federal or State benefits program with an income eligibility limit not exceeding 185 percent of the Federal income poverty guidelines. This change reduces burden for sponsors by allowing them to establish eligibility for children for whom they have such information without having to contact the children's households to ask for evidence of low-income status.

The final rule also lessens review requirements for State reviews of sponsors' documentation for low-income children. The interim rule required States, as part of sponsor reviews, to verify that the income application (or other acceptable documentation) for every child classified by the sponsor as low-income is complete and supports the eligibility determination made by the sponsor. The final rule lessens the documentation review burden for States by requiring that States review at least 10 percent of all applications on file with a sponsor, where application refers to whatever documentation establishes the income-eligibility of a child. The final rule stipulates that States draw the 10 percent of applications from those DCHs the State must review as part of its

sponsor review, but if those DCHs provide less than 10 percent of all applications, then States must draw additional applications until the 10 percent requirement is met.

The third change made by the final rule concerns provision of school attendance area boundary information. The interim rule assumed this information would be readily available, since it is public information and public schools are public institutions. A number of commenters told FCS that the information is not readily available. Boundary information is essential for sponsors to accurately determine whether a DCH should be approved for the higher meal reimbursement rates based on whether the DCH is circumscribed by the attendance area of a school with at least 50 percent of its enrollment approved for free or reduced price meals. The final rule, recognizing sponsors' critical need for this information, requires SFAs to provide boundary information on school attendance areas when sponsors request it. This represents a new burden for SFAs.

Responses to comments received on the interim analysis are located in Section 7, Requirements for Regulatory Analyses, as Established by Regulatory Flexibility Act. There was one quantitative change that resulted from the comments. The average wage rate assumed for sponsors, which was used to estimate the financial burden of tiering on sponsors, was increased. The interim analysis had assumed that a staff level employee would be responsible for performing the new burdens, but commenters caused FCS to reconsider that assumption. The final analysis assumes an average sponsor wage rate that is twice the figure used in the interim analysis, which reflects the new assumption that the tiering burdens will require involvement at the sponsor staff level up through sponsor management.

6. Cost/Benefit Assessment of Economic and Other Effects Benefits

The need to reduce overall Federal expenditures has prompted a review of many programs and led to the legislative decision to improve the targeting of CACFP benefits to low-income children. To accomplish targeting of benefits, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 establishes two tiers of day care homes and reimbursement rates. Under tiering, any DCH located in a low-income area or operated by a low-income provider is eligible for tier I status, where low-income areas are determined by local school or census data, subject to

restrictions on how the data may be used. All meals served in tier I DCHs are reimbursed at the higher set of reimbursement rates. All DCHs not qualifying for tier I are tier II DCHs. Meals served in tier II DCHs are reimbursed at the lower set of rates, with the exception that meals are reimbursed at the higher set of rates when served to children whom the DCH sponsor documents as being low-income.

The initial establishment of the Child Care Food Program (CCFP) in November 1975 required both types of CCFP providers, day care centers and DCHs, to make individual eligibility determinations based on each participating child's household size and income. Meal reimbursement rates paid to sponsors for meals served in DCHs were based on each enrolled child's documented eligibility for free, reduced price or paid meals. In order to be a DCH, which denotes a CCFP participating home in this analysis, a home has always had to (1) meet State licensing requirements, or be approved by a State or local agency and (2) be sponsored by an organization that assumes responsibility for ensuring the DCH's compliance with Federal and State regulations (these licensing and

sponsorship requirements are still in effect).

In the years following establishment of the program, concerns were raised that the paperwork and recordkeeping requirements were creating barriers to DCH participation in the CCFP. In 1978, Pub. L. 95-627 eliminated free and reduced price eligibility determinations for individual children in DCHs (but left unchanged day care centers' individual eligibility determination requirements), and established a single reimbursement rate for each type of meal served in DCHs (lunches/suppers, breakfasts, and supplements). These changes encouraged day care providers' participation in the CCFP by reducing their administrative paperwork burden. The Omnibus Budget Reconciliation Act of 1981 added the requirement of a means test for providers to claim reimbursements for meals served to their own children in care. With this sole exception, all DCHs continued to receive the same reimbursements for all meals served to children in care, regardless of each child's income.

The day care portion of the CCFP (The CCFP was renamed the Child and Adult Care Food Program (CACFP) in 1989 when an adult day care component was added.) has experienced dramatic growth in both DCH participation and Federal government costs. From fiscal

year 1986 to fiscal year 1996, the number of participating DCHs increased from 82,000 to 194,000, an increase of 134 percent. During the same period, meal reimbursements in nominal dollars increased from around \$190 million to about \$750 million, a 280 percent increase.^{2,3} Program growth has occurred primarily among non-low-income children: table 1 shows the proportion of low-income DCH participants decreased rapidly after individual eligibility determinations were eliminated in 1978. The table shows that the proportion of DCH children with household incomes below 130 percent of the Federal income poverty guidelines decreased by 33 percentage points between 1977 and 1982, by an additional 9 between 1982 and 1986, and by 5 more between 1986 and 1995. During the same periods the percentage of non-low-income children (above 185 percent of poverty) increased 46, 7, and 7 percentage points, respectively. Although the 1995 data was not available until after the interim rule was published, the marked growth in the proportion of non-low-income enrollment in DCHs between 1977 and 1986 was sufficient to serve as the impetus for Pub. L. 104-193's better targeting of DCH benefits to low-income children.

Table 1

Income Eligibility Status of Children in DCHs over Time

Percent of DCH Children in Poverty Strata by Year(s)								
Percent of Poverty	1977 ^a		Change Between 1977-1982		1986 ^c		Change Between 1982-1986	
	1977 ^a	1982 ^b	1977-1982	1986 ^c	1982-1986	1995 ^d	1986-1995	
≤ 130 %	58 %	25 %	- 33 %	16 %	- 9 %	11 %	- 5 %	
131-185 %	24 %	11 %	- 13 %	13 %	+ 2 %	10 %	- 3 %	
≥ 185 %	18 %	64 %	+ 46 %	71 %	+ 7 %	78 %	+ 7 %	
Total	100 %	100 %	N/A	100 %	N/A	100 %	N/A	

^a Percentages represent the proportion of meals served by category: free (to children from households with income ≤ 130 % of Federal income poverty guidelines), reduced price (131-185 % of poverty), and paid (≥ 185 % of poverty). Since most DCHs operating in 1977 were non-pricing, that is did not charge separately for each meal served, it is assumed children in care of different income strata have equal propensities to consume meals, which implies the proportion of meals served by category in 1977 is a reasonable proxy for children's income eligibility percentages (result assumes children eligible for free or reduced-price benefits generally became approved to receive them).

^b *Study of the Child Care Food Program*² cited data as being available from *Evaluation of Child Care Food Program: Results of the Child Care Food Program: Results of the Child Impact Study Telephone Survey and Pilot Study*.

^c *Study of the Child Care Food Program*.²

^d *Early Childhood and Child Care Study* (total does not sum to 100% due to rounding).¹

The 1986 *Study of the Child Care Food Program (CCFP Study)*² found that approximately 70 percent of the children enrolled in DCHs in 1986 were non-needy (i.e., they lived in households with incomes about 185 percent of Federal income poverty guidelines). The 1995 Early Childhood and Child Care Study (ECCCS), completed after the passage of Pub. L. 104-193 and publication of the interim rule, validated the potential for re-targeting; it found that in 1995, 78 percent of children enrolled in DCHs were non-needy. The establishment of a two tier reimbursement system offers the potential for re-focusing Federal child care benefits on children who are needy.

The two tier reimbursement rate structure is expected to effect significant Federal budgetary savings. The six year projected savings (fiscal years 1997-2002) are approximately \$1.7 billion (see table 4). The savings would result from (1) a reduction in the reimbursement rates for meals served in tier II (non-low-income) DCHs and (2) a projected decrease in the rate of growth

in the number of day care homes participating in the CACFP. The projected decrease in the rate of growth in the number of DCHs means the number of DCHs projected to exist in the future (under post-Pub. L. 104-193 CACFP conditions) is smaller than the number that were projected under pre-Pub. L. 104-193 CACFP conditions. Fewer DCHs produce savings by eliminating the meal reimbursements that would have been paid for meals served in the day care homes and by eliminating the administrative payments that sponsors would have received for sponsoring these day care homes (the tiering system leaves unchanged sponsors' per-home administrative reimbursement rates). The estimated savings assume that in fiscal years 1997-2002 approximately 45 percent of DCH meals will be reimbursed at the higher rates. The 45 percent assumption follows from the ECCCS finding that 38 percent of providers qualify for tier I based on income, as well as from assumptions concerning the number of providers eligible for tier I solely on the basis of their residing in low-income

areas and assumptions about the number of documented low-income children enrolled in tier II DCHs (the 45 percent derivation is explained in detail near the end of Section 6, Area III, Part a, Tiering Determination Burden)

The reduction in reimbursement rates for meals served to children in tier II DCHs who are not documented income-eligible would result in savings of approximately \$1.4 billion over the next six years (fiscal years 1997-2002). Rates for all meals served to these children—lunches/suppers, breakfasts, and supplements—would decrease as shown in table 2. The rate change would result in a savings of about \$0.64 for every lunch or supper served during fiscal year 1998, the first full fiscal year in which the new two tier system will be in effect. The lunch/supper savings would increase to about \$0.70 per meal by fiscal year 2002. Breakfast savings would range from almost \$0.56 per meal served in fiscal year 1998 to \$0.60 in fiscal year 2002, and supplement savings would range from about \$0.35 cents in fiscal year 1998 to about \$0.38 cents in fiscal year 2002.

Table 2
Changes in Tier II DCH Meal Reimbursement Rates Due to Tiering

		Projected Meal Reimbursement Rates ^{a,b}		
Fiscal Year	Meal Type	DCH Rates Before	Tier II DCH Rates	Difference
		P.L. 104-193	After P.L. 104-193	
1998	Lunch/Supper	\$ 1.6175	\$ 0.9800	-\$ 0.6375
	Breakfast	\$ 0.8850	\$ 0.3300	-\$ 0.5550
	Supplement	\$ 0.4825	\$ 0.1300	-\$ 0.3525
1999	Lunch/Supper	\$ 1.6600	\$ 1.0100	-\$ 0.6500
	Breakfast	\$ 0.9050	\$ 0.3400	-\$ 0.5650
	Supplement	\$ 0.4950	\$ 0.1300	-\$ 0.3650
2000	Lunch/Supper	\$ 1.7000	\$ 1.0300	-\$ 0.6700
	Breakfast	\$ 0.9275	\$ 0.3500	-\$ 0.5775
	Supplement	\$ 0.5075	\$ 0.1400	-\$ 0.3675
2001	Lunch/Supper	\$ 1.7425	\$ 1.0600	-\$ 0.6825
	Breakfast	\$ 0.9475	\$ 0.3600	-\$ 0.5875
	Supplement	\$ 0.5200	\$ 0.1400	-\$ 0.3800
2002	Lunch/Supper	\$ 1.7875	\$ 1.0900	-\$ 0.6975
	Breakfast	\$ 0.9700	\$ 0.3700	-\$ 0.6000
	Supplement	\$ 0.5325	\$ 0.1500	-\$ 0.3825

^a Reimbursement rates are established, in accordance with the National School Lunch Act, as amended, on a school year basis, July 1 through the following June 30. The rates shown are in effect three quarters of the stated fiscal year, October 1 through September 30 of the following year.

^b Before P.L. 104-193 meal reimbursement rates were rounded to the nearest one-fourth cent. P.L. 104-193 changed the rounding rules to require that meal rates be rounded down to the nearest lower cent.

The growth of day care home participation in the CACFP is projected to slow as a result of the two tier rate structure, as some would-be providers are expected to perceive the program as offering insufficient financial incentive and/or being too administratively burdensome, relative to the financial benefits. A decline in homes' participation would cause a decline in the rate of growth of sponsor

administrative payments and meals served (growth would persist, albeit at a slower rate). As shown in table 3, it is estimated that in fiscal year 1998, the first full year of tiering, 18 million fewer meals will be served than would have been served under the current reimbursement rate structure (due to a slower growth rate in day care home participation). The six year effect (fiscal years 1997–2002) of this projected

decline in growth is a decrease in the number of meals served by 314 million, which is measured relative to the number projected under pre-July 1, 1997 reimbursement rates. The six year (fiscal years 1997–2002) projected savings from this slowing of program growth is approximately \$300 million, measured in nominal dollars.

Table 3
Changes in DCH Meal Growth Rate Due to Tiering

Fiscal Year	Projected Meals (In Thousands) ^b					Difference (Total)	Percent Change
	Before P.L. 104-193	After P.L. 104-193					
		Tier I	Tier II	Total			
1997 ^a	792,503	355,577	434,594	790,170	-2,333	- 0.3 %	
1998	824,203	362,688	443,285	805,973	-18,229	- 2.2 %	
1999	865,413	371,755	454,368	826,123	-39,290	- 4.5 %	
2000	907,818	380,863	465,500	846,363	-61,455	- 6.8 %	
2001	950,486	389,814	476,439	866,252	-84,233	- 8.9 %	
2002	995,158	398,974	487,635	886,609	-108,549	- 10.9 %	
1997-2002	5,335,581	2,259,671	2,761,821	5,021,490	-314,089	- 5.9 %	

^a Tiering did not become effective until the beginning of the fourth quarter (July 1, 1997) of fiscal year 1997.

^b Fiscal year 1996, DCH data implies the average DCH served 20 breakfasts, 31 lunches/suppers, and 31 supplements during an average week.

Costs

The interim and final rules promulgate the two tier CACFP meal reimbursement system specified in Pub. L. 104–193. This system was designed to reduce Federal child care subsidies to providers and parents who are not low-income. Tiering will result in a projected \$1.7 billion in Federal savings over the next six fiscal years through (1) lower meal reimbursement payment rates for non-low-income DCH providers and non-low-income children and (2)

secondary savings stemming from the lower rates, including the decrease in the growth rate of the number of day care homes participating in the CACFP. The non-low-income providers will likely pass some of their revenue loss on to their clientele (primarily non-low-income parents) through higher child care fees. Non-low-income providers and parents will thus bear most of the costs resulting from the projected \$1.7 billion reduction in Federal expenditures—as was the intent of Pub.

L. 104–193. In addition to these fiscal costs, operating the two tier system will place new administrative burdens (costs) on DCH sponsors, State CACFP and State National School Lunch Program (NSLP) agencies, and NSLP school food authorities. The following analysis will show these administrative costs are minor in comparison with the costs to non-low-income providers and parents.

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Table 4
Federal CACFP DCH Costs Before and After P.L. 104-193

Fiscal Year	Projected Costs and Savings (In Thousands of Dollars)											
	Before P.L. 104-193					After P.L. 104-193					Change	
	Total DCH \$	Total Meal \$	Admin. & Audit \$	Total DCH \$	Tier I Meal \$	Tier II Meal \$	Total Meal \$	Admin. & Audit \$	Total DCH \$	%	Admin. & Audit \$ (%)	
1997 ^a	\$ 916,721	\$ 778,041	\$ 138,679	\$ 857,194	\$ 348,985	\$ 369,887	\$ 718,872	\$ 138,322	-\$ 59,527	- 6.5 %	- 7.6 %	- 0.3 %
1998	\$ 975,855	\$ 830,493	\$ 145,362	\$ 728,653	\$ 365,764	\$ 220,352	\$ 586,116	\$ 142,537	-\$ 247,203	- 25.3 %	- 29.4 %	- 1.9 %
1999	\$ 1,047,984	\$ 893,989	\$ 153,995	\$ 765,092	\$ 386,428	\$ 232,018	\$ 618,446	\$ 146,646	-\$ 282,892	- 27.0 %	- 30.8 %	- 4.8 %
2000	\$ 1,124,112	\$ 960,650	\$ 163,462	\$ 798,085	\$ 405,231	\$ 244,080	\$ 649,312	\$ 148,774	-\$ 326,026	- 29.0 %	- 32.4 %	- 9.0 %
2001	\$ 1,203,792	\$ 1,030,389	\$ 173,404	\$ 836,217	\$ 425,250	\$ 256,731	\$ 681,981	\$ 154,236	-\$ 367,575	- 30.5 %	- 33.8 %	- 11.1 %
2002	\$ 1,289,588	\$ 1,105,662	\$ 183,926	\$ 875,940	\$ 446,130	\$ 270,014	\$ 716,144	\$ 159,796	-\$ 413,648	- 32.1 %	- 35.2 %	- 13.1 %
1997-2002	\$6,558,052	\$ 5,599,224	\$ 958,828	\$ 4,861,181	\$ 2,377,788	\$ 1,593,082	\$ 3,970,871	\$ 890,311	-\$ 1,696,871	- 25.9 %	- 29.1 %	- 7.2 %

^a Tiering did not become effective until the beginning of the fourth quarter (July 1, 1997) of fiscal year 1997.

The costs of tiering to DCH providers will be addressed first and followed by a discussion of costs to families whose children are in tier II DCHs. The new administrative burdens that tiering imposes on DCH sponsors will then be discussed and followed by an examination of the administrative costs for CACFP State agencies, NSLP State agencies, and NSLP school food authorities.

Implementation and use of the tiering system will have both one-time implementation costs and periodically recurring costs for the entities discussed above. The implementation costs will depend highly on the specifics of the State and local CACFP procedures currently in place and on which of the reimbursement options DCH providers choose and which of the claiming options DCH sponsors choose. For these reasons, implementation costs will vary greatly across States and localities. Because of the lack of information on these current practices, quantification of the implementation costs, within a reasonable degree of accuracy, is precluded. It is recognized that these costs may be significant, especially for State CACFP agencies (sponsors will need more technical assistance). The recurring costs are more evident and quantifiable, and what follows is a discussion of the recurring costs the affected entities will incur.

I. Costs to Providers

For CACFP providers the costs of tiering will have an administrative burden component, but will be primarily financial, due to the lower meal reimbursement rates, and will fall on providers operating tier II DCHs. Virtually all tier II DCHs will experience a decrease in CACFP reimbursements; the majority of the \$1.7 billion in projected savings is due to lower reimbursements to non-mixed tier II DCHs (a mixed tier II DCH is a tier II DCH where at least one child in care is documented income-eligible; meals served to such children are reimbursed at the higher rates). Non-mixed tier II DCHs comprise an estimated 48 percent of all DCHs (see Costs to Sponsors for explanation). For the average non-mixed tier II DCH, the July 1, 1997 tier II rate decrease will cause weekly CACFP revenues to decline 50 percent, from \$82 to \$41,³ which follows directly from the average DCH's weekly meal mix footnoted in table 3 and the meal reimbursements shown in table 2. Since the average DCH has an attendance of about 7 children¹ this \$41 decrease (\$82-\$41) represents about \$5.80 per child. Although this is a significant decrease, the \$41 a week represents

income that would have to be completely or nearly completely replaced by increases in child care fees if the day care home dropped out of the CACFP; therefore, the \$41 is sufficiently attractive for most tier II providers to stay in the program and for new providers to continue joining.

a. Potential Tier II Provider Responses to Lower CACFP Reimbursements. Providers of tier II DCHs will most likely respond to decreased CACFP revenues through some combination of raising fees, absorbing the loss, recruiting low-income children, providing care for more children, and reducing operating costs. Studies of the day care market corroborate this. They find that in general providers will not try to pass all of the CACFP loss on to the families they serve,^{4 5} but rather employ some of these other options as well.

The amount which existing non-low-income providers can pass on through higher fees will depend on the character of their local day care market. Tier II providers in markets that are competitive on the basis of fee will be discouraged from passing all of the loss on to parents, as they need to keep fees approximately in line with the local going rate to retain their customers.⁵ Providers in less competitive markets, such as those where there is a child care shortage, will be able to raise fees and pass most of their loss along to parents. An example of a fee competitive market is one where there are several day care homes operating in a moderate income neighborhood, all having nearly equal appeal to parents and nearly equal fees, but with only a few of the homes being tier II DCHs (the rest being non-CACFP homes or tier I DCHs). Although the tier II DCH providers would be tempted to raise fees in response to the CACFP reimbursement rate decrease, the non-CACFP and tier I DCHs would probably leave their fees unchanged; their doing so may cause the tier II DCHs to leave their fees unchanged as well. Empirical data on the relative extent of these two market scenarios is unavailable. However, because the markets affected by tiering serve mostly non-low-income families who, if fees are raised, would probably choose to pay higher fees to stay with their current provider (i.e., they will pay what is necessary to secure high quality care), fee competitive markets may be the less common variety.

Data from the 1990 Profile of Child Care Settings Study⁴ (PCCS) and the 1976 National Day Care Home Study⁶ (NDCH) provide information on the likelihood that providers will respond to decreased CACFP reimbursements by

absorbing the loss or providing care for more children. The PCCS and NDCH studies indicate that most tier II CACFP providers are not in a position to completely absorb a significant portion of the reduction in meal reimbursements and still make a profit. The 1976-80 NDCH study found that homes like DCHs (sponsored and licensed) do not make even moderate operating surpluses (profits)—the mean net hourly wage for providers in licensed, sponsored homes was \$1.92 (in 1976 dollars), 83 percent of the 1976 minimum wage rate of \$2.30 per hour (all DCHs are sponsored and licensed, but not all sponsored, licensed homes are DCHs, i.e., participate in the CACFP). The PCCS study suggests that providers' economic situation may have even worsened since the NDCH study: PCCS found that in real dollars, fees for licensed, sponsored homes decreased between the period 1976-80 and 1990. Thus, the PCCS data suggests that providers in sponsored homes, such as DCHs, do not have much of an operating surplus to buffer a cut in subsidies. Other PCCS findings indicate that most providers will not consider taking more children into care as a means of increasing revenues to offset the decrease in CACFP reimbursements. PCCS found that most providers of sponsored, licensed homes are operating near their legal capacity and that over half of all such providers surveyed indicated they are unwilling to take more children into care.

b. Most Probable Provider Responses to Lower CACFP Reimbursements. The PCCS and NDCH data, and the data suggesting that some day care markets may discourage the raising of fees⁵ imply that in general tier II providers will respond to decreased meal reimbursements by reducing operating costs; absorbing a small portion of the decrease; and raising fees a modest amount, but will not respond by providing care for more children.

c. Effects on Non-Mixed Tier II Providers. Tier II providers who respond to decreased CACFP revenues by noticeably reducing operating costs or sharply raising fees may, however, only exacerbate their income shortage, as parents may be unwilling to accept the providers' decreased child care expenditures (reduced operating costs) or higher fees and could respond by moving their children to other providers, which would decrease the original provider's income until replacement children could be found. However, given that fees for DCHs (i.e., licensed and sponsored providers) tend to be higher than those found in unlicensed day care homes,^{6 7} parents

who patronize DCHs have demonstrated a willingness to pay a premium for licensed care and are therefore less likely to be sensitive to an increase in provider fees.

The new reimbursement rates will have a significant economic impact on non-mixed tier II DCHs. Based on Food and Consumer Service (FCS) program data³ and projected increases in the food at home series of the Consumer Price Index, when DCH reimbursement rates are first tiered on July 1, 1997 the weighted average per meal rate for non-mixed tier II DCHs will drop from the tier I level of \$1.01 down to \$0.50, a 50 percent decrease. The July 1, 1997 rate cut will cause the average non-mixed tier II DCH's weekly CACFP revenues to decline from \$82 to \$41, a \$41 decrease (a 50 percent decline), where the average DCH serves an average weekly meal mix of 20 breakfasts, 31 lunches/suppers, and 31 supplements³ to seven children.¹ These estimates incorporate the dynamic nature of the licensed day care market, where the annual provider turnover rate is approximately 20 percent: They assume that lowering the meal reimbursement rates will decrease the incentive for day care homes to join the CACFP and also increase the rate of departure for existing DCHs. Numerically, this translates into the expectation that the lower rates will cause the annual rate of growth in DCHs to decrease from just below 5 percent to just below 2.5 percent.

d. Effects on Mixed Tier II Providers.—Although minor in comparison with non-mixed tier II CACFP revenue decreases, tiering's actual meal count system will place a new administrative burden on some portion of the subgroup of mixed tier II providers (an estimated 10 percent of DCHs are mixed tier II) whose sponsors require them to use an actual meal counts system (some providers already keep such counts). There will be no new burden for providers whose sponsors opt for either of the "simplified" meal counts systems (as explained in the Costs to Sponsors, Sponsor Meal Claiming Burden section). In an actual counts system, the mixed tier II DCHs would provide the sponsor, for each child in care, the number of reimbursable meals the child was served, by meal type and would also identify each child by name. This reporting requirement represents an increase in burden over the current system where some providers only record and provide sponsors with the total number of reimbursable meals served, by meal type. Few DCHs are expected to incur this burden, however, as this system is burdensome for the sponsors; it is being assumed that only

5 percent of sponsors will choose an actual count system, and that in addition, all such sponsors will be small—serving no more than 50 DCHs, on average only 32 (see the Costs to Sponsors, Sponsor Meal Claiming Burden section). The estimated weekly provider burden associated with an actual count system in an average DCH (serving 7 children¹ and operating 5 days a week¹) is 35 minutes, which assumes a burden of 1 minute per child per day. The estimated annual burden for such a home is therefore 29 hours. This translates into an annual fiscal impact of \$154 per provider. This calculation assumes that providers of licensed, sponsored care are making about \$5.30 per hour for their services (\$5.30 is an inflation adjusted version of the NDCH study⁶ finding that providers of sponsored, licensed homes earned an average of \$1.92 per hour in 1976).

e. Effects of Tiering on Potential CACFP Day Care Home Providers. The two tier system may affect whether new day care home providers choose to participate in the CACFP. A provider who attempts to qualify for tier I based on provider's income must supply income data or other evidence showing the provider's household income is at or below 185 percent of the Federal income poverty guidelines before the sponsor can approve the DCH for tier I. While seemingly a simple requirement, anecdotal evidence from sponsors and State agencies suggests that some providers who previously claimed an income below 185 percent of the Federal income poverty guidelines (required to claim reimbursements for meals served to providers' own children in care) are withdrawing from the CACFP altogether over this requirement. This suggests that some providers who begin offering child care after July 1, 1997 (effective date of the two tier system) may also choose not to join the CACFP due to this requirement.

For potential CACFP providers who begin offering child care after July 1, 1997 and who never experienced the pre-Pub. L. 104-193 rates, the \$41 per week (about \$2,000 per year) available to an average unmixed tier II DCH will be seen as a welcome source of additional income, and many of these would-be tier II providers will join the CACFP. However, \$41 is not as attractive as the pre-Pub. L. 104-193 level of \$82, and it is therefore expected that new, would-be tier II providers will join the CACFP at a slower rate.

II. Costs to Families

Tiering imposes few costs on low-income families. One cost, limited to low-income families with children in

mixed tier II DCHs, is their being asked to provide household income information. Although the families are not obligated to provide this information it is expected that most will. Providing this information consumes time and could lessen a family's privacy. Sponsors have the authority to verify the income information at a later time, in which case the family would be contacted and asked to submit supporting documentation for the income figures provided, representing a second burden and an intrusion on family privacy. Despite being authorized to conduct income verifications, few sponsors are expected to do so in light of the associated burden. As explained below, there may also be a limited number of low-income families with children in non-mixed tier II DCHs; these families will experience costs similar to those described below for non-low-income families.

Tiering is intended to reduce subsidies to non-low-income families, which as previously stated, is the intent of Pub. L. 104-193. The reduction has potential cost implications for these families. The Costs to Providers section explained that providers will likely respond to the decrease in CACFP reimbursements through some combination of reducing operating expenses, raising fees, and absorbing the loss. At one extreme of the day care market, an area not fee-competitive in which DCH providers have the freedom to increase fees to completely offset the reduced reimbursements, raising fees to offset the reimbursement cut would increase fees by about \$5.80 a week per child. This would represent a 9 percent increase over the average weekly fees, \$70, that parents of non-low-income children currently pay for care (\$70 is an inflation-adjusted version of the CCFP Study's figure of \$49).² At the other extreme of the day care market, a highly fee competitive setting, fees would remain unchanged. Although empirical data on the relative extent of these market types is unavailable, data from the Costs to Providers section suggest that the non-competitive market type may be more common: First, the markets affected by tiering are serving non-low-income families who, if fees are raised, would probably choose to pay the higher fees to stay with their current provider; and second, families patronizing DCHs, which tend to charge higher fees than unlicensed providers, have already demonstrated a willingness to pay more for the higher quality of licensed care.

a. Competitive Markets. In child care markets where providers need to hold

fees down to retain customers, providers are constrained to react to the rate decrease through some mixture of absorbing the cut and cutting operating costs. The providers being considered here are primarily those operating non-mixed tier II DCHs, the group that will experience the greatest tiering related CACFP revenue drop. To cut costs, these tier II providers may change their management practices relating to food service and developmental opportunities and materials, among other potential changes. Although intended as cost cutting measures, some of these changes could have effects on the children in care. In the area of developmental opportunities and materials, lower reimbursements may leave providers somewhat less able to afford the games, books, audio or video tapes, etc. that were attainable when CACFP reimbursements were covering a greater proportion of food expenses. There are also a number of areas in food service where providers could reduce costs, and these would impact children in tier II DCHs. One way to reduce costs would be deciding that certain snacks or meals served under the old, higher CACFP reimbursements will not be served under the new, lower rates, such as an afternoon snack. Providers might also respond by decreasing meal portions, although by specifying minimum serving sizes, CACFP regulations limit the extent to which this could be done. Other means of cutting food service costs could include replacing more expensive ingredients and food items with less expensive ones. While purchasing lower quality items and ingredients may have detrimental nutritional implications, substituting something more affordable could also represent a nutritional improvement if wise choices are made, i.e., purchasing an alternate, more affordable and more healthful combination of foods rather than purchasing a lower-quality version of the same food. The CACFP study mandated by Pub. L. 104-193 will compare the nutritional quality of meals served in post-tiering tier II DCHs with the quality of meals served in those DCHs before tiering, among other pre/post-tiering comparisons.

If a tier II provider decides to cut operating costs, a family may find the resulting conditions unacceptable and seek another provider. The search for a new provider entails costs in the time and potential for lost wages spent finding a new provider. There is also the potential for subsequent transportation and added inconvenience costs if the more suitable providers are not as

conveniently located as the original caregiver (although they might also be more convenient). It is also possible that providers constrained to hold fees down will exit the child care market, which would also require a family to find another provider.

Under the fee competitive market scenario just considered, which primarily affects non-low-income families, there is the potential that some of the low-income children in mixed tier II DCHs will experience some of the same costs the children in non-mixed tier II DCHs will experience. Although some of the meals served in a mixed tier II DCH will be eligible for the higher reimbursement rates, others will not. If the provider is constrained to not raise fees to recoup the decreased reimbursements for the non-low-income families, the provider will experience a net decrease in revenue. As discussed above, the provider will likely respond to this net decrease by either reducing operating costs or absorbing the loss. Reducing operating costs would affect the low-income children in care. However, FCS believes only 10 percent of all DCHs will be mixed and that only a portion of these mixed homes are in competitive fee markets (where providers are constrained to keep fees down); under these conditions, few low-income children would be affected.

b. Non-Competitive Markets.—In the other child care market being considered, where providers are not as constrained to hold fees down, providers will likely respond to the rate decrease primarily through increased fees. As suggested earlier in this section, because tiering mainly affects non-low-income families who will likely choose to pay increased provider fees, this type of market may be more common than the competitive fee variety. In non-fee competitive markets, families can respond to increased fees by either paying the higher fees, moving their children to more affordable providers, or dropping out of the labor force (fully or in part) to care for their children. Each choice has different costs for families. In cases where the parents elect not to move the child, the parents will be assuming greater responsibility for food costs than under the previous system where the Federal Government was performing that function (the intent of Pub. L. 104-193). In the case where the provider raises fees enough to completely offset the reduced reimbursements, fees could increase by about \$5.80 a week per child, representing a 9 percent increase over pre-tiering average fees.² In the second case, where the parents move a child to achieve lower fees, the child may have

to break established relationships with the current provider and other children in care. The third alternative, dropping out of the labor force, would presumably occur rarely, as the raising of fees will primarily affect higher income families who will probably choose to absorb the increase.

c. Effects of Tiering on Child Care Choices.—Studies show that child care regulations enforce practices beneficial to childhood development,⁶ but the preceding discussion on the relationship between lower meal reimbursements and higher fees implies that under tiering the number of families choosing sponsored, licensed care may decrease. The 1976-80 NDCH Study compared fees among unlicensed providers; licensed but unsponsored providers; and providers who are both licensed and sponsored. The study found that providers who are both licensed and sponsored had the highest fees. In the years since that study, fees charged by licensed and sponsored providers have decreased until equaling the fees charged by licensed but unsponsored providers.⁴ This equaling of fees in licensed homes coincided with the post-1978 rapid growth of DCHs. CACFP reimbursements—available only to sponsored, licensed homes—may have played a role in bringing down fees charged by licensed, sponsored providers to equal fees of licensed, unsponsored providers, which suggests that tiering's lowering of CACFP rates may cause licensed, sponsored fees to rise. Even if the post-1978 decline in licensed, sponsored provider fees is attributable to other factors, it is likely (as discussed in the Costs to Providers section) that decreased CACFP reimbursements will cause licensed, sponsored providers to raise fees, at least in some markets, which may shift children into more affordable, possibly unlicensed homes. Similarly, the decreased CACFP reimbursements might cause some currently licensed and sponsored providers to consider moving out of licensed care. Therefore, the possibility that CACFP rates will no longer encourage the placement of children in licensed care is another cost that tiering may bring to non-low-income children and even some low-income children.

d. Intended Effect of Tiering.—An important fact is that tiering almost exclusively affects families with incomes above 185 percent of the Federal income poverty guidelines (non-low-income), as intended by Pub. L. 104-193. The only low-income families potentially affected by tiering will be those with children in tier II DCHs. This presumably encompasses few families,

as it is believed, as mentioned earlier, that (1) only 10 percent of all DCHs will be mixed (having both non-low-income and documented low-income children in care) and that only 30 percent of the children in an average mixed DCH will be low-income (see Tier II Household Income-Eligibility Determination Burden under Costs to Sponsors); and (2) that the clear majority of low-income children will be in tier I DCHs. Similarly, the providers affected by tiering will presumably be all non-low-income, since providers with incomes below 185 percent of the Federal income poverty guidelines are eligible for Tier I status. The Federal income poverty guidelines are designed to take into account family size, so that a given household will qualify for low-income status at a lower income level than will a household that has more children.

Although the reimbursement decrease for tier II DCHs is significant, the \$41 a week in CACFP reimbursements that the average non-mixed tier II DCH would receive under tiering represents income that would have to be completely or nearly completely replaced by increases in child care fees if the day care home were to drop out of the CACFP altogether; therefore, the reimbursements available to tier II DCHs are sufficient for most tier II providers to stay in the program and for new providers to continue joining. These reimbursements will continue to assist providers with offering healthful, nutritious meals to participating children.

III. Costs to Sponsors

The two tier structure will impose several new administrative burdens on organizations that sponsor DCHs, including determining and documenting which DCHs and children are entitled to receive the higher set of reimbursement rates; verifying the income of all providers who qualify for tier I status based on provider income; determining which providers qualify for tier I based on area-eligibility; and collecting and reporting separate tier I and tier II meal, enrollment, and provider counts and other information on DCHs.

a. Tiering Determination Burden. All sponsors will be responsible for determining whether each of their DCHs is tier I or II. A sponsor can approve a DCH for tier I status if the DCH is located in a low-income area or the provider is low-income. A low-income area is defined as one in which the local elementary school has at least one-half of its enrollment approved for free or reduced price NSLP lunches, or an area in which at least one-half of the resident

children are low income, according to the most recent census data.

The interim and final rules establish procedures for acceptable uses of census and school data when approving DCHs for tier I on the basis of geographic eligibility. The rules establish school data as the preferred data source. FCS prefers school data over census data because, in most cases, school data is more capable of accurately documenting current household income levels in an area. Because it is collected on an annual basis, school enrollment data more accurately measures current economic conditions of the current population, whereas significant changes can occur to an area's economic health (e.g., local recession or new employment opportunities) and the income levels of an area's population (through demographic shifts) between the times census data is collected. Since it is more representative of current income levels, establishing it as the preferred data source is necessary for consistency with the targeting goals of Pub. L. 104-193, which states that sponsors "shall use the most current available data at the time of determination," where data refers to elementary school data, census data, and provider household income data.

Sponsors are to use school data to approve a DCH for tier I by area eligibility except when a school's attendance is primarily determined by something other than geographic proximity, which is true of most magnet schools and most schools in districts where substantial amounts of bussing takes place. When attendance is drawn in this manner, it almost always breaks the link between the percentage of enrollment approved for free or reduced price meals and household income levels in the school's attendance area, which makes school data inappropriate, in such instances, for making area-based tier I determinations. The final rule also directs sponsors to use census data for approving as tier I providers who reside in areas not circumscribed by school attendance areas. In all other efforts to classify DCHs for tier I by area-eligibility, sponsors must first use school data. If school data is used, but fails to support an area-based tier I classification, sponsors may then attempt to classify the DCH for tier I using census data if the DCH is either (1) circumscribed by a school attendance area where the school's free and reduced price enrollment is at least 40 percent of total enrollment or (2) circumscribed by a geographically large, rural school attendance area. Except for these two cases and situations where free and reduced price enrollment data

does not reflect household income levels in a school's attendance area, sponsors must first receive State agency approval before using census data to classify DCHs as tier I by area eligibility. If a sponsor uses school data and determines that a DCH is located in an eligible enrollment area, but knows that some segments of that enrollment area are clearly non-needy—average income levels are well above the criteria for free and reduced price meals—then the sponsor must consult census data to determine whether the DCH operates in an eligible segment of the enrollment area before approving the DCH for tier I based on school data (eligible segment: census data show that at least 50 percent of the children live in households at or below 185 percent of the Federal income poverty guidelines). DCHs located in clearly non-needy areas within what are otherwise eligible attendance areas are not eligible for tier I via area eligibility.

FCS has attempted to establish procedures for the use of area data that meet the statutory requirements for low-income area data but do not place undue burden on sponsors and other involved organizations. State NSLP agencies will provide sponsors with lists of all State elementary schools in which at least 50 percent of enrollment is approved for free or reduced price meals (documented income below 185 percent of Federal income poverty guidelines). In addition, State CACFP agencies will provide sponsors with tabulations of census block group data showing the proportion of free or reduced price eligible children (income below 185 percent of Federal income poverty guidelines) in each block group. To determine attendance area boundaries for these 50 percent schools, sponsors may request attendance boundary information from the school districts, and school districts are required by the final rule to furnish the boundary information whenever boundaries exist for the schools in question. Sponsors must devise some method to determine which of their DCHs operate in eligible school attendance areas. Sponsors could do this by locating DCHs on a street map that also shows boundaries of eligible attendance areas; by telephoning the school district and being told by a school official whether a particular DCH is located in an eligible attendance area; by using geographic information systems software to create electronic street maps showing eligible attendance areas and DCH locations; or by any other means that allow a sponsor to independently determine whether a

DCH is located in an eligible attendance area. Although school boundaries may change during the 3 years of tier I eligibility following a school-data based tier I determination, and sponsors are to use the most recent boundary information when making determinations for DCHs just entering the CACFP and DCHs whose tier I eligibility status is about to expire, the final rule informs sponsors that in general, area-eligibility re-determinations should not be made when attendance area boundaries change during the 3 year eligibility period following a school-based tier I determination. Discouraging these re-determinations reduces sponsors' determination burdens and provides school-area approved DCHs a greater sense of predictability.

In the case of census data, sponsors can readily obtain block group boundary information from the U.S. census bureau in hard copy or electronic format. The methods that sponsors could use to demonstrate a DCH is located in a census-eligible block group are analogous to the methods described for school data. Census based determinations are valid until more recent census data becomes available.

A sponsor can also approve a DCH for tier I status if the DCH provider can demonstrate low-income status (i.e., income no more than 185 percent of the Federal income poverty guidelines). If a sponsor finds a provider to be low-income, the sponsor must verify the provider's household income before formally approving the DCH for tier I status. Sponsors must annually re-determine every Tier I eligibility determination based on a provider's income. Because verification of this kind is a non-trivial burden to sponsors, it is expected that whenever possible sponsors will approve providers for tier I on the basis of area eligibility. Area eligibility determinations offer sponsors the added benefit of being valid for three years when school data is used and until more recent data is available when census data is used, which would not exceed ten years.

The verification that sponsors will perform on income-approved tier I providers consists of obtaining pay stubs, tax returns, or some other form of independent income documentation to establish that the information provided on providers' tier I income applications is accurate. This type of verification is also known as "pricing-program" verification. The interim and final rules mandate this verification to protect the government against providers' financial incentive to qualify for tier I; the average tier I provider would receive 41 more

dollars a week in CACFP meal reimbursements in 1998 than would the average non-mixed tier II provider (as was explained in the Costs to Providers section).

Collecting corroborating income documentation from providers for tier I income eligibility verifications represents an increase over pre Pub. L. 104-193 CACFP DCH application review requirements, which were established by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35. Pub. L. 93-35 eliminated CACFP DCH meal reimbursements for providers' own children in care, unless a provider submits an application demonstrating low-income status. Sponsors are not required to obtain supporting income information for these applications and typically make eligibility determinations based on the application information alone. Under the interim and final rules, providers will submit two types of income applications, which have different sponsor verification requirements. The first type will be submitted by providers seeking to qualify for tier I, so that, if approved for tier I, all meals served in the applying provider's home, including those to the provider's own children in care, would be reimbursed at the higher rates. The second type of application would be submitted by providers approved for tier I by area eligibility seeking to claim meals served to their own children in care. Pub. L. 104-193 does not supersede Pub. L. 97-35, so the requirement that a DCH provider demonstrate low-income status in order to claim meals served to the provider's own children remains in effect. For income applications for tier I status, Pub. L. 104-193 requires that pricing program verification (collection of substantiating income documentation) be performed. For applications from area-approved tier I providers seeking to claim meals served to their own children, sponsors will continue to approve these applications based on application content alone, which entails no new burden for sponsors.

Estimating sponsors' tiering determination burden requires first estimating the percentage of DCHs that are eligible for tier I based either on provider's household income or area-eligibility. The analysis does this by first estimating the percentage who are eligible on the basis of provider household income (and possibly also eligible on the basis of area) and then estimating the percentage of DCHs that are eligible on the basis of area exclusively. The ECCCS study, which was completed after the interim rule and analysis were published on January

7, 1997, finds that 38 percent of current DCH providers have household incomes low enough to be income eligible for tier I. Empirical data on the percentage of DCHs eligible for tier I on the basis of area alone is unavailable, as was the case for the interim rule. The figure used in this analysis, 4 percent of all DCHs, is comparable to the 6 percent figure used in the interim analysis.

The final rule's assumption that 4 percent of all DCHs are eligible for tier I by area, but not by income, like the 6 percent assumption in the interim analysis, is a consequence of the constraints imposed by (1) the percentage of meals reimbursed at the higher rates that will be consumed by documented low-income children in mixed tier II DCHs and (2) the percentage of providers eligible for tier I on the basis of income (and possibly area too). Constraint number 1 is considered first. The interim analysis assumed that few DCHs would be mixed tier II and, based on program knowledge, chose 10 percent of all DCHs as being mixed tier II. The interim analysis also assumed that 40 percent of mixed tier II DCHs' enrollments would be low-income. These two assumptions implied that documented low-income children in mixed tier II DCHs would consume nearly 4 percent of all DCH meals, which would all be reimbursed at the higher rates. The final analysis retains the 10 percent assumption, but assumes that 30, not 40, percent of mixed DCHs' enrollments will be documented low-income. The lowering of this percentage reflects the ECCCS finding that only 22 percent of the 1995 DCH enrollment is low-income, down from the CCFP study finding that 30 percent of the 1986 DCH enrollment was low-income. The preceding implies that documented low-income children in mixed tier II DCHs will consume about 3 percent of all DCH meals, which will all be reimbursed at the higher rates.

Having determined the contribution made by documented low-income children in mixed tier II DCHs to the percentage of total DCH meals reimbursed (and knowing they will be reimbursed at the higher rates), and also knowing the percentage of providers who are income-eligible for tier I (constraint number 2), the percentage of area-eligible, non-income-eligible tier I DCHs can be derived. The ECCCS finding that 38 percent of DCH providers are low income together with the higher reimbursement meals attributable to documented income-eligible children in mixed tier II DCHs imply that 41 percent of all DCH meals will be reimbursed at the higher rates. The only other DCH meals that will be

reimbursed at the higher rates are meals served in area-eligibility approved tier I DCHs with non-income-eligible. As stated above, the interim analysis assumed that 6 percent of all DCHs are area-eligible for tier I, but not income eligible. Given that the final rule assumes a higher proportion of DCHs will be income-eligible, the percentage of DCHs assumed area-eligible, but not income-eligible, has been reduced to 4 percent. Together with the income-eligible tier I DCHs and the documented low-income children in mixed tier II DCHs, the 4 percent implies that sponsors will be approving 42 percent of all DCHs for tier I and also that 45 percent of all DCH meals will be reimbursed at the higher rates.

Thirty-eight percent out of the 42 percent of DCHs that are eligible for tier I are eligible by income, but it is very likely that a substantial proportion of them (income-eligible) reside in low-income areas, which would make them area-eligible also. The burden of conducting pricing program income verifications on providers who apply for tier I on the basis of income and the interim rule's requirement that classifications based on providers' household incomes be re-determined annually will presumably cause sponsors to approve DCHs for tier I on the basis of area eligibility, rather than income, whenever possible. It was therefore assumed that one-half of the income-eligible DCHs will be approved for tier I on the basis of area eligibility rather than income (19 percent of all DCHs), which together with the 4 percent of tier I DCHs that are only area-eligible implies that 23 percent of all DCHs will be approved for tier I by area eligibility. The remaining one-half of tier I income-eligible DCHs, 19 percent of all DCHs, will be approved on the basis of income.

The dynamic nature of the DCH market will increase sponsors' tiering determination burdens. Data from the CCFP Study indicates the DCH market has an annual provider turnover rate of approximately 20 percent.² This volatility will lead sponsors to make more tiering determinations than would be necessary for a stable DCH population. See section e: Quantification of New Burdens for Sponsors for the quantification of sponsors' tiering determination burden.

b. Household Income-Eligibility Determination Burden on Sponsors. Meals served in tier II DCHs are reimbursed at the lower set of reimbursement rates. However, meals served to low-income children in tier II DCHs are eligible to be reimbursed at the higher set of rates, but sponsors

must first document these children's low-income status before the higher rates can be claimed. The final rule provides tier II DCH providers who wish to secure higher meal reimbursements for low-income enrolled children (making the DCHs "mixed" tier II) two options for identifying them and documenting their low-income status. The interim and final rules direct sponsors to conduct all aspect of income-eligibility determinations and prohibits DCH providers from taking part, to protect the confidentiality of the household income information.

One option gives DCHs the opportunity to identify a portion of enrolled income-eligible children without ever asking the children's households to provide income information. Under this option, sponsors use whatever documentation they or their DCHs providers have on file that constitutes official evidence that a child's household participates in or is subsidized by a State or Federal benefits program with an income eligibility limit at or below 185 percent of the Federal income poverty guidelines. The other option supplements the preceding option's income determination activities with income applications sent to households of enrolled children. Under this option sponsors distribute income applications to households of the enrolled children for whom the sponsor lacks official evidence that the household participates in an applicable Federal or State benefits program. Tier II DCH providers receive the higher set of meal reimbursement rates for all meals served to children from households that complete the application, return it to the sponsor, and demonstrate on it that the household's income is at or below 185 percent of the Federal income poverty guidelines, as well as households for which official evidence exists documenting the households' income eligibility.

Sponsors must maintain supporting documentation for all children approved for the higher set of meal reimbursement rates. At least annually, sponsors must re-determine the eligibility of all children previously deemed income-eligible and also give all children previously deemed not income-eligible another opportunity to demonstrate low-income status. For the purposes of this analysis, it is assumed that sponsors will meet the annual re-determination requirement by cycling through each of their mixed DCHs once a year and making income-eligibility determinations on all children currently enrolled at that time. Sponsors must also make income-eligibility

determinations for children who enter a mixed tier II DCH after the sponsor has made its annual income-eligibility determinations for that DCH. The schedule that sponsors will use to perform these latter income determinations is determined by the sponsor's choice of meal claiming system. Although it is providers who decide whether the sponsor must make income-eligibility determinations for enrolled children, sponsors decide which meal count system the sponsor and all its DCHs will use. The meal count system chosen determines the schedule on which income-eligibility determinations are made for children who enter mixed DCHs after the annual eligibility re-determination review has occurred. Sponsors can choose between an actual counts system and a "simplified" counts version. Each of these systems and its associated income-eligibility determination schedule is described below.

The final rule does not prescribe any additional income eligibility determination requirements, beyond annual re-determinations, for sponsors using an actual counts system. Rather, the provider's incentive structure under this system will determine the income-eligibility determination schedule used. In this system, providers of mixed tier II DCHs must report the number of meals served to each child by type and identify each child by name. Sponsors then use income-eligibility information to determine which set of reimbursements each child's meals are entitled to, with meals served to documented income-eligible children entitled to reimbursement at the higher rates. With reimbursements being determined on a per-child basis in actual meal count systems, providers of mixed tier II DCHs have the incentive to maximize the number of documented income-eligible children in their care. A provider can do this by directing its sponsor to make an eligibility determination on each new child upon the child's entering the provider's DCH. Assuming that most providers in actual count systems will behave in this manner, sponsors in these systems will be making income-eligibility determinations on an irregular, ongoing basis.

The final rule prescribes the income-eligibility determination schedule that sponsors employing simplified counting must use to determine the income-eligibility of children who enter mixed tier II DCHs outside the sponsor's annual income-eligibility determination cycle. The schedule requires that at least semi-annually, sponsors make income-eligibility determinations on all

children who enter a mixed DCH in the prior 6 months. Given that sponsors are already required to annually re-determine eligibility, sponsors using a simplified counting system will likely perform income-eligibility determinations twice a year: annual re-determinations at the beginning of the year and a second determination at mid-year for those children who entered a mixed DCH sometime in the preceding 6 months.

The two meal count systems will require sponsors to make near equal numbers of eligibility determinations; the burdens are expected to be equal. See section e: Quantification of Burdens for the burden estimates.

c. Data Collection and Reporting Burden for Sponsors. Tiering will place several new reporting requirements on sponsors. Sponsors will now have to annually collect and report to their State CACFP agency separate enrollment counts for tier I and tier II DCHs and an enrollment count for documented income-eligible children in mixed tier II DCHs (those DCHs serving at least one documented low-income child). Sponsors must also annually report the number of tier I and tier II DCHs they sponsor, as well as other information about their DCHs. Finally, in the management plan that every sponsor submits to its CACFP State agency, the sponsor will now have to include a description of how it will make DCH tiering determinations.

d. Sponsor Meal Claiming Burden. Under tiering, sponsors will have new burdens related to meal counting and claiming. Before tiering, sponsors were only required to claim meals by meal type (breakfasts, lunches, suppers, and supplements). Under tiering, sponsors will have to claim meals both by reimbursement category (higher/lower set of rates) and, within each category, by meal type. The claiming of meals served in tier I and non-mixed tier II DCHs remains straightforward. It simply entails separating claims submitted by tier I and non-mixed tier II DCHs, which amounts to categorizing the meals, and then, within each category, summing meal counts by type. In contrast, claiming for mixed DCHs requires that for each mixed DCH sponsors split out the meals by reimbursement category, which will typically be a more time consuming process than claiming for non-mixed DCHs. After the meals from

mixed DCHs are separated by category, the meals are summed within each category by meal type. The method that sponsors use to split out mixed tier II DCH claims depends on whether the sponsor is using an actual or simplified meal counting system, as described below.

As previously noted, in an actual count system, mixed tier II DCHs record the number of meals served to each attending enrolled child, by meal type, and provide the sponsor with a claim that lists the meals served to each child by type and identifies each child by name. In such a system, the sponsor splits the meals into reimbursement categories by determining the appropriate reimbursement category for each child's meals based on the child's income eligibility status—the reason each child is identified by name. In contrast, in a simplified count system, the sponsor splits the counts into the two reimbursement categories by applying either blended rates or claiming percentages to the provider's aggregated counts (both blended rates and claiming percentages produce identical fiscal claims). In the case of claiming percentages, a sponsor computes, for each DCH, the number of meals of each type entitled to the higher reimbursements by multiplying the total number of meals claimed of that type by the proportion of children in that DCH who have been determined income-eligible (the remaining meals are reimbursed at the lower set of rates). The procedure for blended rates is essentially the same. In simplified count systems, the semi-annual collection of income information described in section b: Household Income-Eligibility Determination Burden is used to update the claiming percentages/blended rates for each DCH at least every six months. The updated claiming percentages/blended rates reflect the proportion of income eligible children in the DCH.

Simplified counting is less burdensome to sponsors than an actual count system. Actual counts require the sponsor to compare the provider's meal claim against a list of the DCH's income-eligible children to identify which children's meals are entitled to the higher rate. The sponsor then groups meals by reimbursement category and finally, sums by type within each category to produce an aggregated count of meals by category and by type. In

contrast, to reach the same result in a simplified system, the sponsor need only multiply the aggregate meal counts by the DCH's claiming percentages/blended rates. Because of the relative ease of meal claiming in a simplified counts system, it is expected that only 5 percent of all sponsors will opt for actual counts and that all will be small sponsors (serving no more than 50 DCHs). In response to the interim rule, several commenters mentioned that some State agencies already require their DCHs to operate actual count systems and suggested that sponsors in these States were constrained to opt for an actual count system. This is not completely accurate. The final rule prohibits States from mandating which meal count systems sponsors use, but at the same time does not infringe on States right to establish additional recordkeeping requirements for their sponsors and DCHs, provided those requirements do not conflict with Federal regulations. Even if a State requires its DCHs to maintain actual counts, a DCH's sponsor is not compelled to opt for an actual counts system; the sponsor could still chose a simplified count system. In this scenario the sponsor would either direct its DCHs to report meals by type and to retain the actual count records at the DCH, or allow the DCHs to submit their actual count records, in which case the sponsor, when preparing its claim, would simply disregard all information except meal totals by type.

e. Quantification of New Burdens for Sponsors. To quantify the effects of this interim rule on sponsors, the 194,000 DCHs³ were distributed across the 1,200 DCH sponsors³ according to previous studies of the CACFP, and current DCH program data. Doing this enables the scaling of burden estimates according to sponsor size (the number of DCHs a sponsor serves), which produces more precise burden estimates. The first step in creating this structure, was dividing the approximately 1,200 current sponsors into three groups, as shown in table 5: (1) Small sponsors which serve no more than 50 DCHs, on average about 32 DCHs; (2) medium sponsors which serve between 51 and 300 DCHs, on average about 220; (3) large sponsors which serve more than 300 DCHs, on average about 420.^{2 3}

Table 5
Sponsor Characteristics

Sponsor Characteristics	Sponsor Size		
	Small	Medium	Large
% of all Sponsors	50 %	30 %	20 %
% of all DCHs Served	10 %	41 %	49 %
Average Number of DCHs Served per Sponsor	32	220	420
Number of Sponsors (Total = 1,200) in Category	612	360	228

Based on these definitions, 50 percent of all sponsors are small in size and account for 10 percent of all DCHs; 30 percent are of medium size and account for 41 percent of all DCHs; and 20 percent are large and account for 49

percent of all DCHs.^{2 3} Next, based on DCH providers' and enrolled children's income data, from ECCCS and other assumptions discussed above under *Tiering Determination Burden*, it was estimated that 42 percent of all DCHs

will be approved for tier I; 48 percent will be tier II, and 10 percent will be mixed tier II, as shown in table 6. Finally, it was assumed that 30 percent of sponsors will serve at least one mixed tier II DCH.

Table 6
DCH Characteristics

DCH Type	Percent of All DCHs
Tier I	42 %
Area Eligible Only	4 %
Income Eligible, Possibly Area Eligible ^a	38 %
Approved by Area	23 %
Approved by Income	19 %
Tier II	58 %
Mixed	10 %
Non-Mixed	48 %

^a Analysis assumes that more than one-half of all income eligible providers are also area eligible.

The estimates for new sponsor burden are presented in table 7. Shown are estimates for the annual burden hours imposed on each sponsor category, and the percentage of sponsors affected within each sponsor category. Of the listed burdens, only *Meal Claiming*

recurs periodically (monthly). The other burdens occur only once or twice a year (with the exception of household income determinations in an actual meal count system, but the number of sponsors involved is minimal, 5 percent of total, i.e., 60). The estimates make the

assumption that economies of scale are realized only for *Meal Claiming* burdens, where the recurring nature of the burden would presumably give larger sponsors sufficient incentive to establish efficient meal claiming systems.

Table 7
Estimated Annual Sponsor Burden from Two Tier DCH System

Burden	Estimated Annual Sponsor Burden by Sponsor Size (Hours)			Estimated Percent of Sponsors Affected in Each Size Category		
	Small	Medium	Large	Small	Medium	Large
<i>Tiering Determinations</i>						
1. Low Income Providers (Includes Verification)	16 Hrs.	108 Hrs.	179 Hrs.	100%	100%	100%
2. Area Eligibility	6 Hrs.	43 Hrs.	72 Hrs.	100%	100%	100%
<i>Tier II Household Income-Eligibility Determinations</i>						
<i>Data Collection and Reporting^a</i>	4 Hrs.	15 Hrs.	28 Hrs.	100%	100%	100%
<i>Meal Claiming</i>						
1. Actual Counts System (with mixed tier II DCHs)	23 Hrs.	N/A ^b	N/A ^b	10%	N/A ^b	N/A ^b
2. Simplified Counts System (with mixed tier II DCHs)	11 Hrs.	51 Hrs.	76 Hrs.	10%	43%	37%
3. No Mixed Tier II DCHs	6 Hrs.	25 Hrs.	38 Hrs.	80%	57%	63%

^a Includes tier I, tier II, and tier II low-income enrollment counts; tier I and tier II DCH counts; and description of tiering determination method in sponsor management plan.

^b Due to the burden associated with actual meal counts systems, it is expected that only small sponsors will choose actual counts.

The *tiering determinations* burden estimates were calculated using data from ECCCS, which indicate that 38 percent of all DCHs are income-eligible for tier I; the assumption that 4 percent of all DCH providers are non-low-income, but area-eligible for tier I; and the assumption that sponsors will choose to approve tier I income-eligible providers on the basis of area eligibility whenever possible. Thus, it is assumed that 23 percent of all DCH providers (one-half of the 38 percent who are income eligible plus the 4 percent who are only area eligible) will be approved for tier I using area eligibility information, while the remaining tier I eligible DCHs (19 percent) will be approved using provider income information. For the burden estimate, these percentages were assumed to hold for the average sponsor in each sponsor category so that, for example, the average small sponsor (serving 32 DCHs) with its 14.4 tier I homes would approve 7.9 of the 14.4 on the basis of area eligibility (14.4 * 23%/42%) and the remaining 6.5 DCHs on the basis of the provider's income (14.4 * 19%/42%). The estimates incorporate the dynamic nature of the DCH market, which has an

annual provider turnover rate of approximately 20 percent.² This volatility will require sponsors to make more tiering determinations than would be necessary for a stable DCH population. Finally, the estimates for area eligibility assume that sponsors identify income-eligible DCHs using sponsors' preexisting knowledge of economic conditions in areas where DCHs reside and that sponsors are thereby able to easily identify DCHs lying far outside all income-eligible areas. This approach would allow sponsors to focus their efforts on DCHs with reasonable probabilities of qualifying for tier I by area eligibility. This analysis assumes such an approach will be taken and that the average sponsor will consider 3 homes for low-income area eligibility for every 2 it finds eligible and approves.

The *tier II household income-eligibility determinations* estimates were calculated by estimating the income-eligibility burden associated with the average DCH and then, for sponsors serving mixed tier II DCHs, multiplying that figure by the average number of DCHs administered by sponsors in each of the three size categories.^{2,3} The

number of children in care in an average DCH was used as the starting point for estimating the per-DCH burden.¹ This figure was then inflated to account for the fact that on average, there is a 30 percent turnover of children every 6 months in the average day care home.⁸ This inflated figure represents the number of children whose households could potentially submit an application over a year's time. It is assumed that one-half of households would submit an application, and that of these households, one-third will be documented income eligible through official evidence possessed by the sponsor or provider, without having to submit the application. There is a clear financial incentive for providers to encourage their low-income families to submit income information to sponsors. This incentive and providers' close relationships with parents suggest that providers will attempt to persuade parents to provide the income information and achieve a high response rate.

The *data collection and reporting burden* was calculated assuming that the average sponsor will spend about 12 hours complying with the new

requirements in this area, with 10 of these hours for the new data related requirements and the remaining 2 for the requirement that each sponsor now provide a description of its plan for making DCH tiering determinations in its management plan. The 12 hour burden implies annual burdens of 4, 15, and 28 hours for small, medium, and large sponsors, respectively. These estimates are consistent with this burden being an expansion on the current CACFP requirement that sponsors report quarterly the number of DCHs served and the DCHs' enrollment and submit annually a sponsor management plan.

The *meal claiming* burden was calculated assuming that the *monthly* burden resulting from the new meal claiming requirements will be 2 hours for the average sponsor. This weighted average implies a burden that increases

with sponsor size and the number of mixed tier II DCHs being served. The estimates shown in table 7 make the assumption that an actual counts system will impose twice the meal claiming burden of a simplified counts system due to the relative difficulty that sponsors using actual counts are expected to have in producing meal claims broken down by reimbursement category and meal type (relative to the effort required under a simplified counts system). The estimates further assume that among sponsors using a simplified count system, the average meal claiming burden for sponsors without any mixed DCHs will be about one-half the average burden for sponsors serving mixed DCHs. This assumption is consistent with the lower level of effort required to process meal claims from non-mixed DCHs. In addition, as described above, the estimates assume

economies of scale so that the burdens are not directly proportional to the number of DCHs a sponsor serves.

Table 8 translates the burdens displayed in table 7 into fiscal costs. The fiscal costs were produced by assuming that the weighted average pay rates for employees responsible for performing the new sponsor burdens is \$15.00 per hour.⁹ The table implies that the annual increase in administrative costs due to tiering, for the average small, medium, and large sponsor, are about \$600, \$3,400, and \$5,600 (in 1997 dollars), respectively. These costs represent about one percent of the total annual administrative payments the average small, medium, and large sponsor would receive from USDA (in 1997 dollars): \$29 thousand, \$158 thousand, and \$266 thousand, respectively.

Table 8^{c,d}

Estimated Annual Sponsor Fiscal Cost from Two Tier DCH System

Burden	Estimated Annual Sponsor Fiscal Cost by Sponsor Size (In 1997 Dollars)			Estimated Percent of Sponsors Affected in Each Size Category		
	Small	Medium	Large	Small	Medium	Large
<i>Tiering Determinations</i>						
1. Low Income Providers (Includes Verification)	\$240	\$1,620	\$2,685	100%	100%	100%
2. Area Eligibility	\$90	\$645	\$1,080	100%	100%	100%
<i>Tier II Household Income-Eligibility Determinations</i>						
<i>Data Collection and Reporting^a</i>	\$60	\$225	\$420	100%	100%	100%
<i>Meal Claiming</i>						
1. Actual Counts System (with mixed tier II DCHs)	\$345	N/A ^b	N/A ^b	10%	N/A ^b	N/A ^b
2. Simplified Counts System (with mixed tier II DCHs)	\$165	\$765	\$1,140	10%	43%	37%
3. No Mixed Tier II DCHs	\$90	\$375	\$570	80%	57%	63%
<i>Weighted Average Cost</i>	\$549	\$3,387	\$5,576	—	—	—
<i>Average USDA Administrative Payments, Annual</i>	\$28,800	\$158,400	\$266,400	—	—	—
<i>Wght. Avg. Cost as % of Admin. Payments</i>	2.0%	2.1%	2.1%	—	—	—

^a Includes tier I, tier II, and tier II low-income enrollment counts; tier I and tier II DCH counts; and description of tiering determination method in sponsor management plan.

^b Due to the burden associated with actual meal counts systems, it is expected that only small sponsors will choose actual counts.

^c The sponsor costs shown in table 8 equal the burden hours in table 7 multiplied by a wage rate of \$15.00/hour, as described in the text.

^d The wage rate of \$15.00/hour responds to comments on interim rule and is about twice the rate used in the interim analysis. See section 6 for complete explanation. This change approximately doubles the figures relative to the interim analysis.

IV. Costs to CACFP State Agencies

The costs to CACFP State agencies consist of their being required to provide sponsors with low-income area eligibility data; increased requirements for sponsor reviews, particularly auditing sponsors' documentation for approved income-eligible children; and State agencies' obligation to provide sponsors with technical assistance. In terms of area eligibility data, State agencies will be responsible for providing (1) census data identifying all State census blocks where at least 50 percent of the children are from low-income households and (2) an annually

updated list of all State elementary schools that have more than 50 percent of their enrollment certified to receive free or reduced-price lunches under the NSLP. The agencies' other responsibility relating to area eligibility data is deciding when to authorize sponsors to use census data to make area eligibility based tier I classifications. The final rule states that when sponsors make area-based tier I classifications, they must first attempt to make the classification using school data, except when school enrollment patterns are not based on geographical proximity, in which case sponsors must make area-eligibility

determinations using census data. If a home does not qualify for tier I based on school data and a sponsor wishes to use census data, the sponsor must first receive approval from the State agency, unless the attendance area-bounding the DCH belongs to a school with at least 40 percent of its enrollment approved for free or reduced price meals or a school with a geographically large rural attendance area. In these two special cases, sponsors may approve DCHs for tier I through census data if the school data does not support such a classification, otherwise sponsors must first receive approval from their State

agency before using census data to approve a DCH for tier I.

For the average State CACFP agency, it is estimated that the obligation to provide sponsors with elementary school data annually and census data as it becomes available represents an average annual burden of 25 hours, which assumes each instance of data transmittal and subsequent follow-up takes 1 hour. This estimated burden is equivalent to \$450, which assumes a wage rate of \$18 per hour, which is based on information in States' plans for State Administrative Expense funds and FCS-conducted State Management Evaluations.

Tiering will also increase State agencies' sponsor review requirements. The final rule requires that as part of their sponsor reviews, State agencies review the documentation sponsors used to deem children in tier II DCHs income-eligible as well as the documentation sponsors used to approve providers for tier I on the basis of income. State agencies are responsible for ensuring that application forms are completed correctly; that the stated income on each falls below 185 percent of the Federal income poverty guidelines; that proffered documentation of participation in a Federal or State benefits program represents "official evidence" of participation in a qualifying program; and that the incomes of income-approved tier I providers were properly verified. State agencies are given the option of performing "pricing program" verifications on all income documentation, but it is expected that very few will do so because of the significant time required to conduct such verifications. The agencies are also responsible for ensuring that sponsors used the most current data available for making area eligibility determinations, but are not required to independently verify the determinations. For the average State CACFP agency, it is estimated that performing these reviews amounts to an annual burden of 63 hours, with some States expending much less than this amount and others much more, depending on the size and number of sponsors in the State. This estimated burden is equivalent to \$1,134, which assumes a wage rate of \$18 per hour.

State CACFP agencies will likely see an appreciable increase in their training and technical assistance burden as the transition to the new two tier system is made. Under the new system, State agencies will have to provide new guidance and training on all new aspects of CACFP introduced by tiering, for example, DCH tiering

determinations, new meal counting and claiming procedures, and new data reporting requirements. This burden will likely persist for the first several years the new system is in place. It is believed that the new training and technical assistance burdens represents about 10–20 hours of new burden per sponsor per year for a State agency. For the average State, this implies an annual burden of between 230 and 460 hours (between \$4,140 and \$8,280) for the first several years of tiering and presumably abating thereafter. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193) provides some funds to help State CACFP agencies make the transition. It directs the Secretary of Agriculture to set aside \$5 million of fiscal year 1997 CACFP funds for one-time grants to State CACFP agencies. These grants must be used to aid States, sponsors, and DCHs with making the transition to the new system. Pub. L. 104–193 allows each of the 54 State agencies to retain up to 30 percent of its total grant for State agency use. If all States agencies retained the maximum allowable, a total of approximately \$1.5 million would be retained at the State level, with the remaining \$3.5 million going to DCHs and their sponsors.

The interim rule added a new requirement to the management plans that sponsors must submit annually. Now, each sponsor must describe the approach it will use to make DCH tiering determinations. Reviewing this component of the plan will presumably place minimal additional burden on the State agency.

There is the potential that in some States the decreased CACFP reimbursements will lead to an increase in the State-wide average fee charged by providers. This increase may have the effect of increasing State expenditures for subsidized child care, as a State's subsidized care payments are often based on the average fee that providers in the State are charging. Being unable to predict a numerical value for the effect the reimbursement rate cut will have on provider fees, as discussed previously under Costs to Providers, quantifying this potential cost to States is precluded. Neither the final nor the interim rule directs States to increase payments for subsidized child care.

V. Costs to NSLP State Agencies and NSLP School Food Authorities

Under Pub. L. 104–193, State NSLP agencies are required to annually provide a list of all State elementary schools in which at least 50 percent of the enrollment is certified to receive free or reduced-price NSLP lunches.

However, these agencies do not currently collect school-level information. NSLP School Food Authorities (SFAs), which are generally school districts, are the only entities other than the schools that collect this data. SFAs are also more able than schools to provide the data to the NSLP State agency. The interim and final rules accommodate this situation by directing SFAs to inform their State NSLP agency of the elementary schools that have at least 50 percent of their enrollment certified to receive free or reduced-price NSLP lunches. It is estimated¹⁰ that roughly 5,000 SFAs will contain the approximately 11,000 elementary schools meeting this criterion, and that the annual average reporting burden on an SFA will be roughly 1.5 hours (\$12). The NSLP State agencies will receive the lists of elementary schools from their SFAs, compile and presumably do basic error checking on them, and pass the compiled listings on to the State CACFP agencies. It is estimated that the average NSLP State agency burden associated with this work will be 2.5 hours (\$45) annually, using State CACFP agency wage assumptions.

The final rule also requires SFAs to provide sponsors with attendance area boundary information for elementary schools where at least 50 percent of the enrollment is certified eligible for free or reduced price meals. The requirement applies only to schools with defined attendance areas, which excludes magnet schools and all other schools in which attendance is not determined by geographic proximity. It is assumed that, on average, each of the roughly 5,000 SFAs with at least one elementary school having at least 50 percent of its enrollment approved for free or reduced price meals will receive 2 requests annually for attendance area boundary information and that the average time to meet each request will be 2 hours, for an annual burden of 4 hours per SFA (\$60, using the table 8 wage assumptions).

Comparison of Costs and Benefits

The analysis presented here finds that the DCH tiering structure established by Pub. L. 104–193 and promulgated by the interim and final rules will partially accomplish its objective of targeting Federal child care benefits to low-income children. This targeting will save a projected \$1.7 billion in Federal tax revenues over the next 6 years (fiscal years 1997–2002). Non-low-income providers (tier II DCHs providers) and non-low-income families with children in tier II DCHs will bear most of the costs resulting from the Federal

government's \$1.7 billion savings. Non-low-income households served by tier I DCHs will be unaffected by tiering. It is possible that some low-income families with children in tier II DCHs may bear some of the costs, but States may offset them by opting to increase child care subsidies. The analysis further finds that while targeting will place new administrative burdens on sponsors, State CACFP and NSLP agencies, and NSLP school food authorities, these burdens are relatively modest.

7. Requirements for Regulatory Analyses, as Established by Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354) establishes requirements for analyses of regulatory actions that are expected to have a significant economic impact on a substantial number of small entities. Public Law 96-354 was enacted at the urging of small businesses after repeated claims that uniform application of regulations regardless of business size was disproportionately damaging to small entities. It is expected that this rule will have an economically significant impact on tier II DCH providers due to the large decrease in reimbursement rates for meals served in those DCHs. This rule will also affect sponsoring organizations, considered to be "small organizations" by Public Law 96-354, although the economic impact on them is expected to be much less than the effect for DCHs.

The specific effects for sponsors and tier II providers were discussed under the Costs to Providers and Costs to Sponsors sections under the Cost/Benefit Assessment of Economic and Other Effects. The interim and final rules implement, to comply with statute and to meet the statutory intent of targeting benefits, the programmatic changes mandated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). The rule's only economically significant impact is the decreased meal reimbursements for meals served in tier II DCHs. The Food and Consumer Service (FCS) cannot mitigate this effect other than by making targeting less accurate, which would be contrary to the spirit of Pub. L. 104-193. The only other class of small entities affected by this regulatory action is sponsors. The final analysis finds that the costs sponsors will incur in meeting the new program requirements established by the interim and final rules will be about two percent of the payments each sponsor receives from FCS for operating the CACFP in its DCHs. This implies that the rules' economic impact on

sponsors is generally not significant and that in the few areas where FCS had discretion, its choices strike an appropriate balance between adhering to Public Law 104-193's intent to target benefits and making realistic demands of sponsors.

Public Law 96-354 mandates that the analyses contain "a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed (final) rule as a result of such comments." Six commenters addressed the interim analysis. The preponderance of their comments fall into four categories: They think the assumption that 10 percent of all DCHs will be mixed tier II is too low; they disagree with the conclusion that the total new costs imposed on sponsors by tiering will be less than one percent of the administrative funds the sponsors are paid in a year by FCS; they disagree with the description of tier II providers' likely responses to lower rates and the ramifications of those actions; and they disagree with the assumption that only small sponsors will use actual meal count systems. These areas, plus comments falling outside them, are considered in turn below.

Five commenters said the analysis underestimated the number of mixed tier II DCHs, basing their assertions on their own experience as DCH sponsors. They said the underestimation led FCS to underestimate sponsor burdens associated with mixed tier II DCHs. FCS has previously stated that there are no data on which to base an estimate of the percent of DCHs nationwide that will be mixed tier II. FCS does not believe it is appropriate to alter its assumption based on a very limited number of commenters whose own experience in particular geographic areas suggest that the 10 percent mixed tier II assumption is too low and who did not substantiate their claims with empirical data. It is possible that those whose experience is most at odds with the analysis would be the most motivated to submit comments expressing their disagreement, and that the experiences of other sponsors might suggest that the 10 percent assumption is either generally appropriate or too high. FCS recognizes that effective program administration requires empirical data on the number of mixed tier II DCHs and is currently working with the States to obtain that data.

Four commenters indicated the analysis underestimated the total costs of tiering imposed on sponsors; the interim analysis found that total new

costs would be approximately 1 percent of the total administrative payments sponsors receive from FCS during a year. The 1 percent figure is the sum of several new costs imposed by tiering. FCS divided the new burdens/costs imposed on sponsors into four categories. For each category, FCS estimated to the best of its ability—using study data, program data, and program knowledge—the burdens/costs which that category of new burdens/costs would impose on sponsors. After these estimates were completed, FCS decided the new burdens needed to be compared to some metric to assess the relative magnitude of the total new burden. It was decided to compare the sum of the new burdens to total annual administrative payments made to sponsors, which produced the 1 percent figure contended by the commenters. FCS did not assume the new burdens would amount to 1 percent, rather the 1 percent was the mere summation of several calculations, each to estimate the new burdens/costs in a particular category. Since commenters asserted that 1 percent is too low, without being more specific as to what aspects of the intermediate calculations (burden calculations) are perceived to be deficient, FCS has decided to retain the burden estimation procedures used in the interim analysis. FCS did reconsider the wage rate used for employees of DCH sponsors. Data obtained from sponsors⁹ suggest that the \$8 hourly rate used in the interim analysis is too low, and that an hourly rate of \$15 is more appropriate, which is used in this analysis.

Three commenters were dissatisfied with the discussion of how tier II providers may respond to the lower reimbursement rates and the consequences of their response. One commenter argued that the analysis was wrong in saying that tier II providers may decrease expenditure on "non-essentials", such as books and games, because these items are essential for childhood development. FCS was not making an evaluative statement on the materials necessary for providing a developmentally appropriate child care environment, but rather suggesting that some providers may view such items as non-essential in order to cut costs and stay in operation. The same commenter argued that tier II providers are not capable of absorbing a decrease in meal reimbursement rates. FCS agrees that there would be little profit left if the provider absorbed the total loss; however, some providers whose income is not limited to child care may be in a position to absorb a rate cut and may

choose to do so. Finally both commenters took issue with the statement that healthier food could be obtained for less money. The commenters appear to have misinterpreted a statement in the analysis which said that with decreased tier II meal reimbursements, providers may choose to buy lower quality food whereby the nutritional quality of the provider's meals would suffer, but that it is also possible for a provider to change the types of foods purchased and buy foods that are less expensive and of a higher nutritional quality than the more expensive foods purchased previously. The comments interpreted the statement as saying meals of higher nutritional quality can be obtained by purchasing cheaper, lower-quality foods. Rather, FCS believes that higher meal cost does not always result in more nutritious meals.

Two commenters expressed their belief that the interim rule is incorrect in assuming that only small sponsors will choose actual meal count systems because some States require sponsors to collect actual meal counts from DCHs. Under the interim and final rules, States may require that DCHs keep actual counts and may require that DCHs provide these counts to their sponsors, but States are prohibited from directing their sponsors to use an actual counts system, which means States cannot direct their sponsors to calculate reimbursement amounts according to DCHs' actual meal count records and the documented income-eligibility status of each enrolled child. If a sponsor chooses a simplified count system and is in a State that requires DCHs to submit actual counts to their sponsors, the sponsor would calculate mixed tier II DCH reimbursements by applying either claiming percentages or blended rates to meal count totals by meal type. FCS has no evidence that an appreciable number of medium and large sponsors would choose to self-impose the additional burden associated with actual counts when, compared with simplified count systems, actual counts do not reduce the probability of sponsors making reimbursement calculation errors; do not produce, over time, higher payments to DCHs; and do not allow providers to calculate the reimbursement they are due with any greater accuracy. Therefore, this analysis retains the interim analysis's assumption that an insignificant number of medium and large sponsors will opt for an actual meal count system.

In response to the six comments received on the initial regulatory flexibility analysis, FCS has made no changes to the final rule. However, FCS

has made changes to the analysis in response to public comment, including changing the labor wage rate assumptions used to calculate the costs associated with the new sponsor burdens. Furthermore, FCS recognizes the need to obtain empirical data on the number of mixed tier II DCHs in operation and on the characteristics of sponsors using actual counts systems.

The Pub. L. 96-354 also requires that the final analysis estimate the types of professional skills necessary to meet the final and interim rules' reporting and record keeping requirements. The new reporting and record keeping required by this rule require no skills beyond those necessary for current program reporting and record keeping requirements.

Pub. L. 96-354 further requires that analyses describe the steps taken by the promulgating agency to minimize the economic impact on small entities. Specifically, the "analysis shall also contain a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes." There are no significant alternatives available to FCS that both (1) accomplish the stated objectives of Pub. L. 104-193 and (2) minimize any significant economic impact on small entities. FCS has attempted to adapt the rules based on comments received in response to the interim rule. Changes made by the final rule to the interim, in response to comments, were described in the section title *Summary of Changes to Interim Analysis*. All three reduce burdens; two reduce burdens on DCH sponsors, and the third reduces burdens for State CACFP agencies. All three changes should make the two tier system easier to implement and administer. In addition, the preamble to the final rule provides an in-depth discussion of how the final rule reflects the comments received on the interim rule.

8. References

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2. Glantz, Frederic, Judith Layzer, and Michael Battaglia. *Study of the Child Care Food Program*. Alexandria, VA: U.S. Department of Agriculture, Food and Nutrition Service, Office of Analysis and Evaluation, August 1988.

3. Department of Agriculture, Food and Consumer Service Program Information

Division, "Program Information Report." August 26, 1996.

4. Kisker, Ellen E., Sandra L. Hoffereth, Deborah A. Phillips, and Elizabeth Farquhar. *A Profile of Child Care Settings: Early Education and Care in 1990, Volume I*. Princeton, NJ: Mathematica Policy Research, Inc., 1991.

5. Glantz, Frederic. "Family Day Care Myths and Realities." October 1989, Paper Presented at the October 1989 meeting of the Association for Public Policy Analysis and Management, Washington, DC.

6. Fosburg, Steven, Judith D. Singer, Barbara Dillon Goodson, Donna Warner, Nancy Irwin, Lorelei R. Brush, Janet Grasso. *Family Day Care in the United States: National Day Care Home Study Summary of Findings*. DHHS Publication No. (OHDS) 80-30282. Washington, D.C.: U.S. Department of Health and Human Services, 1981.

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8. Hoffereth, Sandra L., April Brayfield, Sharon Deich, and Pamela Holcomb. *National Child Care Survey, 1990*. Washington, DC: Urban Institute, 1991.

9. Selected sponsor data from FCS's Virginia CACFP Regional Office Administered Program (ROAP).

10. Mathematica Policy Research, Inc., Special Tabulations of the *School Nutrition Dietary Assessment Study* data. Alexandria, VA: U.S. Department of Agriculture, Food and Consumer Service, Office of Analysis and Evaluation, February 1995.

Approved:

Dated: July 31, 1997.

William E. Ludwig,

Administrator, Food and Consumer Service.

Dated: October 7, 1997.

Stephen B. Dewhurst,

Director, Office of Budget and Program Analysis.

Dated: October 10, 1997.

Keith Collins,

Chief Economist.

Dated: October 31, 1997.

Shirley R. Watkins,

Under Secretary for Food, Nutrition and Consumer Services.

[FR Doc. 98-4407 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

RIN 0560-AE13

Special Combinations for Tobacco Allotments and Quotas

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts with a modification the interim rule published in the **Federal Register** (62 FR 15599) on April 2, 1997. The interim rule provided for special combinations of flue-cured tobacco allotments and quotas on participating and nonparticipating farms with "production flexibility contracts" (PFC) under the Agricultural Market Transition Act of 1996 (AMTA) and for burley tobacco, an exemption to dropping the quota on divided farms with less than 1,000 pounds if the farm meets the requirements for a farm combination. After further review of the rule and the comments, the regulations adopted in the interim rule have been modified to allow for other transfers of tobacco quota, for all tobacco types, between farms with the same owner in cases where a farm combination could otherwise be used to produce the desired result but is not available, as a practical matter, because of restrictions under the PFC program administered by the Department. The amended provisions permit such transfers to be approved without regard to restrictions for purchased quota that apply to transfers by lease or sale. Also, the interim rule has been modified to permit the agency to modify non-statutory deadlines for transfers and other requirements when special circumstances warrant such action.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Joe Lewis Jr., Tobacco Branch, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue, SW., Washington, DC 20250-0514, telephone 202-720-0795.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This rule has been determined to be not significant and therefore was not reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule since the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

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

Executive Order 12988

The final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions set forth at 7 CFR part 780 and 7 CFR part 711, as applicable, must be exhausted.

Paperwork Reduction Act

This final rule does not contain new or revised information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.). The information collections required in 7 CFR part 723 have previously been cleared under OMB control number 0560-0058.

Effective Date of Rule

It has been determined for purposes of all limitations that might apply, including any provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, that this rule should be effective immediately. The interim rule (at 62 FR 15599, April 2, 1997) set forth the reasons that the rule should be effective immediately. The nature of the interim rule was to provide relief to flue-cured tobacco producers who were adversely affected by restriction on the combination of farms. Additional relief is provided in this final rule by allowing for other transfers of tobacco quota, for all tobacco types, between farms with the same owner in cases where a farm combination could otherwise be used to produce the desired result but is not available, as a practical matter, because of restrictions under the PFC program of the Department. As the rule simply provides additional flexibility to

producers and should not have any material adverse effect on anyone, it has been determined that the full rule, including the modification, should be made effective immediately.

Discussion of Comments

The interim rule (at 62 FR 15599, April 2, 1997) requested comments from interested parties. A total of three comments were received from the public; two from State level farm organizations, and one from a county level farm organization. All comments were supportive of the provisions relating to the special combinations of flue-cured tobacco allotments and quotas. These special combinations would avoid undue hardships on many flue-cured tobacco producers. It should be noted that the adopted rule allows for effective combinations of farms in cases where the combination could otherwise occur but for restrictions that may arise under the PFC program of the Department, as was indicated in the preamble of the interim rule. The adopted regulations do not override basic limitations on transfers. Thus, for example, the rule does not provide new authority for the transfer or effective movement of quota across county lines that otherwise would not be possible through a farm combination as the existing restrictions on such movements of quota are statutory. However, on further review it has been determined to otherwise expand the rule to provide authority to allow for effective combinations in all instances for tobaccos, as the need may arise, where the result sought would be obtained, otherwise, by a farm combination were it not for restrictions arising under the PFC program. This would, for example, allow for effective transfers of quota to be made between two burley farms with the same owner in instances in which the transfer would otherwise be prohibited under the rules because of there being a transfer to and from the transferring farm within the same three year period. Essentially, the modified rule would simply allow the farms to be considered to be the same farm for tobacco purposes just as they could have been in the past through a farm combination without having to treat those farms as being combined for PFC purposes as well. Protection for the PFC program will be provided in the manner specified in the interim rule through restrictions on using the land freed up by the transfer of quota. Specifically, that land will not be usable for the production of "PFC commodities"—that is, commodities for which there is a potential eligibility for loans under the PFC program. To make this and other

clarifying changes, 7 CFR 723.209(c) as published in the interim rule is amended. In addition, with respect to restrictions relating to transfers in general, 7 CFR 723.103 is amended so that non-statutory deadlines and other requirements may be modified where circumstances warrant, such as in the case this year with the final deadline for marketing burley tobacco where that deadline has proven inopportune given weather and crop conditions this year. This additional flexibility should not have an adverse effect on anyone and should provide a greater opportunity to allow for relief in meritorious cases. Consequently, delaying implementation of that provision appears to be contrary to the public interest.

List of Subjects in 7 CFR Part 723

Acreage allotments, Auction warehouses, Dealers, Domestic manufacturers, Marketing quotas, Penalties, Reconstitutions, Tobacco.

For the reasons set forth in the preamble, the interim rule for 7 CFR part 723 published on April 2, 1997 (62 FR 15599) is hereby adopted as a final rule with the following changes:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 11377–1379, 1421, 1445–1 and 1445–2.

2. The heading for § 723.209 is revised as set forth below.

3. Paragraph (c) of 723.209 is amended as follows:

(i) In the first sentence, “quotas for flue-cured tobacco,” is revised to read “quotas”;

(ii) In the third sentence, “PFC flue-cured quota farm” is revised to read “PFC farm”;

(iii) The fifth sentence is revised to read as follows:

§ 723.209 Determination of acreage allotments, marketing quotas, and yields for combined farms; special combinations for farms with production flexibility contracts.

* * * * *

(c) * * * Such action could result in a farm being found to have had excess acreage devoted to tobacco or excess marketings of tobacco, in which case certain penalties, along with other sanctions as may be applicable, would apply. * * *

4. Section 723.103(d) is amended by adding at the end a new sentence to read as follows:

§ 723.103 Administration

* * * * *

(d) * * * Further, the Administrator or the Administrator's designee may modify any deadline or other provisions of this part to the extent that doing so is determined by such person to be appropriate and not inconsistent with the purposes of the program administered under this part.

Signed at Washington, DC, on February 18, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–4560 Filed 2–23–98; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV98–959–2 IFR]

Onions Grown in South Texas; Removal of Sunday Packing and Loading Prohibitions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the handling regulation under the South Texas onion marketing order by removing the Sunday packing and loading prohibitions. The marketing order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). This rule will allow the South Texas onion industry to compete more effectively with other growing areas, better meet buyer needs, and increase supplies of South Texas onions in the marketplace.

DATES: Effective February 25, 1998; comments received by April 27, 1998, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing

Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the “order.” The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file 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 law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the 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 his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule changes the handling regulation under the South Texas onion marketing order by removing the

Sunday packaging and loading prohibitions. It also modifies § 959.322(f)(5) by removing all references to the Sunday packaging and loading prohibitions. This rule will provide handlers with greater flexibility and additional time to prepare onions for market.

Section 959.322 of the order currently prohibits the packaging or loading of onions on Sunday during the period March 1 through May 20 of each season. This prohibition has been in place for 35 years to foster orderly marketing conditions. Handlers were permitted to move onions that were already inspected and billed, but were not prevented from harvesting onions or taking them to the packing shed for storage or to the dryers. The onions, however, could not be packaged or loaded on Sunday during that time period.

At a Committee meeting on November 6, 1997, producers and handlers expressed the view that the Sunday holiday had outlived its usefulness. In recent seasons, the Sunday packaging and loading prohibition has hindered the movement of South Texas onions by not allowing producers and handlers to harvest and pack each day of the week. Last year, the South Texas area received record amounts of rainfall and producers had difficulty harvesting their onions. The packaging and loading restriction prevented handlers from packaging or loading onions, even when it was dry by Sunday. These heavy periods of rain disrupted the normal pattern of harvesting, packing, and loading.

Due to these severe conditions last season, the Committee unanimously recommended relief from the Sunday packing and loading restriction in April through May 20 of the onion season. The restriction was removed and handlers had the flexibility to package and load onions on Sunday, which helped them to salvage some of their crop. According to the Committee's pre-season estimate, five million fifty-pound bags were expected to be harvested last season. However, due to the inclement weather, only 2.78 million fifty-pound bags were shipped.

At its November 6, 1997, meeting, the Committee unanimously recommended revising the current handling regulation to remove the restriction on packaging and loading onions on Sundays. This action will allow the South Texas onion industry to compete more effectively with other growing areas, better meet buyer needs, and increase supplies of South Texas onions in the marketplace.

Continuing to prohibit the packaging and loading of onions on Sunday could

prevent the South Texas onion industry from marketing more of their onions. Producers object to the Sunday restriction because if the shed is full of onions they are prevented from sending more onions to the sheds. By removing the Sunday restriction, handlers could continue to package and load onions on Sunday and salvage the producers' crops if there were a threat of adverse weather conditions.

The Committee noted that competing areas pack and load on Sundays, and the restrictive Sunday holiday has prevented the South Texas onion industry from competing effectively with other areas that do not restrict packing or loading on Sundays. The South Texas onion industry wants the same opportunity. Continuing to prohibit the packing and loading of onions on Sunday would present an unreasonable and unnecessary hardship on handlers in the production area. If the prohibitions continue, the Committee believes that Texas markets will be taken by competing areas, and that the Texas onion industry will not be able to meet their buyers' needs.

The Committee's recommendation is expected to improve producers' and handlers' returns by allowing them to package and load onions on Sunday if their operations were curtailed for some reason earlier during the week. There have been times when handlers have been packing onions on Saturday night, and at 12:01 a.m. had to stop even though the packing had not been completed. This restriction is unacceptable to the South Texas onion industry. The producers and handlers need the flexibility to pack and ship each day of the week to effectively meet their competition.

This action will allow handlers to package and load onions on Sunday and permit producers to harvest and deliver their onions to packing sheds each day of the week. This will provide producers and handlers more flexibility in meeting buyer needs and additional time for preparing onions for market.

Removing the Sunday packing and loading prohibitions also requires that all references to the Sunday restrictions be removed from § 959.322(f)(5). Currently, the prohibition against packing or loading onions on Sunday may be modified or suspended to permit the handling of onions for export provided that such handling complies with safeguard procedures. In addition, whenever the handler grades, packages, and ships onions for export on any Sunday, such handler is required to cease all grading, packaging, and shipping on the first weekday following shipment for the same length of time as

the handler operated on Sunday. The Committee recommended the removal of such references. Thus, § 959.322(f)(5) is revised to remove all references to the Sunday prohibition.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 38 handlers of South Texas onions who are subject to regulation under the order and approximately 70 onion producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1996-97 marketing year, onions produced on 12,175 acres were shipped by the industry's 38 handlers; with the average acreage and median acreage handled being 310 acres and 177 acres, respectively. In terms of production value, total revenues from the 38 handlers were estimated to be \$23.6 million; with average and median revenue being \$620,000 and \$146,000, respectively. The industry is highly concentrated as the largest 8 handlers (largest 25 percent) controlled 62 percent of the acreage and 77 percent of onion production.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 38 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the \$5,000,000 annual receipt threshold. All of the 70 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenue from all sources is considered, a majority of the producers would be considered small entities because many of the producers would exceed the \$500,000 figure.

This rule would relieve the Sunday ban on packing and loading onions from South Texas allowing individual firms the flexibility to modify operations to effectively compete with production areas not bound by such restrictions, to fill customer orders, and to take advantage of available transportation.

The Committee recommended this rule change for the purpose of ensuring a timely flow of available supplies, and thus help to maintain stability in the onion market. Being reasonably assured of a stable price and market provides South Texas onion producers and handlers with added flexibility to maintain proper cash flow and to meet annual expenses. The market and price stability provided by the order potentially benefits the smaller handlers more than such provisions benefit large handlers. Smaller producers and handlers are more dependent upon stable prices. Larger handlers are more diversified and not as dependent upon price stability. Therefore, the relief of packing and loading restrictions on Sundays has small entity orientation.

While the level of benefits of removing the Sunday packing and loading prohibitions are difficult to quantify, this action is expected to allow the South Texas onion industry to compete more effectively with other growing areas, better meet buyer needs, and increase supplies of South Texas onions in the marketplace. Last season, the South Texas onion industry expected to ship 5 million 50-pound bags of onions with a production value of \$45.6 million. However, inclement weather during a substantial part of the shipping season limited shipments. Late in the season, the packing and loading restrictions were removed to help producers and handlers salvage their crops. Industry shipments totaled 2.8 million bags with a production value of \$25.4 million. The suspension for last season provided producers and handlers

more flexibility in meeting the needs of their buyers.

The Committee believes that providing handlers the ability to pack and load on Sundays will benefit the industry. Removal of the prohibitions will provide producers with an additional window of opportunity to harvest and deliver their onions to handlers for sorting, grading, packaging, and loading. Moreover, the continued use of this self-imposed restriction could cause the South Texas area to lose its markets to other competing areas, because these areas can package and load onions on Sunday. Removing the Sunday packaging and loading prohibitions will positively impact both small and large handlers by helping them maintain markets.

This action is expected to improve producers' and handlers' returns by allowing them to package and load onions on Sunday if their operations were curtailed for some reason earlier in the week. The ability to pack and load on Sunday will help the handlers fill unexpected rush orders made at the end of the normal packing week. There have been times when handlers were packing onions on Saturday night, and at 12:01 a.m. had to stop even though the packing had not yet been completed. This hindered handler operations and unduly delayed the packing and shipping of onions to meet buyer needs.

The Committee considered not removing the Sunday packing and loading prohibitions. However, not relaxing the regulation could result in significant crop losses as occurred last season prior to the emergency suspension of the prohibitions. Also, the cessation in harvesting activity last season resulted in increased unemployment among onion field workers and employees at handlers' facilities. In addition, reduced supplies could result in consumers paying higher prices for onions. The opportunity to pack and load onions seven days a week will give producers and handlers more time to harvest and prepare onions for market. This increased flexibility will enable the industry to better meet buyer needs and to compete more effectively with its competition.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 6, 1997, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the information and recommendation by the Committee and other available information, it is hereby found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the handling regulation currently prescribed under the South Texas onion marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements in the handling regulations; (2) this action must be taken promptly to be in place by March 1, the start of the South Texas onion regulatory period; (3) the Committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. In § 959.322, the introductory paragraph is amended by removing the last sentence and paragraph (f)(5) is revised to read as follows:

§ 959.322 Handling regulation.

* * * * *

(f) * * *

(5) *Export shipments.* Export shipments shall be exempt from all container requirements of this section.

* * * * *

Dated: February 17, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-4596 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 982**

[Docket No. FV97-982-1 FIR]

Hazelnuts Grown in Oregon and Washington; Reduced Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Hazelnut Marketing Board (Board) under Marketing Order No. 982 for the 1997-98, and subsequent marketing years. The Board is responsible for the local administration of the marketing order which regulates the handling of hazelnuts grown in Oregon and Washington. Authorization to assess hazelnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The 1997-98 marketing year covers the period July 1 through June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by

contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, hazelnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable hazelnuts beginning July 1, 1997, and continuing in effect indefinitely unless modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file 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 law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the 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 his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the assessment rate established for the Board for the 1997-98, and subsequent marketing years of \$0.004 per pound of hazelnuts.

The order provides authority for the Board, with the approval of the Department, to formulate an annual

budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of hazelnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996-97, and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on August 28, 1997, and unanimously recommended 1997-98 expenditures of \$553,218 and an assessment rate of \$0.004 per pound of hazelnuts. In comparison, last year's budgeted expenditures were \$558,974. The assessment rate of \$0.004 is \$0.003 less than the rate previously in effect. At the former rate of \$0.007 per pound and an estimated 1997 hazelnut production of 70,000,000 pounds, the projected reserve on June 30, 1998, would have exceeded the level the Board believes is necessary to administer the program. Section 982.62 of the order allows the Board to establish and maintain an operating monetary reserve in an amount not to exceed approximately one marketing year's operational expenses. Last year's actual Board expenditures totaled \$284,894. The reduced assessment rate is expected to result in an operating reserve of \$257,497, which is about equal to what the Board actually spent last year for program expenses.

The Board discussed lower assessment rates, but decided that an assessment rate of less than \$0.004 would not generate the income necessary to administer the program with an adequate reserve. Major expenses recommended by the Board for the 1997-98 marketing year include \$46,864 for personnel service (salaries and benefits), \$5,640 for rent, \$5,000 for compliance, \$17,000 for a crop survey, \$269,000 for promotion, and \$182,364 for an emergency fund. Budgeted expenses for these items in 1996-97 were \$50,020, \$5,640, \$5,000, \$15,000, \$275,000, and \$182,364, respectively.

The assessment rate recommended by the Board was derived by dividing

anticipated expenses by expected shipments of hazelnuts. With hazelnut shipments for the year estimated at 70,000,000 pounds, the \$0.004 per pound assessment rate should provide \$280,000 in assessment income. Income derived from handler assessments, along with interest and funds from the Board's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1997-98 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,000 producers of hazelnuts in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000 and small

agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of hazelnut producers and handlers may be classified as small entities.

This rule continues in effect a decreased assessment rate established for the Board and collected from handlers for the 1997-98, and subsequent marketing years. The Board unanimously recommended 1997-98 expenditures of \$553,218 and an assessment rate of \$0.004 per pound of hazelnuts. The assessment rate of \$0.004 is \$0.003 less than the rate previously in effect. At the former assessment rate of \$0.007 per pound, the Board's reserve was projected to exceed the level the Board believes is necessary to administer the program. Therefore, the Board voted to lower its assessment rate and use more of the reserve to cover its expenses. Section 982.62 of the order allows the Board to establish and maintain an operating monetary reserve in an amount not to exceed approximately one marketing year's operational expenses. Last year's actual Board expenditures totaled \$284,894. The reduced assessment rate is expected to result in an operating reserve of \$257,497, which is about equal to what the Board actually spent last year for program expenses.

The Board discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate reserve. Major expenses recommended by the Board for the 1997-98 marketing year include \$46,864 for personal services (salaries and benefits), \$5,640 for rent, and \$5,000 for compliance, \$17,000 for a crop survey, \$269,000 for promotion, and \$182,364 for an emergency fund. Budgeted expenses for these items in 1996-97 were \$50,020, \$5,640, \$5,000, \$15,000, \$275,000, and \$182,364, respectively.

Hazelnut shipments for the year are estimated at 70,000,000 pounds, which should provide \$280,000 in assessment income. Income derived from handler assessments, along with interest and funds from the Board's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order. The maximum permitted of one marketing year's operational expenditures is specified in § 982.62. The reduced assessment rate is expected to result in an operating reserve of \$257,497, which is about equal to what the Board spent last year for program expenses.

Recent price information indicates that the grower price for the 1997-98 marketing season will range between \$0.32 and \$0.43 per pound of hazelnuts. Therefore, the estimated assessment revenue for the 1997-98 marketing year as a percentage of total grower revenue will range between .93 and 1.25 percent.

This action continues to reduce the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large hazelnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the August 28, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on October 14, 1997 (62 FR 53225). The rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended December 15, 1997. No comments were received.

After consideration of all relevant matter presented, including the Board's recommendation, and other information, it is hereby found that finalizing the interim final rule, without change, as published in the **Federal Register** (62 FR 53225, October 14, 1997) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Marketing agreements, Hazelnuts, Reporting and recordkeeping requirements.

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 62 FR 53225 on October 14, 1997, is adopted as a final rule without change.

Dated: February 17, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-4593 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 984**

[Docket No. FV97-984-1 FIR]

Walnuts Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Walnut Marketing Board (Board) under Marketing Order No. 984 for the 1997-98 and subsequent marketing years. The Board is responsible for local administration of the marketing order which regulates the handling of walnuts grown in California. Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Diane Purvis, Marketing Assistant, or Mary Kate Nelson, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration

Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts beginning August 1, 1997, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file 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 law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the 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 his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts established for the Board for the 1997-98 and subsequent marketing years.

The California walnut marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers

to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997-98 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate that would continue in effect from marketing year to marketing year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 12, 1997, and unanimously recommended 1997-98 expenditures of \$2,391,289 and an assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts. In comparison, last year's budgeted expenditures were \$2,301,869. The assessment rate of \$0.0116 is \$0.0001 lower than the rate formerly in effect. The lower assessment rate is needed to bring expected assessment income closer to the amount necessary to administer the program for the 1997-98 marketing year. The quantity of assessable walnuts for 1997-98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than estimated for 1996-97. With more assessable walnuts, the former rate of assessment would have generated substantially more funds than needed to meet the Board's financial obligations. Assessment income would have exceeded anticipated expenses by about \$31,000. The decrease in the assessment rate in conjunction with the anticipated increase in assessable walnuts should provide adequate assessment income to meet this year's expenses.

The major expenditures recommended by the Board for the 1997-98 year include \$240,326 for general expenses, \$147,126 for office expenses, \$1,928,837 for research expenses, \$50,000 for a production research director, and \$25,000 for the reserve. Budgeted expenses for these items in 1996-97 were \$232,684, \$150,508, \$1,840,677, \$48,000, and \$30,000, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California

walnuts for the 1997–98 marketing year. As mentioned earlier, merchantable certifications for the year are estimated at 207,000,000 kernelweight pounds, which should provide \$2,401,200 in assessment income (about \$10,000 more than estimated expenses). Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although this assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1997–98 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of California walnuts in the production area and approximately 50 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as

those whose annual receipts are less than \$5,000,000. The majority of California walnut producers and handlers may be classified as small entities.

This rule continues in effect the decreased assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts established for the Board and collected from handlers for the 1997–98 and subsequent marketing years. The Board unanimously recommended 1997–98 expenditures of \$2,391,289 and that assessment rate. The assessment rate of \$0.0116 is \$0.0001 lower than the 1996–97 rate. The quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds. Thus, the \$0.0116 rate should provide \$2,401,200 in assessment income and be adequate to meet this year's expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within five months after the end of the year.

The lower assessment rate is needed to bring expected assessment income closer to the amount necessary to administer the program for the 1997–98 marketing year. The quantity of assessable walnuts for 1997–98 is estimated at 207,000,000 kernelweight pounds, or 9,000,000 kernelweight pounds higher than estimated for 1996–97. With more assessable walnuts, the former rate of assessment would have generated substantially more funds than needed to meet the Board's financial obligations. Assessment income would have exceeded anticipated expenses by about \$31,000. The decrease in the assessment rate in conjunction with the anticipated increase in assessable walnuts should provide adequate assessment income to meet this year's expenses.

The Board's increase in budgeted expenses from \$2,301,869 to \$2,391,289 is due primarily to increases in the following line item categories—administrative and office salaries, research programs, and the production research director. Expenses for these items for 1997–98, with last year's budgeted expenses in parentheses, are: administrative and office salaries—\$148,080 (\$142,000), research programs—\$1,928,837 (\$1,840,677), and production research director—\$50,000 (\$48,000). Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, the Research Committee, and the Market Development Committee. Alternative expenditure

levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The assessment rate of \$0.0116 per kernelweight pound of certified merchantable walnuts was then determined by dividing the total recommended budget by the quantity of assessable walnuts, estimated at 207,000,000 kernelweight pounds for the 1997–98 marketing year. This would produce assessment income of about \$2,401,900. This is approximately \$10,000 above the anticipated expenses, which the Board determined to be acceptable.

Data for recent seasons and projections for the upcoming season indicate that anticipated 1997–98 assessment revenue as a percentage of total grower revenue could range between 2 and 2.5 percent.

This action continues in effect the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 12, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on October 30, 1997, (62 FR 58641). Copies of that rule were also mailed to all walnut handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on December 29, 1997, and no comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 984 which was published at 62 FR 58641 on October 30, 1997, is adopted as a final rule without change.

Dated: February 17, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-4594 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-AWA-7]

RIN 2120-AA66

Revocation and Establishment of Class C Airspace Areas; Cedar Rapids, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class C airspace area designated as "Cedar Rapids Municipal Airport, IA," and establishes a Class C airspace area in its place designated as "The Eastern Iowa Airport, IA." The name of the Cedar Rapids Municipal Airport has been changed to The Eastern Iowa Airport. In order to rename the Class C airspace area, it is necessary to revoke the existing airspace designation, and to reestablish the airspace under the new designation. This action also makes a minor change to the airport reference point for The Eastern Iowa Airport.

EFFECTIVE DATE: 0901 UTC, May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules

Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 71 by revoking the Class C airspace area designated as "Cedar Rapids Municipal Airport, IA," and establishing a Class C airspace area in its place designated as "The Eastern Iowa Airport, IA." The name of the airport changed from "Cedar Rapids Municipal Airport" to "The Eastern Iowa Airport." Additionally, the airport reference point will change in longitude by one second, from "91°42'40" W." to "91°42'39" W."

Since this action merely involves a name change to the title and the airport of the Class C airspace area and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

Class C airspace areas are published in paragraph 4000 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 C airspace area listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

ACE IA C Cedar Rapids Municipal Airport, IA [Removed]

* * * * *

ACE IA C The Eastern Iowa Airport, IA [New]

The Eastern Iowa Airport, IA

(Lat. 41°53'05" N, long. 91°42'39" W.)

That airspace extending upward from the surface to and including 4,900 feet MSL within a 5-mile radius of The Eastern Iowa Airport and that airspace extending upward from 2,100 feet MSL to and including 4,900 feet MSL within a 10-mile radius of The Eastern Iowa Airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Washington, DC, on February 13, 1998.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98-4703 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-13-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 211

[Release No. 33-7507; 34-39676; IC-23029; FR-50]

Commission Statement of Policy on the Establishment and Improvement of Standards Related to Auditor Independence

AGENCY: Securities and Exchange Commission.

ACTION: Policy Statement.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") today reaffirmed that maintaining the independence of auditors of financial statements included in filings with the Commission is crucial to the credibility of financial reporting and, in turn, the capital formation process. In so doing, the Commission recognized the establishment of the Independence Standards Board ("ISB") and indicated that, consistent with its continuing policy of looking to the private sector for leadership in establishing and improving accounting principles and auditing standards, the Commission intends to look to the ISB for leadership in establishing and improving auditor independence regulations applicable to the auditors of the financial statements of Commission registrants, with the expectation that the ISB's conclusions will promote the interests of investors.

EFFECTIVE DATE: March 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Robert E. Burns or W. Scott Bayless, Office of the Chief Accountant, at (202) 942-4400, Mail Stop 11-3, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

The various securities laws enacted by Congress and administered by the Securities and Exchange Commission underscore the crucial function of independent auditors in protecting public investors by requiring, or permitting the Commission to require, that financial statements filed with the Commission by public companies, investment companies, broker-dealers, public utilities, investment advisers, and others be certified (or audited) by "independent" public accountants.¹ They also give the Commission the

authority to define the term "independent."²

Since the Commission's creation in 1934, it consistently has emphasized the need for auditors to remain independent. The Commission's regulations are set forth in Rule 2-01 of Regulation S-X³ and in the extensive interpretations, guidelines, and examples for registrants and auditors to use in evaluating specific independence questions that are collected in Section 600 of the Codification of Financial Reporting Policies ("Codification"), entitled "Matters Relating to Independent Accountants."⁴ The Commission also makes publicly available the staff's written responses to requests for informal advice on its independence requirements. Pursuant to the Commission's regulations, the basic test for auditor independence is whether a reasonable investor, knowing all relevant facts and circumstances, would perceive an auditor as having neither mutual nor conflicting interests with its audit client and as exercising objective and impartial judgment on all issues brought to the auditor's attention.⁵ In determining whether an auditor is independent, the Commission considers all relevant facts and circumstances, and its consideration is not confined to the relationships existing in connection with the filing of reports with the Commission.⁶

In certain matters, the Commission also has referred registrants and their auditors to independence requirements adopted by the American Institute of Certified Public Accountants ("AICPA"), to the extent those standards do not conflict with those of the Commission.⁷

Day-to-day, the Commission's staff receives inquiries regarding the application of the Commission's independence regulations to specific situations confronting registrants and

their auditors. In recent years, these situations have become more complex as auditors have entered into new service areas for their clients, auditing firms have merged and restructured their operations, and business practices and technology have become more sophisticated and, increasingly, more global in scope. Some of the Commission's auditor independence regulations, written years ago, do not provide obvious guidance in today's business environment. The Commission recognizes, therefore, that an update of the Commission's regulations may be in order.

II. The Independence Standards Board

After careful consideration, and without abdicating its statutory responsibilities, the Commission intends to look to a standard-setting body designated by the accounting profession—known as the Independence Standards Board ("ISB")—to provide leadership not only in improving current auditor independence requirements, but also in establishing and maintaining a body of independence standards applicable to the auditors of all Commission registrants.⁸ The Commission has taken a similar course in developing its relationship with the Financial Accounting Standards Board ("FASB"), a standard-setting body designated by the accounting profession that provides leadership in establishing and improving accounting principles.⁹ Although the Commission expects to look to the ISB as the private sector body responsible for establishing independence standards and interpretations for auditors of public entities, the Commission's existing authority regarding auditor independence is not affected. This includes the Commission's authority to institute such enforcement actions as it deems appropriate, such as actions or proceedings instituted pursuant to Rule 102(e), 17 CFR 102(e). The Commission also retains ultimate authority to not accept, or to modify or supplement, ISB independence standards and interpretations in the same manner that

¹ Certain provisions of the Securities Act of 1933 ("Securities Act") and Securities Exchange Act of 1934 ("Exchange Act") expressly require that financial statements be audited by independent public or certified accountants. Securities Act Schedule A, items 25 and 26, 15 U.S.C. 77aa(25) and (26); Exchange Act § 17(e), 15 U.S.C. 78q. Various provisions of the securities laws authorize the Commission to require the filing of financial statements audited by independent accountants. Exchange Act §§ 12(b)(1)(J) and (K) and 13(a)(2), 15 U.S.C. 78l and 78m; Public Utility Holding Company Act of 1935 ("PUHCA"), §§ 5(b) (H) and (I), 10(a)(1)(G), and 14, 15 U.S.C. 79e(b), 79j, and 79n. Investment Company Act of 1940, §§ 8(b)(5) and 30(e), 15 U.S.C. 80a-8 and 80a-29; Investment Advisers Act of 1940, § 203(c)(1)(D), 15 U.S.C. 80b-3(c)(1). In accordance with these provisions, the Commission has required that certain financial statements be audited by independent accountants. See, e.g., Article 3 of Regulation S-X, 17 CFR 210.3-01 *et seq.* (1996).

² Various provisions of the securities laws grant the Commission the authority to define accounting, technical, and trade terms. Securities Act § 19(a), 15 U.S.C. 77s(a); Exchange Act § 3(b), 15 U.S.C. 78c(b); PUHCA § 20(a), 15 U.S.C. 79t(a); and Investment Company Act § 38(a), 15 U.S.C. 80a-37(a).

³ 17 CFR 210.2-01 (1996).

⁴ Financial Reporting Codification, Section 600—Matters Relating to Independent Accountants, *reprinted in SEC Accounting Rules (CCH)* ¶ 3,851, at 3,781.

⁵ This test encompasses an evaluation of an auditor's independence in both fact and appearance. See Codification § 601.01 (quoting Accounting Series Release No. 296).

⁶ Rule 2-01(c), 17 CFR 210.2-01(c) (1996).

⁷ See, e.g., Office of the Chief Accountant, *Staff Report on Auditor Independence*, Appendix II at 5-7 (1994) (discussing AICPA requirements regarding loans to or from an audit client or its officers, directors, or stockholders; and stating that Commission has not adopted additional requirements in this area).

⁸ The Commission generally has required foreign issuers and the auditors of their financial statements to comply with United States independence requirements when foreign issuers' audited financial statements are filed with the Commission. Accordingly, the ISB's pronouncements would apply to foreign as well as domestic audit reports that are filed with the Commission.

⁹ See Accounting Series Release No. 150 (Dec. 20, 1973) (recognizing establishment of FASB); Accounting Series Release No. 280 (Sept. 2, 1980) (commenting on FASB's role in establishing and improving accounting principles).

the Commission can modify or supplement accounting standards and interpretations issued by the FASB. Moreover, the functioning of the ISB does not affect the authority of state licensing or disciplinary authorities regarding auditor independence.

The Commission expects that the public interest will be served by having the ISB take the lead in establishing, maintaining, and improving auditor independence requirements; and that operation of the ISB will promote efficiency, competition, and capital formation. The ISB, which is composed equally of public members (from which the ISB chairman must be elected) and practicing accountants, has undertaken to develop an institutional framework that will permit prompt and responsible actions by the ISB and its staff flowing from research and objective consideration of the issues. Collectively, the ISB members bring substantial experience and expertise to the process. In addition, the accounting profession's commitment of financial resources to the ISB is evidence of the private sector's willingness and intention to support the ISB. Under these circumstances, the Commission expects that determinations of the ISB will preserve and enhance the independence of public accountants, and thereby promote the interests of investors.

The central mission of the ISB will be to establish independence standards applicable to auditors of public entities that serve the public interest by promoting investor confidence in the securities markets. To further that goal, ISB standard-setting meetings will be open to the public, and proposed standards will be exposed for public comment before they are issued, in a process similar to that used by the FASB. In addition, the Commission will provide timely oversight of the ISB consistent with the Commission's statutory mandate to protect investors and safeguard the integrity of the capital markets.¹⁰

As noted, in the exercise of its statutory authority the Commission has the responsibility to ensure that independent audits of registrants' financial statements protect the interests of investors. In reviewing questions related to the fact or appearance of an

auditor's independence from an audit client, the Commission will consider an auditor to be not independent unless the auditor has substantial authoritative support for the position that the questioned transaction, event, or other circumstance, does not impair the auditor's independence. In this regard, the Commission will consider principles, standards, interpretations, and practices established or issued by the ISB as having substantial authoritative support for the resolution of auditor independence issues.¹¹ Conversely, the Commission will consider principles, standards, interpretations, and practices contrary to such ISB promulgations as having no such support.¹²

III. Review of ISB Operations

Since the formation of the ISB, there have been public announcements of mergers of several of the "Big 6" accounting firms. The impact of these mergers, and the accelerating trend toward consolidation of auditing firms generally, on foreign and domestic self-regulatory programs is being discussed within the United States, other countries, and international organizations. These events will be monitored closely and may prompt the Commission to reconsider certain of the accounting profession's self-regulatory programs, including the ISB.

In view of the significance of auditor independence to investor confidence in the securities markets, the Commission also will review the operations of the ISB as necessary or appropriate and, within five years from the date the ISB was established, will evaluate whether this new independence framework serves the public interest and protects investors.

IV. Regulatory Requirements

This general policy statement is not an agency rule requiring notice of proposed rulemaking, opportunities for public participation, and prior publication under the provisions of the Administrative Procedure Act ("APA").¹³ Similarly, the provisions of the Regulatory Flexibility Act,¹⁴ which apply only when notice and comment

are required by the APA or another statute, are not applicable.

V. Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) (47 FR 21028) is updated to:

Add a new Section 601.04, captioned "Statement of Policy on the Establishment and Improvement of Standards Related to Auditor Independence" to include the text in topics I., II., and III. of this release.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register**/Code of Federal Regulations.

VI. Conclusion

The Commission believes that the foregoing statement of policy provides a sound basis for the Commission and the ISB to make significant contributions to meeting the needs of investors and the capital markets.

Dated: February 18, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-4576 Filed 2-23-98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-242-FOR, #75]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Ohio regulatory program (hereinafter referred to as the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions to its statutes pertaining to attorney fees. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, OSM, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937-2153.

¹⁰ The Commission and its staff will consult with the ISB during the course of ISB consideration of standards or interpretations, including those dealing with matters addressed by existing SEC guidance. As the ISB reconsiders and effectuates changes in independence standards and practices that involve existing SEC guidance, the Commission will consider modifying or withdrawing its conflicting guidance unless the Commission determines that it should not accept the ISB position in a particular area.

¹¹ Positions of the ISB staff and consensuses of a permanent task force that will assist the ISB, the Independence Issues Committee, will not be considered authoritative unless or until ratified by the ISB. Positions issued by the ISB staff to a particular party, however, may be relied upon by that party in accordance with the ISB Operating Policies.

¹² Entities that may issue such principles, standards, or interpretations include the AICPA's Professional Ethics Executive Committee.

¹³ 5 U.S.C. 553.

¹⁴ 5 U.S.C. 601-602.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, **Federal Register** (47 FR 34668). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated June 24, 1997, (Administrative Record No. OH-2173-00) Ohio submitted a proposed amendment to its program pursuant to SMCRA in response to a required amendment at 30 CFR 935.16(a)(1) and (2). Ohio proposes to revise the Ohio Revised Code (ORC) at section 1513.13 which pertains to attorney fees.

OSM announced receipt of the proposed amendment in the July 7, 1997, **Federal Register** (62 FR 36248), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 6, 1997.

During its review of the proposed amendment, OSM identified concerns relating to the provisions of 1513.13(E)(1) and (2). OSM notified Ohio of the concerns by letter dated August 4, 1997 (Administrative Record No. OH-2173-05). Ohio responded by letter dated August 19, 1997 (Administrative Record No. OH-2173-07), and revised the language at 1513.13(E)(2) to clarify that the statute applies to judicial review of any order or decision issued in any administrative proceeding under Chapter 1513.

Ohio submitted a second letter date October 14, 1997 (Administrative Record No. OH-2173-08) and revised the language at 1513.13(E)(1) to clarify that the specified fee provisions apply to both enforcement and permitting decisions. It also revised section 1513.13(E)(2), in the manner described below, in the Director's Findings. Because the revisions merely clarified the original proposed language and did not constitute major changes to the Ohio program, OSM did not reopen the comment period.

OSM did reopen the comment period on December 2, 1997 (62 FR 63684) to summarize the provisions of the proposed revision to 1513.13(E)(2) which were inadvertently omitted from the first notice, and described in the Director's Findings below. The comment period closed on December 17, 1997.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

ORC 1513.13—Appeal of Violation, Order, or Decision to Reclamation Commission

At paragraph (E)(1), Ohio is requiring that whenever an enforcement order or permit is issued pursuant to Chapter 1513 and is appealed, certain costs and attorney fees may be awarded. At paragraph (E)(1)(a), Ohio is proposing that a party, other than the permittee or the Division of Mines and Reclamation, may file a petition for an award of costs and expenses. The party may be awarded those costs and expenses, including attorney's fees that were necessary and reasonably incurred by the petitioning party. At paragraph (E)(1)(b), Ohio is clarifying that a permittee may file, with the Chief, a request for an award to the permittee of the costs and expenses, including attorney's fees, reasonably incurred by the permittee in connection with an appeal initiated under this section. The Chief may assess those costs and expenses against a party who initiated, or participated in, the appeal if the permittee demonstrates that the party initiated or participated in the appeal in bad faith and for the purpose of harassing or embarrassing the permittee. At paragraph (E)(1)(c), Ohio is clarifying that attorney's fees are included in the costs and expenses specified. A party who participated in an appeal in bad faith may have costs and expenses assessed against him or her. At paragraph (E)(2), Ohio is providing that if a final order relating to Chapter 1513 is issued by the Reclamation Commission pursuant to section 1513.13(B) or by a Court of Common Pleas pursuant to section 1513.15(B) or by the Chief pursuant to section 1513.39 and becomes the subject of judicial review, certain costs and expenses, including attorney fees, reasonably

incurred by a party in connection with their participation in the judicial proceedings may be awarded.

The Director finds that the proposed revisions at 1513.13(E)(2) are substantively identical to section 525(e) of SMCRA, 30 U.S.C. section 1275(e), which provides for the award of a sum equal to the aggregate amount of all costs and expenses, including attorney fees, to have been reasonably incurred by a participant in such administrative or judicial proceedings. The Director finds that the revisions proposed at 1513.13(E)(1), (E)(1)(a), (E)(1)(b), and (E)(1)(c) are substantively identical to section 525(e) of SMCRA, 43 CFR 4.1294(b), 43 CFR 4.1294(d), and 43 CFR 4.1294(e), respectively. The proposed revisions also satisfy the conditions of the required amendments at 30 CFR 935.16(a)(1) and (2). Ohio's provisions clarify that fee provisions apply to both enforcement and permitting decisions and that costs may be assessed against any participant in bad faith appeals. Therefore, the Director is removing the required amendments.

IV. Summary and Disposition of Comments**Public Comments**

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. One public comment was received in support of the proposed revisions. Four other commentors expressed concern that the proposed amendment appears to adversely affect or eliminate altogether the ability of citizens to recover the costs and fees they incur in appealing a decision which involves industrial minerals mining permits. The Director notes that to the extent that these comments pertain to non-coal mineral regulation, they are not germane to this rulemaking, which only concerns the effect which the proposed revisions have on the award of attorney fees as a result of administrative and judicial appeals of decisions related to coal mining. OSM's approval of these revisions is neither an explicit nor an implicit approval of the curtailment of attorney fee awards in industrial mineral proceedings, since OSM has no jurisdiction over such proceedings. (The converse is also true. Were OSM to disapprove these revisions, that disapproval would only affect coal mining proceedings. The applicability of the revisions to industrial minerals proceedings would not be affected.)

Two commenters also argued that the proposed change to ORC 1513.13(E)(1)

is inconsistent with the underlying objective of 30 CFR 732.15(b)(10), which is to require state mining laws to have provisions "for public participation in the development, revision and enforcement of State regulations and the State program, consistent with public participation requirements of the Act and this chapter." As noted in the finding above, the Director has determined that Ohio's proposed revisions are consistent with counterpart provisions in SMCRA and the Federal regulations. 30 CFR 732.15(b)(10) requires that states provide for public participation in all aspects of the regulation of surface coal mining operations only. The commenters fail to articulate how these revisions curtail public participation with respect to the regulation of surface coal mining operations.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. The Department of Labor, Mine Safety and Health Administration, and the Department of the Army, Army Corps of Engineers, both concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions Ohio proposed to make in its amendment pertains to air or water quality standards. Nevertheless, OSM requested EPA's concurrence with the proposed amendment. EPA did not respond to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on June 24, 1997, and revised on August 19, 1997, and October 14, 1997. The Director is also removing the required amendments at 30 CFR 935.16(a) (1) and (2) because they have been satisfied by revisions contained in this submission.

The Federal regulations at 30 CFR part 935, codifying decisions concerning the Ohio program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment

process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was

prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 9, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
June 24, 1997.	[Insert date of publication in the Federal Register].	ORC 1513.13(E).

§ 935.16 [Amended]

3. Section 935.16 is amended by removing the text, and reserving the section and section heading.

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 199**

[0720-AA35]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Nonavailability Statement Requirements

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule revises certain requirements and procedures for the TRICARE Program, the purpose of which is to implement a comprehensive managed health care delivery system composed of military medical treatment facilities and CHAMPUS. Issues addressed in this rule include priority for access to care in military treatment facilities and requirements for payment of enrollment fees. This rule also includes provisions revising the requirement that certain beneficiaries obtain a non-availability statement from a military treatment facility commander prior to receiving certain health care services from civilian providers.

EFFECTIVE DATE: This rule is effective March 26, 1998.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Steve Lillie, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 695-3350.

Questions regarding payment of specific claims under the CHAMPUS allowable charge method should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION:**I. Introduction and Background***A. Congressional Action*

Section 712 of the National Defense Authorization Act for Fiscal Year 1996 revised 10 U.S.C. 1097(c), regarding the role of military medical treatment facilities in managed care initiatives, including TRICARE. Prior to the revision, section 1097(c) read in part, "However, the Secretary may, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section." The Authorization Act provision replaced "may" with "shall",

which has the effect of directing access priority for TRICARE Prime enrollees over persons not enrolled.

Another statutory provision relating to access priority is 10 U.S.C. 1076(a), which establishes a special priority for survivors of sponsors who died on active duty: they are given the same priority as family members of active duty members. This special access priority is not time-limited, as is the special one-year cost sharing protection given to this category under 10 U.S.C. 1079.

The National Defense Authorization Act of FY 1997, section 734 amended 10 U.S.C. 1080 to establish certain exceptions to requirements for nonavailability statements in connection with payment of claims for civilian health care services. First, the Act eliminates authority for nonavailability statements for outpatient services; NASs have been required for a limited number of outpatient procedures over the past several years. Second, the Act eliminates authority for NAS requirements for enrollees in managed care plans, which has the effect of eliminating NAS requirements for TRICARE Prime enrollees. Finally, the Act gives the Secretary authority to waive NAS requirements based on an evaluation of the effectiveness of NAS in optimizing use of military facilities.

The National Defense Authorization Act of FY 1996, section 713 requires that enrollees in TRICARE Prime be permitted to pay applicable enrollment fees on a quarterly basis, and prohibits imposition of an administrative fee related to the quarterly payment option.

B. Public Comments

The proposed rule was published in the **Federal Register** on April 7, 1997 (62 FR 16510). We received no public comments.

II. Provisions of the Rule*A. Access Priority (Revisions to § 199.17(d)).***1. Provisions of the Proposed Rule**

This paragraph explains that in Regions where TRICARE is implemented, the order of access priority for services in military treatment facilities is as follows: (1) Active duty service members; (2) family members of active duty service members enrolled in TRICARE Prime; (3) retirees, their family members and survivors enrolled in TRICARE Prime; (4) family members of active duty service members who are not enrolled in TRICARE Prime; and (5) all others based on current access priorities. For purposes of access priority, but not for cost

sharing, survivors of sponsors who died on active duty are to be given the same priority as family members of active duty service members. This means that if they are enrolled in TRICARE Prime, they have the same access priority as family members of active duty service members who are enrolled in TRICARE Prime, or if not enrolled in TRICARE Prime, they have the same access priority for military treatment facility care as family members of active duty service members who are not enrolled in TRICARE Prime.

The proposed rule also includes a provision explaining that enrollment status does not affect access priority for some groups and circumstances. This provision would allow the commander of a military medical treatment facility to designate for access priority certain individuals, for specific episodes of health care treatment. Such individuals may include Secretarial designees, active duty family members from outside the MTF's service area, foreign military and their family members authorized care through international agreements, DoD civilians with authorizing conditions, individuals on the Temporary Disability Retired List, and Reserve and National Guard members. Additional exceptions may be granted for other categories of individuals, eligible for treatment in the MTF, whose access to care is needed to provide a clinical case mix to support graduate medical education programs, upon approval by the Assistant Secretary of Defense (Health Affairs).

2. Provisions of the Final Rule

The final rule is consistent with the proposed rule. Minor revisions emphasize that survivors of sponsors who died on active duty have the same access priority as active duty family members. Access priority for TRICARE Prime enrollees is not limited to military facilities near their residence, but includes access priority when they are traveling (although they are still required to access nonemergency care through their primary care manager, pursuant to § 199.17(o)).

*B. Enrollment Fees (Revisions to §§ 199.17(o) and 199.18(c))***1. Provisions of the Proposed Rule**

These revisions would eliminate the requirement for a TRICARE Prime enrollee to pay an additional maintenance fee of \$5.00 per installment for those TRICARE Prime enrollees who elect to pay their annual enrollment fee on a quarterly basis. Additionally, these revisions would permit waiver of enrollment fee

collection for retirees, their family members, and survivors who are eligible for Medicare on the basis of disability. This group is eligible for TRICARE/CHAMPUS as a secondary payor if they are enrolled in Part B of Medicare, and pay the applicable monthly premium.

2. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

C. Nonavailability Statements (Revisions to § 199.4(a))

1. Provisions of the Proposed Rule

Revisions of this section modify our existing requirements for beneficiaries to obtain nonavailability statements (NASs). The requirement for beneficiaries to obtain an NAS for selected outpatient procedures is eliminated. Beneficiaries who choose to obtain outpatient care, including ambulatory surgery, from civilian sources remain subject to current TRICARE/CHAMPUS cost sharing rules, but the requirement that the beneficiary obtain an NAS prior to TRICARE/CHAMPUS sharing in the civilian health care costs has been removed.

The requirement for beneficiaries enrolled in TRICARE Prime to obtain an NAS for inpatient care is also eliminated. TRICARE was designed so that the military treatment facility is the first source of specialty care, with TRICARE Prime enrollees having access priority before non-enrolled beneficiaries. In general, TRICARE Prime enrollees obtain care from civilian network providers only when the military treatment facility cannot provide the care because it does not have the capability, or because the enrollee cannot be seen within time frames required by TRICARE Prime access standards. Since the Health Care Finder must authorize all non-emergency specialty care obtained from civilian sources, the NAS requirement for this category of beneficiary is redundant.

Lastly, the revisions would eliminate the requirement that a non-enrolled beneficiary must obtain an NAS for inpatient hospital maternity care before TRICARE/CHAMPUS shares in any costs for related outpatient maternity care. Some diagnostic tests, procedures, or consultations from civilian sources may be required during a course of maternity care and this allows TRICARE/CHAMPUS to share in the costs of the civilian care without requiring the beneficiary to obtain all maternity related care in a civilian setting.

3. Provisions of the Final Rule

The final rule is consistent with the proposed rule. It should be noted that requirements of § 199.15 related to preauthorization of services continue to apply. A key difference is that the responsibility for compliance, and penalties for noncompliance with the requirements of § 199.15 fall on providers of care rather than on beneficiaries.

D. Revisions to the Uniform HMO Benefit (Revisions to § 199.18(d))

1. Provisions of the Proposed Rule

We are contemplating minor changes in the copayment structure of the Uniform HMO Benefit, which is used in TRICARE Prime. The proposed rule included two revisions, which would eliminate copayments for preventive services and for ancillary services. Current provisions include copayments for ancillary services unless they are provided as part of an office visit. This has resulted in multiple copayments in cases where beneficiaries are sent to multiple sites for diagnostic testing pursuant to a visit, which we regard as unfair.

2. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

E. TRICARE Prime Catastrophic Cap (Revisions to § 199.18(f))

1. Provisions of the Proposed Rule

The proposed rule included a provision regarding the inapplicability of the TRICARE Prime annual catastrophic cap to out-of-pocket costs incurred under the TRICARE Prime point-of-service option. This is at § 199.18(f)(2).

2. Provisions of the Final Rule

The final rule is consistent with the proposed rule.

F. Preemption of State Laws (Revisions to § 199.17(a))

1. Provisions of the Proposed Rule

The proposed rule contained a restatement of current policy, at § 199.17(a)(7), recording DoD interpretation of two statutory provisions preempting State and local laws in connection with TRICARE contracts.

2. Provisions of the Final Rule

The final rule is similar to the proposed rule. The provision has been expanded to also record DoD's interpretation of these statutes in relation to State or local laws imposing

premium taxes on health insurance carriers or health maintenance organizations.

III. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one which would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

This rule will impose no additional information collection requirements on the public under the Paperwork Reduction Act of 1985 (44 U.S.C. Chapter 55).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Section 199.2(b) is amended by revising the definition of nonavailability statement to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Nonavailability statement. A certification by a commander (or a designee) of a Uniformed Services medical treatment facility, recorded on DEERS, generally for the reason that the needed medical care being requested by a non-TRICARE Prime enrolled beneficiary cannot be provided at the facility concerned because the necessary resources are not available in the time frame needed.

* * * * *

3. Section 199.4 is amended by removing paragraphs (a)(9)(i)(C) and (a)(9)(v)(B) and the note following paragraph (a)(9)(vi), by redesignating paragraph (a)(9)(i)(D) as paragraph (a)(9)(i)(C) and paragraph (a)(9)(v)(A) as paragraph (a)(9)(v), and by revising

paragraphs (a)(9) introductory text, (a)(9)(i)(B), and (a)(9)(ii) and by adding new paragraph (a)(10)(vi)(E) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(a) * * * (9) *Nonavailability statements within a 40-mile catchment area.* In some geographic locations, it is necessary for CHAMPUS beneficiaries not enrolled in TRICARE Prime to determine whether the required inpatient medical care can be provided through a Uniformed Services facility. If the required care cannot be provided, the hospital commander, or designee, will issue a Nonavailability Statement (DD form 1251). Except for emergencies, a Nonavailability Statement should be issued before medical care is obtained from a civilian source. Failure to secure such a statement may waive the beneficiary's rights to benefits under CHAMPUS.

(j) * * * (B) For CHAMPUS beneficiaries who are not enrolled in TRICARE Prime, an NAS is required for services in connection with nonemergency inpatient hospital care if such services are available at a facility of the Uniformed Services located within a 40 mile radius of the residence of the beneficiary, except that an NAS is not required for services otherwise available at a facility of the Uniformed Services located within a 40-mile radius of the beneficiary's residence when another insurance plan or program provides the beneficiary primary coverage for the services. This requirement for an NAS does not apply to beneficiaries enrolled in TRICARE Prime, even when those beneficiaries use the point-of-service option under § 199.17(n)(3).

* * * * *

(ii) *Beneficiary responsibility.* A CHAMPUS beneficiary who is not enrolled in TRICARE Prime is responsible for securing information whether or not he or she resides in a geographic area that requires obtaining a Nonavailability Statement. Information concerning current rules and regulations may be obtained from the Offices of the Army, Navy, and Air Force Surgeons General; or a representative of the TRICARE managed care support contractor's staff, or the Director, OCHAMPUS.

* * * * *

(10) * * * (vi) * * *

(E) The beneficiary is enrolled in TRICARE Prime.

* * * * *

3. Section 199.17 is amended by adding paragraph (a)(7) and revising paragraphs (d)(1) and (o)(3) to read as follows:

§ 199.17 TRICARE program.

* * * * *

(a) * * * (7) *Preemption of State laws.* (i) Pursuant to 10 U.S.C. 1103 and section 8025 (fourth proviso) of the Department of Defense Appropriations Act, 1994, the Department of Defense has determined that in the administration of 10 U.S.C. chapter 55, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States.

(ii) Based on the determination set forth in paragraph (a)(7)(i) of this section, any State or local law relating to health insurance, prepaid health plans, or other health care delivery or financing methods is preempted and does not apply in connection with TRICARE regional contracts. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TRICARE regional contracts. (However, the Department of Defense may by contract establish legal obligations of the part of TRICARE contractors to conform with requirements similar or identical to requirements of State or local laws or regulations).

(iii) The preemption of State and local laws set forth in paragraph (a)(7)(ii) of this section includes State and local laws imposing premium taxes on health or dental insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of the statutes identified in paragraph (a)(7)(i) of this section. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For purposes

of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health and dental services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

* * * * *

(d) * * *

(1) *Military treatment facility (MTF) care.*—(i) *In general.* All participants in Prime are eligible to receive care in military treatment facilities. Participants in Prime will be given priority for such care over other beneficiaries. Among the following beneficiary groups, access priority for care in military treatment facilities where TRICARE is implemented as follows:

- (A) Active duty service members;
- (B) Active duty service members' dependents and survivors of service members who died on active duty, who are enrolled in TRICARE Prime;
- (C) Retirees, their dependents and survivors, who are enrolled in TRICARE Prime;
- (D) Active duty service members' dependents and survivors of service members who died on active duty, who are not enrolled in TRICARE Prime; and
- (E) Retirees, their dependents and survivors who are not enrolled in TRICARE Prime. For purposes of this paragraph (d)(1), survivors of members who died while on active duty are considered as among dependents of active duty service members.

(ii) *Special provisions.* Enrollment in Prime does not affect access priority for care in military treatment facilities for several miscellaneous beneficiary groups and special circumstances. Those include Secretarial designees, NATO and other foreign military personnel and dependents authorized care through international agreements, civilian employees under workers' compensation programs or under safety programs, members on the Temporary Disability Retired List (for statutorily required periodic medical examinations), members of the reserve components not on active duty (for covered medical services), military prisoners, active duty dependents unable to enroll in Prime and temporarily away from place of residence, and others as designated by the Assistant Secretary of Defense (Health Affairs). Additional exceptions to the normal Prime enrollment access priority rules may be granted for other categories of individuals, eligible for treatment in the MTF, whose access to care is necessary to provide an adequate clinical case mix to support graduate medical education programs or

readiness-related medical skills sustainment activities, to the extent approved by the ASD(HA).

* * * * *

(o) * * *

(3) *Quarterly installment payments of enrollment fee.* The enrollment fee required by § 199.18(c) may be paid in quarterly installments, each equal to one-fourth of the total amount. For any beneficiary paying his or her enrollment fee in quarterly installments, failure to make a required installment payment on a timely basis (including a grace period, as determined by the Director, OCHAMPUS) will result in termination of the beneficiary's enrollment in Prime and disqualification from future enrollment in Prime for a period of one year. If enrollment in TRICARE Prime is terminated for failure to make a required installment payment, services received after the due date of the installment payment will be cost shared under TRICARE Extra.

* * * * *

4. Section 199.18 is amended by revising paragraphs (d)(2)(i) and (f), and by adding paragraph (c)(3), to read as follows:

§ 199.18 Uniform HMO benefit.

* * * * *

(c) * * *

(3) *Waiver of enrollment fee for certain beneficiaries.* The Assistant Secretary of Defense (Health Affairs) may waive the enrollment fee requirements of this section for beneficiaries described in 10 U.S.C. 1086(d)(2) (i.e., those who are eligible for Medicare on the basis of disability or end stage renal disease and who maintain enrollment in Part B of Medicare).

* * * * *

(d) * * *

(2) * * *

(i) For most physician office visits and other routine services, there is a per visit fee for each of the following groups: dependents of active duty members in pay grades E-1 through E-4; dependents of active duty members in pay grades of E-5 and above; and retirees and their dependents. This fee applies to primary care and specialty care visits, except as provided elsewhere in this paragraph (d)(2) of this section. It also applies to family health services, home health care visits, eye examinations, and immunizations. It does not apply to ancillary health services or to preventive health services described in paragraph (b)(2) of this section, or to maternity services under § 199.4(e)(16).

* * * * *

(f) *Limit on out-of-pocket costs under the uniform HMO benefit.* (1) Total out-of-pocket costs per family of dependents of active duty members under the Uniform HMO Benefit may not exceed \$1,000 during the one-year enrollment period. Total out-of-pocket costs per family of retired members, dependents of retired members and survivors under the Uniform HMO Benefit may not exceed \$3,000 during the one-year enrollment period. For this purpose, out-of-pocket costs means all payments required of beneficiaries under paragraphs (c), (d), and (e) of this section. In any case in which a family reaches this limit, all remaining payments that would have been required of the beneficiary under paragraphs (c), (d), and (e) of this section will be made by the program in which the Uniform HMO Benefit is in effect.

(2) The limits established by paragraph (f)(1) of this section do not apply to out-of-pocket costs incurred pursuant to paragraph (m)(1)(i) or (m)(2)(i) of § 199.17 under the point-of-service option of TRICARE Prime.

* * * * *

Dated: February 17, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98-4545 Filed 2-23-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AC47

Cape Cod National Seashore; Off-Road Vehicle Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is revising the current regulation for off-road vehicle (ORV) use at Cape Cod National Seashore. Since the current plan (1981 ORV Management Plan, as amended in 1985) went into effect, new and unrelated measures have impacted the off-road vehicle corridor identified in the amended plan. These measures have resulted from the necessity to protect the federally listed threatened piping plover (*Charadrius melodus*). Because of a lack of flexibility in the Amended 1985 Plan, there has been an inability to adapt it to changing natural resource concerns.

The piping plover became a federally listed threatened species in 1986. In

1995 there were 83 pair of plovers nesting on the beaches of Cape Cod National Seashore. Thirty-three pair were within the eight and one-half miles of the ORV corridor. During the Fourth of July weekend (a period of peak use for ORV's) in 1994, eight-tenths of a mile of the ORV corridor was open. In 1995, only six-tenths of a mile was open. Because of the sand dune configuration on portions of the outer beach, it is expected that the birds will continue to nest here. Thus, Cape Cod National Seashore hopes to develop a more flexible and effective regulation governing ORV use that will accommodate the NPS's responsibilities for managing natural resources.

DATE: This rule becomes effective on March 26, 1998.

FOR FURTHER INFORMATION CONTACT: Maria Burks, Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667. Telephone 508-349-3785, ext. 203.

SUPPLEMENTARY INFORMATION:

Background

The mission of the NPS is to preserve and protect park resources while at the same time allowing for the enjoyment of these same resources in a manner that will leave them unimpaired for future generations. In September 1995, Cape Cod National Seashore convened a committee to negotiate a rulemaking (per the Federal Advisory Commission Act (FACA), 5 U.S.C. App. II Sec. 9(c), and the Negotiated Rulemaking Act, 5 U.S.C. 561), to resolve an ongoing contentious issue of ORV use on Seashore beaches, while at the same time providing optimum protection for the piping plover (*Charadrius melodus*) in compliance with the Endangered Species Act of 1973, as amended, and other Seashore resources.

The 1981 ORV Management Plan was challenged in U.S. District Court. However, the plan, as amended in 1985 (50 FR 31181), was upheld by the District Court in 1988 and the U.S. Court of Appeals in 1989. The District Court found that ORV use at Cape Cod National Seashore is not inappropriate; that the 1985 Plan minimized user conflicts; that the NPS had provided other recreational users adequate use of the Seashore; that the NPS had properly surveyed the sentiments of Seashore users; and that ORV use, as managed by the NPS, does not adversely affect the Seashore's values or its ecology.

The 1985 regulation that established an 8.5 mile ORV corridor on the 40 miles of outer beach within the Seashore would have provided a satisfactory solution except that since

1988, the number of nesting pair of piping plover increased in this area over 800 percent. The ORV corridor is one of the prime nesting areas in the Seashore (in 1995, 33 of 87 pair nested in the corridor). Primarily because of plovers in the corridor, the Seashore staff monitors every bird, nest and egg daily to determine if the ORV corridor should be open or closed. Symbolic fencing is put up as soon as a nest is established to identify the site. Wire enclosures are put up once the eggs have been laid and the ORV corridor is closed from the time the birds hatch until they fledge, approximately 28 days later. In the past few years, during the time when the Seashore receives the most visitors (Fourth of July), including people wishing to use the ORV corridor, only 0.4 to 0.6 miles of the corridor has been open.

Decision To Initiate Negotiated Rulemaking

The need for a new rule and the use of the negotiated process was motivated by a number of events including legislative requirements, past litigation, management issues and inflexibility of the existing rule to deal with changing conditions such as the use of the corridor by the piping plover. The negotiated rulemaking process was an attempt to manage off-road vehicle (ORV) access on the outer beach in a way that accommodates the wishes of ORV enthusiasts and those choosing other forms of beach use, while minimizing impacts to natural and cultural resources and providing a degree of flexibility for managing the beach.

Since the current plan (1981 ORV Management Plan, as amended in 1985) went into effect, issues which had not been anticipated or addressed previously impacted the off-road vehicle corridor. These impacts were mainly in response to the importance of and the efforts to protect the piping plover. Thus, Cape Cod National Seashore hopes the new regulation will be more flexible and effective in governing ORV use, and will accommodate the NPS's responsibilities for managing natural resources and the recreational opportunities mandated in the Seashore's enabling legislation.

The objective of negotiated rulemaking was to front load the controversy by getting all the interested parties involved in the decision making process from the beginning and acknowledging, if not resolving, all the issues and concerns. The process brings together at the negotiating table the organizations that are interested in the issues and charges them with

developing a solution that is acceptable to everyone. This process is used by many Federal agencies, but this was the first time the NPS used negotiated rulemaking to develop a rule that will become part of the Code of Federal Regulations (CFR).

A total of 23 agencies, organizations and interest groups with long term interests and involvement in the ORV issue were identified for the committee. They included State agencies, the 6 towns the Seashore is located within, ORV user groups, environmental groups, Federal agencies, and tourism and preservation groups.

Specifically, the Committee consisted of members from the following organizations:

1. Association for the Preservation of Cape Cod
2. Cape Cod Chamber of Commerce
3. Cape Cod Commission
4. Cape Cod Salties
5. Citizens Concerned for Seacoast Management
6. Conservation Law Foundation
7. Eastham Forum
8. Highland Fish and Game Club
9. Massachusetts Audubon Society
10. Massachusetts Beach Buggy Association
11. Massachusetts Coastal Zone Management
12. Massachusetts Department of Environmental Protection
13. Massachusetts Division of Fisheries and Wildlife
14. Massachusetts Division of Marine Fisheries
15. National Park Service
16. Sierra Club
17. Town of Chatham
18. Town of Eastham
19. Town of Orleans
20. Town of Provincetown
21. Town of Truro
22. Town of Wellfleet
23. U.S. Fish and Wildlife Service

Each organization selected one representative to sit at the table. This person spoke and made commitments for that organization. Only representatives were allowed to participate in the formal discussions. All participants at the table had an equal voice. To avoid problems with unbalanced votes on one "side," the negotiated rulemaking was done as a consensus process (every organization had veto authority). The task assigned the committee was to develop a new ORV regulation for Cape Cod National Seashore. If the committee was unable to reach consensus on a new regulation, then the NPS would develop a new rule using the ideas, information and creativity that had been gathered from

the group. This process allowed every issue, idea and concern to be heard; all sides had a chance to hear what was most important and what most worried the other participants. The NPS agreed that if consensus was reached, the consensus regulation would be put forward as a proposed rule through the notice and comment rulemaking process with full public involvement. The proposed rule was published in the **Federal Register** on May 6, 1997 (FR 62 24624).

As required by FACA, all formal meetings were announced in the **Federal Register** and were open to the public. There was a public comment period at the end of each meeting. Letters could be submitted to be included in the official record if someone was unable to attend.

The rulemaking sessions were conducted by contracted professional negotiators. The sessions were limited to three, two-day meetings. These meetings were spaced one month apart to allow the representatives sufficient time between meetings to report back to their respective organizations and to ensure that they were not committing to things the organizations could not support and, very importantly, to allow time for independent interactions and negotiations among committee members to occur.

The committee was successful in reaching consensus on a proposed ORV regulation for Cape Cod National Seashore. It is the contents of that regulation that have been used to identify issues, alternatives and potential impacts for National Environmental Policy Act (NEPA) compliance.

Issues of Concern Raised During the Negotiated Rulemaking

During the course of negotiations, many ideas and issues were discussed, clarified and agreed to by the negotiating committee. The committee reached consensus on the following items and agreed that, although not appropriate for inclusion in the text of the regulation, these items were important points, ideas and agreements that should be included in the preamble where they would be part of the official record and identified as part of the committee consensus.

Executive Order 11644, as amended by E.O. 11989, "Use of Off-Road Vehicles on Public Lands" directs the NPS to monitor the impacts of the ORV program on the resources of Cape Cod National Seashore. The committee supported this monitoring to identify the actual effects (or lack of effects) of ORV use at the Seashore. The intent of

this research is not to develop "new" science on the effects of ORV use on the outer beaches, but to document specifically the current condition of the ORV corridor and to monitor the changes, if any, that occur over time. This data will be used to assess any changes that occur in the area where the ORV corridor is located and to try to identify the causes of these changes. The monitoring methods identified for use by the NPS will undergo peer review by the broader scientific community to identify weaknesses, including areas of monitoring not covered by the technical research design. In this context, "peer" includes scientists beyond the NPS scientific community. The monitoring will result in an annual report that NPS will also distribute for public and peer review and comment. While user fees gathered from ORV permits can be used to fund this research, this funding is limited.

The committee recognized the importance and relative fragility of barrier spits, such as the sand spit at Hatches Harbor. The NPS agrees to work in consultation with the Massachusetts Office of Coastal Zone Management to address concerns specific to barrier spits. It is understood that these areas are more sensitive; that they are important to shorebirds and for protecting the natural resources located behind them; and that a closer look at these sensitive areas may result in a need to limit use or further control existing uses to protect resources.

The Cape Cod National Seashore Advisory Commission will be requested to develop a new subcommittee to provide input and advice on the ORV program at Cape Cod National Seashore. The chair of the subcommittee will be a duly appointed member of the Commission. Other members of the subcommittee will represent the same general mix of interests represented in the negotiated rulemaking committee. This subcommittee will be assigned to review and analyze the annual monitoring report. Following its review and analysis, the subcommittee may refer any ORV program management issues it identifies to the commission for further deliberation, and the Commission may advise the Superintendent with respect to those issues.

Night fishing is recognized as an important activity on the beaches of Cape Cod National Seashore. Vehicles displaying a permit approved by the Superintendent are able to access paved public parking lots, closed to the general public after hours, for nighttime fishing.

An annual report submitted to the Secretary of the Interior will include an

analysis of the annual operating costs of the ORV program.

The negotiated rulemaking committee discussed a potential future need for commercial permittees who would bring people to various outer beach locations to fish, swim, picnic or enjoy other activities compatible with the establishment of the Seashore. This service could potentially reduce the number of people needing to drive their personal ORV'S on the beach. The Seashore agreed to evaluate the impact if the number of commercial permits for the ORV corridor exceeded the number issued in 1981 (18). Operators of a passenger vehicle for hire, engaged in carrying passengers for a fee on a designated ORV route, will obtain a permit for commercial use issued by the Superintendent. One condition of this permit will be that the applicants must demonstrate they possess adequate knowledge of the Seashore's off-road system and points of interest, and they must comply with all applicable Federal, State and local regulations. The fee for this permit will be based on the costs incurred by the NPS to administer this program. Failure to comply with any provision of an ORV permit, any regulation listed in this section or Part 2 or Part 4 of this chapter, or the requirements of the commercial use permit may result in revocation of permits by the Superintendent.

The committee recognized that, even given the greater flexibility of the consensus rule, there is a high probability portions of the beach may be closed at various times because of resource protection concerns. To provide access to some locations immediately adjacent to prime fishing areas, the committee identified "limited parking areas" for fishing access. These areas will be sand pull-offs located behind the primary dunes and be limited to two or three cars. NPS staff will identify areas for these to be located on the High Head access route and the Power Line route. Every attempt will be made to locate the parking spaces on previously impacted areas. They will be located to provide minimal visual impact and to minimize widening of the route or impact to vegetation. The spaces will be posted to identify that only people actively fishing may park.

It is recognized that boat launching, within the ORV corridor, is permitted by properly approved and permitted vehicles. The definition of boat in this context does not include personal watercraft (e.g., jet skis style vessel). Additional information regarding the requirements pertaining to the use of personal watercraft and boats is contained within the Compendium of

Designations, Closures (36 CFR 1.5 and 1.7) for Cape Cod National Seashore and 36 CFR Part 3.

Self-contained vehicles will continue to be managed as they have in the past. A self-contained vehicle is a vehicle with a water or chemical toilet and a permanently installed holding tank able to hold a minimum of three days of waste material. It is recognized that self-contained vehicles need to be located within close proximity to a beach access route. They also need to be located on a wider section of beach away from vegetation. The access route for self-contained vehicles must be fairly flat and stable. These factors will limit the possible locations for this activity. The committee agreed that, while the location of the self-contained parking area may need to shift somewhat, neither the scale nor the general level of impact would increase.

All the organizations represented by the committee agreed that the protection of the piping plover is important. There was consensus on the need to close beaches to ORV's when chicks have hatched and before they have fledged.

The committee acknowledged Executive Order 12962, Recreational Fisheries, which, in part, acknowledges the importance of participating in recreational fishing, and protecting and conserving fish stock.

The NPS recognizes the importance of citizen participation in the ORV program. In accordance with NPS policy, a program will be developed to make use of the unique skills and knowledge of individuals within the ORV community. This program will formalize and recognize the preservation efforts, education, beach clean up and other activities many of these individuals already perform.

Comments Received on Proposed ORV Regulation

During the public review period for the proposed Off-Road Vehicle Regulation for Cape Cod National Seashore, 15 written comments were received. Because of the concurrent comment period for the Environmental Assessment (EA) and the proposed regulation, some of these letters dealt partially or totally with comments on the EA. Response to EA comments will be dealt with separately as part of the NEPA process.

Of the 15 comments received, nine supported the regulation, one opposed it and five offered comment but were neutral as to whether they supported or opposed it. In addition to written comments, approximately 6 telephone comments were received. All telephone contacts supported the regulation.

In compliance with guidelines established as part of the negotiated rulemaking process and agreed to by all participants, organizations that were at the table during the rulemaking were not allowed to comment on the proposed regulation. They were invited to comment on the EA because this was drafted solely by the NPS and, unlike the proposed regulation, the organizations did not have a chance to review or comment on it during the rulemaking process. Individual members of organizations that were represented at the table were allowed to comment on the proposed regulation.

Annual Cap of 3400 Permits

The issue raised by the most people or organizations (four) was about the annual cap of 3,400 permits. Concerns were raised as to how this limit was established and justified. One group felt the number was too high, whereas others felt there should not be a limit to the number of permits issued. Some suggested that there should be a limit to the number of vehicles on the beach at any one time. Two suggested this system favored people who live in Massachusetts.

The rulemaking group spent considerable time discussing this issue. The group agreed that it was important to limit the number of vehicles on the beach, but at the same time to allow some growth in the number of users. The group understood the complexity of instituting a daily limit—numerous access points, potential traffic problems as users lined up to wait for people to leave, people who buy an annual pass but use it only for a limited time would be unsure if they would have access and additional staff needed to control access. Because of these concerns, the daily limit option was dropped in favor of the annual cap.

The annual cap was arrived at by looking at the number of permits which have been issued in the past and adding 10% to that number. Because the number of annual permits that can be issued in a calendar year exceeds the usual number issued, there has been no need to establish a procedure for issuing permits. When it appears that the annual cap will be reached, the NPS will work with an advisory group, which is a sub-committee of the Cape Cod National Seashore Advisory Commission, to establish a procedure that gives equal access to permits for people in-state as well as for people from out-of-state.

Personal Watercraft (PWC)

One group reminded the NPS that one of the areas of consensus during the

negotiated rulemaking, was that the launching of PWC from the ORV corridor was prohibited. This statement is in the preamble of the regulation and has been codified in the park's compendium in the section dealing with boating. In addition, the NPS will be addressing the issue of PWCs through comment rulemaking in the general regulations.

Piping Plovers

One individual questioned the need to have an automatic closure of a section of the corridor from April 1 through July 20th. During the negotiated rulemaking many groups saw an advantage to having an automatic closure of a section of the corridor, especially with the establishment of another section which had a higher probability of not having nesting plovers. Because of the high concentration of plovers on the beach in the section scheduled for automatic closure, ORV users had to check daily to see whether or not they would be able to get out to that section of the beach. Also, this section of the beach required a high amount of management by the NPS as all the nests, eggs and chicks had to be checked each day. Because of these and other reasons, the group decided to schedule the automatic closure of a section of the corridor.

Cost

One individual questioned the cost of running the ORV program, specifically the cost of patrolling the night fishing area, and stated that as a taxpayer they did not want to support this high cost activity. The regulation specifically states that the costs to run and manage the ORV program will be recovered by the Seashore through the cost of the permits. The cost of the program will be borne by the people who benefit from the program.

Winter Use of the ORV Corridor

One group stated that the regulation was unclear as to how limited access passes (LAP) for winter ORV use would be managed. The regulation states that winter use of the beach for ORV use would require an annual ORV pass as well as a LAP. Access must be for the purposes of getting to the town shellfishing beds at Hatches Harbor, recovering personal property or flotsam and jetsam from the beach, caretaker functions at a dune cottage or fishing. In addition, an operator is required to view a special education program on the unique situations encountered on a winter beach. To allow for the development of a system that is flexible and meets the needs of the users, provides for visitor safety and protects

the resources, the specifics of the limited access pass are not included in the regulation. The Seashore staff, working with the advisory group, will develop procedures for winter access that meet all of these requirements. If problems arise the procedures will be reviewed, and if appropriate, revised to best accommodate all concerns while meeting the objectives of the regulation.

Support for the Regulation

One letter from a local resident claims that all of the surfcasters he has spoken with are 100 percent behind the new regulations. He made a point of saying that their appreciation will be shown by their making an extra effort to follow any guidelines to the "T", and to be courteous and considerate to all they come across in their travels.

Drafting Information

A formal negotiated rulemaking was utilized in the development of this proposed rule in accordance with the Federal Advisory Commission Act (FACA) and the Negotiated Rulemaking Act (5 U.S.C. 561).

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in this rule have been approved by the Office of Management and Budget and assigned clearance number 1024-0026. This information is being collected to solicit information that is necessary for the Superintendent to issue off-road vehicle permits. The public is being asked to provide this information in order for the park to track the number of permits issued and to whom they are issued. Should the park need to contact the permittees, a mechanism will be in place to allow them to do so. The information will be used to grant administrative benefits. The obligation to respond is required to obtain a benefit.

Specifically, the NPS needs the following information to issue a permit:

- (1) Name and address of registered owner.
- (2) Driver's license number and State of issue.
- (3) Vehicle license plate number and State.
- (4) Vehicle description, including year, make, model and color.
- (5) Make, model and size of tires.
- (6) List of equipment on board as required in section 4 of the rule.

The public reporting burden for the collection of information in this instance is estimated to be 0.28 hours per response, including the time for

reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden of these information collection requests, to Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, D.C. 20001; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of the Interior (1024-0125), Washington, D.C. 20503.

Compliance With Other Laws

This rule was reviewed by the Office of Management and Budget under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

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

This regulation is subject to National Environmental Policy Act (NEPA) compliance and an Environmental Assessment (EA) has been completed and a Finding of No Significant Impact has been determined. This document is available for public review and can be obtained by contacting the park at the address noted at the beginning of this rulemaking.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, NPS amends 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k), Sec. 7.96 also issued under Code 8-137 (1981) and D.C. Code 40-721 (1981).

2. Revise section 7.67(a) to read as follows:

§ 7.67 Cape Cod National Seashore.

(a) Off-road operation of motor vehicles.

(1) *What do I need to do to operate a vehicle off road?* To operate a vehicle off road at Cape Cod National Seashore, you must meet the requirements in paragraphs (b) through (e) of this section. You also must obtain a special permit if you:

(i) Will use an oversand vehicle (see paragraphs (a)(6) and (a)(7) of this section for details);

(ii) Will use an oversand vehicle to camp (see paragraph (a)(8) of this section for details); or

(iii) Are a commercial operator (see paragraph (a)(9) of this section for details).

(2) *Where and when can I operate my vehicle off road?* You may operate a vehicle off road only under the conditions specified in the following table. However, the Superintendent may close any access or oversand route at any time for weather, impassable conditions due to changing beach conditions, or to protect resources.

Route	When you may use the route
On the outer beach between the opening to Hatches Harbor, around Race Point to High Head, including the North and South Beach access routes at Race Point and the bypass route at Race Point Light.	April 15 through November 15, except Exit 8 to High Head which is closed April 1 through July 20.
Off road vehicle corridor from Exit 8 to High Head	July 21 through November 15.
Access road at High Head from the inland parking area to the primary dune.	January 1 through December 31.
Designated dune parking area at High Head (for fishing only)	January 1 through December 31.
Power Line Route access and fishing parking area	Only when the Superintendent opens the route due to high tides, beach erosion, shorebird closure or other circumstances which will, as a result, warrant public use of this access way. January 1 through December 31.
On controlled access routes for residents or caretakers of individual dune cottages in the Province Lands.	April 15 through November 15.
On commercial dune taxi routes following portions of the outer beach and cottage access routes as described in the appropriate permit.	April 15 through November 15.
On the outer beach from High Head to Head of the Meadow	July 1 through August 31.
Coast Guard beach in Truro to Long Nook beach	April 15 through November 15 (hours posted).

(3) *May I launch a boat from a designated route?* Boat trailering and launching by a permitted vehicle from a designated open route corridor is permitted.

(4) *What travel restrictions and special rules must I obey?* You must comply with all applicable provisions of this chapter, including part 4, as well as the specific provisions of this section.

(i) On the beach, you must drive in a corridor extending from a point 10 feet seaward of the spring high tide drift line to the berm crest. You may drive below the berm crest only to pass a temporary cut in the beach, and you must regain the crest immediately following the cut.

Delineator posts mark the landward side of the corridor in critical areas.

(ii) On an inland oversand route, you must drive only in a lane designated by pairs of delineator posts showing the sides of the route.

(iii) An oversand route is closed at any time that tides, nesting birds, or surface configuration prevent vehicle travel within the designated corridor.

(iv) When two vehicles meet on the beach, the operator of the vehicle with the water on the left must yield, except that self-contained vehicles always have the right of way.

(v) When two vehicles meet on a single-lane oversand route, the operator

of the vehicle in the best position to yield must pull out of the track only so far as necessary to allow the other vehicle to pass safely, and then must back into the established track before resuming the original direction of travel.

(vi) If you make a rut or hole while freeing a stuck vehicle, you must fill the rut or hole before you remove the vehicle from the immediate area.

(5) *What activities are prohibited?* The following are prohibited:

(i) Driving off a designated oversand route.

(ii) Exceeding a speed of 15 miles per hour unless posted otherwise.

(iii) Parking a vehicle in an oversand route so as to obstruct traffic.

(iv) Riding on a fender, tailgate, roof, door or any other location on the outside of a vehicle.

(v) Driving a vehicle across a designated swimming beach at any time when it is posted with a sign prohibiting vehicles.

(vi) Operating a motorcycle on an oversand route.

(6) *What special equipment must I have in my vehicle?* You must have in your vehicle all the equipment required by the Superintendent, including:

- (i) Shovel;
- (ii) Tow rope, chain, cable or other similar towing device;
- (iii) Jack;
- (iv) Jack support board;
- (v) Low air pressure tire gauge; and
- (vi) Five tires that meet or exceed established standards.

(7) *What requirements must I meet to operate an oversand vehicle?* You may operate an oversand vehicle only if you first obtain an oversand permit from the Superintendent. The Superintendent administers the permit system for oversand vehicles and charges fees that are designed to recover NPS administrative costs.

(i) The oversand permit is a Special Use Permit issued under the authority of 36 CFR 1.6 and 4.10. You must provide the following information for each vehicle for which you request a permit:

- (A) Name and address of registered owner;
- (B) Driver's license number and State of issue;
- (C) Vehicle license plate number and State of issue; and
- (D) Vehicle description, including year, make, model and color; make, model and size of tires.

(ii) Before we issue a permit, you must:

(A) Demonstrate that your vehicle is equipped as required in paragraph (a)(6) of this section;

(B) Provide evidence that you have complied with all Federal and State licensing, registering, inspecting and insurance regulations; and

(C) View an oversand vehicle operation educational program and ensure that all other potential operators view the same program.

(iii) The Superintendent will affix the permit to your vehicle at the time of issuance.

(iv) You must not transfer your oversand permit from one vehicle to another.

(8) *What requirements must I meet to operate an oversand vehicle in the off season?*

To operate an oversand vehicle between November 16 and April 14, you

must obtain from the Superintendent an oversand permit and a limited access pass. We will issue you a limited access pass if you have a valid oversand permit (see paragraph (a)(7) of this section) and if you have viewed an educational program that outlines the special aspects of off season oversand use.

(i) You may operate a vehicle during the off-season only on the portion of the beach between High Head and Hatches Harbor.

(ii) You must not operate a vehicle during the off-season within two hours either side of high tide.

(iii) We may issue a limited access pass for the following purposes:

- (A) Access to town shellfish beds at Hatches Harbor;
- (B) Recovery of personal property, flotsam and jetsam from the beach;
- (C) Caretaker functions at a dune cottage; or
- (D) Fishing.

(9) *What requirements must I meet to use an oversand vehicle for camping?*

You may use an oversand vehicle to camp on the beach only in the manner authorized in this section or as authorized by the Superintendent through another approved permitting process.

(i) You must possess a valid permit issued under paragraph (a)(7) of this section.

(ii) You may camp only in a self-contained vehicle that you park in a designated area. A self-contained vehicle has a self-contained water or chemical toilet and a permanently installed holding tank with a minimum capacity of 3 days waste material. There are two designated areas with a maximum combined capacity of 100 vehicles.

(A) You must drive the self-contained vehicle off the beach to empty holding tanks at a dumping station at intervals of no more than 72 hours.

(B) Before returning to the beach, you must notify the Oversand Station as specified by the Superintendent.

(iii) You must not drive a self-contained vehicle outside the limits of a designated camping area except when entering or leaving the beach by the most direct authorized route.

(iv) You are limited to a maximum of 21 days camping on the beach from July 1 through Labor Day.

(10) *What special requirements must I meet if I have a commercial vehicle?*

(i) To operate a passenger vehicle for hire on a designated oversand route, you must obtain a permit from the Superintendent. The Superintendent issues the permit under the authority of 36 CFR 1.6, 4.10 and 5.6.

(ii) You must obey all applicable regulations in this section and all

applicable Federal, State and local regulations concerning vehicles for hire.

(iii) You must provide the following information for each vehicle that will use a designated oversand route:

- (A) Name and address of tour company and name of company owner;
- (B) Make and model of vehicle;
- (C) Vehicle license plate number and State of issue; and
- (D) Number of passenger seats.

(11) *How will the Superintendent manage the off-road vehicle program?*

(i) The Superintendent will issue no more than a combined total of 3400 oversand permits annually, including self-contained permits.

(ii) The Superintendent will monitor the use and condition of the oversand routes to review the effects of vehicles on natural, cultural, and aesthetic resources in designated corridors. If the Superintendent finds that resource degradation or visitor impact is occurring, he/she may amend, rescind, limit the use of, or close designated routes. The Superintendent will do this consistent with 36 CFR 1.5 and 1.7 and all applicable Executive Orders;

(iii) The Superintendent will consult with the Cape Cod National Seashore Advisory Commission regarding management of the off-road vehicle program.

(iv) The Superintendent will recognize and use volunteers to provide education, inventorying, monitoring, field support, and other activities involving off-road vehicle use. The Superintendent will do this in accordance with 16 U.S.C. 18 g-j.

(v) The Superintendent will report annually to the Secretary of the Interior and to the public the results of the monitoring conducted under this section, subject to availability of funding.

(12) *What are the penalties for violating the provisions of this section?* Violation of a term or condition of an oversand permit issued in accordance with this section is prohibited. A violation may also result in the suspension or revocation of the permit.

(13) *Has OMB approved the collection of information in this section?* As required by 44 U.S.C. 3501 *et. seq.*, the Office of Management and Budget has approved the information collection requirement contained in this section. The OMB approval number is 1024-0026. We are collecting this information to allow the Superintendent to issue off-road vehicle permits. You must provide the information in order to obtain a permit.

* * * * *

Dated: February 8, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98-4638 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-5966-4]

Control of Air Pollution; Removal and Modification of Obsolete, Superfluous or Burdensome Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) published a direct final rule and an associated notice of proposed rulemaking of the same title on April 11, 1996 (61 FR 16050, 61 FR 16068). Both actions were to delete or modify certain rules previously promulgated under the Clean Air Act in the Code of Federal Regulations (CFR), 40 CFR parts 51 and 52, clarify their legal status and remove unnecessary, obsolete or burdensome regulations. EPA received adverse comments on the deletion of rules 40 CFR 51.100(o), 40 CFR 51.101, 40 CFR 51.110(g) and 40 CFR 51.213 as published in both the direct final rule and associated notice of proposed rulemaking. In response to those comments, EPA withdrew those sections from the direct final rule on June 14, 1996 (61 FR 30162). In today's action, EPA is finalizing the notice of proposed rulemaking with respect to these sections. Separate from the notice of proposed rulemaking action, EPA is also removing sections 40 CFR 51.103(a)(1) and (a)(2), as they were superseded by the Clean Air Act Amendments of 1990.

DATES: This rule will be in effect on March 26, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen Delaney, Office of Air and Radiation, Office of Policy Analysis and Review (202) 260-7431.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, to identify those rules that are obsolete or unduly burdensome. EPA conducted a review of such rules, including rules issued under the Clean

Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*). On June 29, 1995, EPA deleted more than 200 Clean Air Act rules that were no longer legally in effect under the amended Clean Air Act. 60 FR 33915 (June 29, 1995).

On April 11, 1996, EPA simultaneously published a direct final notice of rulemaking and a notice of proposed rulemaking consisting of EPA's second phase of its revision effort. 61 FR 106050 (April 11, 1996). Where EPA determined that a regulation did not add substantial value to what is already contained in the law, or where there are alternative means to accomplish the regulatory end without restricting EPA's ability to respond to factual peculiarities in a timely and appropriate way, EPA determined that the regulation should be deleted. The rulemaking specified that EPA would withdraw any portions of the direct final rule that were the subject of filed adverse or critical comments. EPA received adverse comments on the revisions to 40 CFR 51.100(o), 40 CFR 51.101, 40 CFR 51.110(g) and 40 CFR 51.213 as published in the direct final rule and associated notice of proposed rulemaking within 30 days of publication in the **Federal Register** of the proposed rule and withdrew those portions of the direct final rule on June 14, 1996 (61 FR 30162). This final rule summarizes the comments received on these CFR sections and EPA's responses.

Removal of any rules from the CFR is not intended to affect the status of any civil or criminal actions that were initiated prior to the publication of this rule, or which may be initiated in the future to readdress violations of the rules that occurred when the rules were still legally in effect. Removal of provisions on the ground that they reiterate or are redundant of statutory provisions does not affect any obligation or requirement to comply with such statutory provision.

II. Deletion and Modification of Unnecessary or Burdensome Rules

40 CFR 51.110(g)

Section 51.110(g) states that EPA encourages states, in developing their attainment plans, to identify alternative control strategies and the costs and benefits thereof. EPA proposed to delete this provision and rely on Clean Air Act sections 110(a)(2)(A) and 101(a)(3), as well as *Train v. NRDC*, 421 U.S. 60, 78-79 (1975) and *Union Electric Co. v. EPA*, 427 U.S. 246, 256-57 (1976), which make clear that a state is free to consider a broad range of factors in constructing its attainment plans.

Commenters suggest that without section 51.110(g) states may be hesitant to submit an implementation plan with provisions outside of the specific requirements of the CFR or Clean Air Act. As stated previously in the notice of proposed rulemaking, EPA agrees with the policies embodied in section 51.110(g). For that reason, EPA has decided to retain the provision in the CFR.

40 CFR 51.101 Stipulations

Section 51.101 states that nothing in part 51 should be construed to encourage states: to adopt implementation plans that do not protect the environment; to adopt plans that do not take into consideration cost-effectiveness and social and economic impact; to limit appropriate techniques for estimating air quality or demonstrating adequacy of control strategies; and otherwise to limit state flexibility to adopt appropriate control strategies or to attain and maintain air quality better than that required by a national standard. EPA proposed to delete this provision and rely on Clean Air Act sections 110(a)(2)(A) and 101(a)(3), as well as *Train v. NRDC*, 421 U.S. 60, 78-79 (1975) and *Union Electric Co. v. EPA*, 427 U.S. 246, 256-57 (1976), which make clear that a state is free to consider a broad range of factors in constructing its attainment plans.

Commenters suggested that section 51.101 should remain in the CFR because the flexibility available to States may not be clear if this section were removed. As stated previously in the notice of proposed rulemaking, EPA agrees with the policies embodied in section 51.101. For that reason, EPA has decided to retain the provision in the CFR.

40 CFR 51.100(o)

Section 51.100(o) defines reasonably available control technology ("RACT") for the purpose of implementing secondary national ambient air quality standards ("NAAQS"). This definition is only used in the establishment of secondary NAAQS attainment dates and in the evaluation of State requests for extensions of state implementation plan submittals for secondary NAAQS.

Section 51.110(c) requires plans to provide for the attainment of a secondary standard within a reasonable time after the date of the Administrator's approval of the plan, and for maintenance of the standard after it has been attained.

Under the Clean Air Act of 1977, the test for approval of the attainment date in a SIP implementing a secondary

NAAQS was contained in section 110(a)(2)(A)(ii). This required that the SIP attain the secondary NAAQS within a "reasonable time." Under the CAA of 1990, this was changed. The new test for approval of a secondary NAAQS attainment date is contained in section 172(a)(2)(B) and requires attainment "as expeditiously as practicable after the date such area was designated nonattainment."

As a result of this statutory change, EPA proposed to delete section 51.110(c) from the CFR to eliminate any possible confusion regarding the appropriate tests for approval of a secondary NAAQS attainment date. Because the sole purpose of the section 51.100(o) definition of RACT was to aid in EPA's evaluation of the approvability of secondary NAAQS attainment dates or requests for extension of SIP submittal dates and the 1990 Amendments changed the test governing the evaluation of secondary NAAQS attainment dates, EPA stated that it believed the definition was no longer necessary and proposed deletion. The EPA then stated its belief that evaluation of the approvability of the expeditiousness of attainment dates for secondary nonattainment areas requires a case-by-case analysis of the nature and extent of the problem. The EPA stated that it did not believe that the availability and effectiveness of RACT should be a determinative factor in implementing secondary NAAQS. In addition, EPA maintained that the deletion of section 51.100(o) would eliminate potential confusion, since for other purposes the Agency generally interprets the statute's RACT requirements consistently with the definition of RACT contained in a December 9, 1976, memorandum from R. Strelow to Regional Administrators, Regions I-X, entitled "Guidance to Determining Acceptability of SIP Regulations in Nonattainment Areas."

Commenters suggest that the definition of RACT in section 51.100(o) is the only regulatory definition that states that the availability and effectiveness of RACT should be a determinative factor in implementing secondary NAAQS. EPA does not agree that RACT as defined in section 51.100(o) should be the determinative factor in setting attainment dates for the secondary NAAQS under the new statutory test for setting those dates. However, EPA sees no compelling need to delete the definition of RACT for purposes of guiding the decisions under 40 CFR 51.341 on whether to grant extensions for submitting SIPs to attain the secondary NAAQS. For these reasons, section 51.100(o) will remain in

the CFR, but for this latter purpose only. The reference to section 51.110(c)(2) will be deleted since that section has previously been deleted from the CFR.

40 CFR 51.103(a)(1), (a)(2)

Sections 51.103(a)(1) and (a)(2) require that a state make an official implementation plan submission to EPA for any primary national ambient air quality standard or secondary standard, or revision, within nine months after promulgation of such standard or revision.

Prior to the Clean Air Act Amendments of 1990, section 110(a)(1) required submission of state implementation plans within nine months after promulgation of a national primary ambient air quality standard. The Amendments of 1990 changed section 110(a)(1) to give states "3 years (or such shorter period as the Administrator may prescribe)" from promulgation. At this time, EPA sees no basis for retaining the nine month deadline, absent a new finding that nine months is reasonable for all purposes. Accordingly, EPA is removing the last sentence in section 51.103 and is deleting sections 51.103(a)(1) and (a)(2). EPA has determined that there is no need to promulgate another regulation stating the three year deadline since a regulation would not add substantial value to what is already contained in the law. EPA is relying on the "good cause" exception to the notice requirements of the Administrative Procedure Act (section 553(b)(3)(B)) because EPA believes it is unnecessary to provide an opportunity for comment since the deletion merely implements the changes Congress enacted in 1990.

40 CFR 51.213 Transportation Control Measure

Section 51.213(a) provides that plans must contain procedures for obtaining and maintaining data on actual emissions reductions achieved as a result of implementation of transportation control measures. Section 51.213(b) provides that, for measures based on traffic flow changes or reductions in vehicle use, data must include observed changes in vehicle miles traveled and average speeds. Section 51.213(c) requires data to be kept so as to facilitate comparison of the planned and actual efficacy of transportation control measures.

Section 51.213(a-c) are generally addressed in section III, SIP requirements, of the General Preamble for Title I of the 1990 CAA. The procedural elements of the SIP submittals are specifically required by sections 182 and 187 of the CAA. The

requirements are incorporated in Agency regulation and guidance on each required SIP submittal that is related to transportation control. For example, guidance documents such as "Transportation Control Measure: State Implementation Plan Guidance (September 1990), "Section 187 VMT Forecasting and Tracking Guidance" (January 1992), and "Transportation Control Measure Information Documents" (March 1992), discuss the same requirements that are set forth in section 51.213. Therefore, EPA believed this section was redundant of other EPA guidance regarding transportation control measures, and proposed to delete it from the CFR.

Commenters suggest that even though guidance documents provide more detail than the rules implementing its provisions, rules, as opposed to guidance, are binding. EPA agrees that a binding rule on this subject would be useful, and section 51.213 will remain in the CFR.

III. Final Action

EPA determines that the above-referenced rules should be deleted or modified at this time. This action will become effective March 26, 1998.

IV. Analyses Under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Paperwork Reduction Act

Because the withdrawal of these rules from the CFR merely withdraws obsolete, duplicative, or superfluous requirements, this action is not a "significant" regulatory action within the meaning of Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Today's determination does not create any new requirements, but deletes or modifies existing requirements which are obsolete, duplicative, superfluous, unnecessary, or otherwise unduly burdensome. I therefore certify that it does not have any significant impact on any small entities affected.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State,

local, or tribal governments in the aggregate.

EPA's final action here does not impose upon the states any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. No additional costs to State, local, or tribal governments, or to the private sector, result from this action, which deletes or eases the indicated requirements. Thus, EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector.

Finally, since EPA here is merely removing or revising superfluous requirements, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 27, 1998.

V. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control.

Dated: February 6, 1998.

Carol M. Browner,
Administrator.

Part 51, Chapter I, Title 40 of Code of Federal Regulations is amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7671 *et seq.*

Subpart F—Procedural Requirements

2. Section 51.100(o) (3) is revised to read as follows:

§ 51.100 Definitions.

* * * * *

(o) * * *

(3) Alternative means of providing for attainment and maintenance of such

standard. (This provision defines RACT for the purposes of § 51.341(b) only.)

* * * * *

§ 51.103 [Amended]

3. Section 51.103 is amended by removing the last sentence in paragraph (a), and removing paragraphs (a)(1) and (a)(2).

[FR Doc. 98-3884 Filed 2-23-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-5969-7]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of Acceptability.

SUMMARY: This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program.

EFFECTIVE DATE: February 24, 1998.

ADDRESSES: Information relevant to this document is contained in Air Docket A-91-42, Central Docket Section, South Conference Room 4, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202) 260-7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 564-9193 or fax (202) 565-2095, U.S. EPA, Stratospheric Protection Division, 401 M Street, S.W., Mail Code 6205J, Washington, D.C. 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296-1996; EPA World Wide Web Site (<http://www.epa.gov/ozone/title6/snap>).

SUPPLEMENTARY INFORMATION:

- I. Section 612 Program
 - A. Statutory Requirements
 - B. Regulatory History
- II. Listing of Acceptable Substitutes
 - A. Refrigeration and Air Conditioning
 - B. Foam Blowing
 - C. Aerosols
 - D. Solvent Cleaning
- III. Additional Information
 - Appendix A—Summary of Acceptable Decisions

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for

evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- **Rulemaking**—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.

- **Listing of Unacceptable/Acceptable Substitutes**—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.

- **Petition Process**—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.

- **90-day Notification**—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.

- **Outreach**—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.

- **Clearinghouse**—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR

13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilizers; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, by this notice EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that Notice-and-Comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published Notices listing acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), July 28, 1995 (60 FR 38729), February 8, 1996 (61 FR 4736), September 5, 1996 (61 FR 47012), March 10, 1997, and June 3, 1997, and published Final Rulemakings restricting the use of certain substitutes on June 13, 1995 (60 FR 31092), May 22, 1996 (61 FR 25585), and October 16, 1996 (61 FR 54030).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for

substitutes for class I and class II substances in the following industrial sectors: refrigeration and air conditioning, foam blowing, aerosols, and solvent cleaning. In this Notice, EPA has split the refrigeration and air conditioning sector into two parts: substitutes for class I substances and substitutes for class II substances. For copies of the full list, contact the EPA Stratospheric Protection Hotline at (800) 296-1996.

Parts A through D below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing today's listing decisions are in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but for listings of acceptable substitutes, they are not legally binding under section 612 of the Clean Air Act. Thus, adherence to recommendations in the comments is not mandatory for use as a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning: Class I

1. Clarification

a. Secondary Loop Systems

In the Notice published on March 10, 1997 (62 FR 10700), EPA stated that it would not review secondary loop fluids under the SNAP program. In the final rule of June 13, 1995 (60 FR 31092), however, EPA listed the first set of acceptable substitute refrigerants for heat transfer fluids. EPA has received requests to further clarify the distinction between the use of a fluid in a secondary fluid system (which is not regulated under SNAP), and the use of such a fluid in a heat exchange system (which is regulated under SNAP).

A key characteristic of a secondary loop system is that it contains, as an integral part, a system that moves heat from a cooled area to a warmer one, thereby reversing the natural flow of heat. The secondary loop simply carries heat as an adjunct to the primary loop's effect. For example, in a building chiller, the primary loop uses a vapor

compression or other cycle to refrigerate water. This chilled water then circulates throughout the building and fans blow air over the cold pipes to air condition occupied spaces. Under the SNAP program, EPA reviews the refrigerant used in the primary system, but not the fluid used to carry the chill throughout the building. Note that a secondary loop moves heat from a warmer area to a cooler one. Thus, neither loop within a cascade refrigeration system is considered a secondary loop.

In contrast, a heat transfer system's primary effect is to move heat from a warmer area to a cooler one. Thus, the heat transfer fluid is the primary refrigerant and it delivers the actual cooling. An example of this type of system is a thermosyphon transformer. A liquid heat transfer fluid absorbs heat from hot electrical components, vaporizes, and rises into a cooling heat exchanger, where it gives off the heat to the surrounding air. There are also heat transfer systems that rely on a pump, but their primary function is still to move heat in the direction it naturally flows. In essence, a heat transfer system augments or assists natural heat flow as the primary effect, rather than augmenting a primary loop that reverses the natural heat flow.

b. Definition of MVAC Under SNAP

Under the SNAP program, the motor vehicle air conditioning (MVAC) end-use includes all forms of air conditioning that provide cooling to the passenger compartments in moving vehicles. This definition includes both MVACS, defined at 40 CFR 82.32, and MVAC-like equipment, defined at 40 CFR 82.152. EPA regulations issued under sections 608 and 609 of the Clean Air Act distinguished between MVACS and MVAC-like equipment for purposes of refrigerant recycling and handling. EPA includes both in the SNAP MVAC end-use and has relied on this definition since the original SNAP rule of March 18, 1994 (59 FR 13044); today's Notice simply clarifies this definition. All use conditions, unacceptability findings, and other regulatory actions for this end-use apply equally to on-road vehicles, such as automobiles and trucks, and to off-road vehicles, such as tractors, combines, construction, and mining equipment.

c. Use of Adapters With Refrigerant Identifiers in MVACS

In the June 3, 1997 SNAP Notice (62 FR 32075), EPA clarified that manifold gauge sets may be used with multiple refrigerants, provided that for each refrigerant there is a separate set of hoses with permanently attached

fittings unique to that refrigerant. Today, EPA further clarifies that refrigerant identifiers may be used with multiple refrigerants under the same proviso. The connection between the identifier or similar service equipment and the service hose may be standardized and work with multiple hoses. For each refrigerant, the user must attach a hose to the identifier that has a fitting unique to that refrigerant permanently attached to the end going to the vehicle. Adapters may not be attached for one refrigerant and then removed and replaced with the fitting for a different refrigerant. The guiding principle is that once attached to a hose, the fitting is permanent and is not removed. This procedure allows identifiers and other service equipment to be used with more than one refrigerant while still preventing the attachment and detachment of unique fittings from hoses. Note that for recovery, recycling, or other equipment used to transfer refrigerant, hoses must include shutoff valves and must have the refrigerant recovered prior to changing hoses from one refrigerant to another, but for low-flow devices like refrigerant identifiers, there are no such requirements.

2. Acceptable Substitutes

Note that EPA acceptability does not imply that an acceptable substitute is technically viable or has been optimized for a given type of equipment within an end-use. Engineering expertise must be used to determine the appropriate use of substitutes for ozone depleting chemicals. In addition, although some alternatives are listed as acceptable substitutes for multiple refrigerants, they may not be appropriate for use in all equipment or under all conditions.

a. Self-Chilling Cans Using Carbon Dioxide as the Refrigerant

Self-chilling cans using carbon dioxide are acceptable substitutes for CFC-12, R-502, and HCFC-22 in retrofitted and new household refrigeration, transport refrigeration, vending machines, cold storage warehouses, and retail food refrigeration.

This technology represents a product substitute intended to replace several types of refrigeration equipment. A self-chilling can includes a heat transfer unit that performs the same function as one half of the traditional vapor-compression refrigeration cycle. The unit contains a charge of refrigerant that is released to the atmosphere when the user activates the cooling unit. As the refrigerant is released to the atmosphere it absorbs heat from the can's contents

and evaporates, thus cooling the liquid inside the can. Because this process provides the same cooling effect as household refrigeration, transport refrigeration, vending machines, cold storage warehouses, or retail food refrigeration, it is a substitute for CFC-12, R-502, or HCFC-22 in these systems.

In a recent Notice of Proposed Rulemaking, EPA proposed that self-chilling cans using HFC-134a or HFC-152a as the refrigerant were unacceptable substitutes (63 FR 5491; February 3, 1998). In contrast to HFC-134a, which has a global warming potential (GWP) of 1300, CO₂ has a GWP of 1. Therefore, the potential impact of CO₂ use in self-chilling cans versus HFC-134a will be much lower. In addition, the submitter indicates that the self-chilling cans will use CO₂ either recovered as a by-product from other industrial activities or taken from the atmosphere, thus further reducing the net impact.

CO₂ exhibits very high pressures compared to some other refrigerants including HFC-134a. The submitter indicated that an alternative technology would prevent internal pressures within the heat exchange unit from exceeding 150 psig. EPA believes that this design is within acceptable limits, since this pressure will exist within the heat exchange unit rather than the outer can containing the beverage; if this pressure is transmitted to the can (which is not expected), existing beverage cans are designed to withstand equivalent pressure. In addition, tabs used to open existing cans are designed to open automatically at 200 psig, providing a safety valve if high pressures do develop.

EPA's determination that self-chilling cans using CO₂ are acceptable substitutes in the end-uses listed above is based on the maximum design pressure of 150 psig and the intent to use CO₂ recaptured from other activities or from the atmosphere. EPA invites information about the pressures actually found in self-chilling cans once they are produced and on the specific sources for CO₂. If either the cans exceed 150 psig in pressure or use newly produced CO₂, EPA may revisit today's decision.

b. THR-01

THR-01, composed of HCFC-22 and HFC-152a, is acceptable as a substitute for CFC-12 in the following new systems:

- Household Refrigerators
- Household Freezers

Because this blend contains an HCFC, it contributes to ozone depletion.

However, this concern is mitigated by the scheduled phaseout of this chemical. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act (58 FR 28660) apply to this blend. This blend is flammable, but significantly less so than pure HFC-152a. A risk assessment showed that HFC-152a can be safely used in newly designed household refrigerators and freezers; since HFC-152a is listed as acceptable in these end-uses, and THR-01 poses lower flammability risk than pure HFC-152a, THR-01 is also acceptable. The GWP of HFC-152a is much less than that of HCFC-22; again, since HCFC-22 is listed as acceptable, THR-01 is also acceptable.

c. FRIGC FR-12

FRIGC FR-12, which consists of HCFC-124, HFC-134a, and butane, is acceptable as a substitute for R-500 in the following new and retrofitted end-uses:

- Centrifugal Chillers
- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Residential Dehumidifiers

and as a substitute for CFC-12 in centrifugal chillers.

This blend contains HCFC-124. Therefore, it contributes to ozone depletion, but to a much lesser degree than R-500. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act (58 FR 28660) apply to this blend. The GWPs of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

d. Galden Fluids

Galden Fluids, which contain perfluoroethers and perfluorocarbons, are acceptable substitutes for CFC-11, CFC-12, CFC-113, CFC-114, and CFC-115 in retrofitted heat transfer systems.

Perfluorocarbons (PFCs) offer high dielectric resistance, noncorrosivity, thermal stability, materials compatibility, chemical inertness, low toxicity, and nonflammability. In addition, they do not contribute to ground-level ozone formation or stratospheric ozone depletion. The principal characteristic of concern for PFCs is that they have long atmospheric lifetimes and have the potential to contribute to global climate change.

PFCs are also included in the Climate Change Action Plan, which broadly instructs EPA to use section 612 of the Clean Air Act, as well as voluntary programs, to control emissions. Despite these concerns, EPA is listing PFCs as acceptable in retrofitted heat transfer applications because they may be the only substitutes that can satisfy safety or performance requirements. For example, a transformer may require very high dielectric strength, or a heat transfer system for a chlorine manufacturing process could require compatibility with the process stream.

In cases where users must adopt PFCs (or PFC-containing blends like the Galden Fluids) to transition out of ozone depleting chemicals, they should make every effort to:

- Recover and recycle these fluids during servicing;
- Adopt maintenance practices that reduce leakage as much as is technically feasible;
- Recover these fluids after the end of the equipment's useful life and either recycle them or destroy them; and
- Continue to search for other long-term alternatives.

Users of PFCs should note that if other alternatives become available, EPA could be petitioned to list PFCs as unacceptable due to the availability of other suitable substitutes. If such a petition were granted, EPA may grandfather existing uses upon consideration of cost and timing of testing and implementation of new substitutes. EPA urges industry to develop new alternatives for this end-use that do not contain substances with such high GWPs and long lifetimes.

e. R-508A and R-508B

R-508A and R-508B, both of which contain HFC-23 and R-116, are acceptable as substitutes for CFC-13, R-13B1, and R-503 in retrofitted and new very low temperature refrigeration and industrial process refrigeration. Notices published on July 28, 1995 (60 FR 38729) and Feb. 8, 1996 (61 FR 4736) listed R-508 as acceptable in these end-uses. At the time of these listings, only R-508 was available. Since then, two blends with the same components in different percentages have entered the market. Today's Notice expands the acceptable listing to include both R-508A and R-508B.

B. Foam Blowing

1. Acceptable Substitutes

Under section 612 of the Clean Air Act, EPA is authorized to review substitutes for class I (CFCs) and class II (HCFCs) chemicals. The following

listing expands the list of acceptable substitutes for CFCs and HCFCs in integral skin applications.

a. Polyurethane Integral Skin Foam

(a) Formic Acid

Formic acid is an acceptable substitute for CFCs and HCFCs in polyurethane integral skin foam. Formic acid is more flammable than CFCs and HCFCs but less flammable than hydrocarbons such as n-pentane and cyclopentane which are currently used in foam blowing. Use of formic acid may require additional investment to assure safe handling and shipping as prescribed by OSHA and DOT. The TVL-TWA for formic acid is 5 ppm and a 15-minute TLV-STEL of 10 ppm. Formic acid has no ODP and very low or zero global warming potential (GWP). It is a volatile organic compound (VOC) and must be controlled as such under Title I of the Clean Air Act. Relevant consumer product and other safety requirements necessary for use of formic acid-blown integral skin foam would have to be met.

(b) Acetone

Acetone is an acceptable substitute for CFCs and HCFCs in polyurethane integral skin foam. Acetone is more flammable than CFCs and HCFCs but less flammable than hydrocarbons such as n-pentane and cyclopentane which are currently used for foam blowing. Use of acetone may require additional investment to assure safe handling and shipping as prescribed by OSHA and DOT. The OSHA PEL-TWA for acetone is 750 ppm and a 15-minute STEL of 1000 ppm. Acetone has no ODP and very low or zero global warming potential (GWP). Acetone has been excluded from the definition of a VOC under Title I of the Clean Air Act (60 FR 31633; 6/15/95) but may be subject to state or local controls. Relevant consumer product and other safety requirements necessary for use of acetone-blown integral skin foam would have to be met.

C. Aerosols

1. Acceptable Substitutes

Organic solvents can be used to replace CFC-11, CFC-113, and MCF, in certain cleaning operations. This classification category of chemicals was previously determined under the SNAP program to include C6-C20 petroleum hydrocarbons (both naturally and synthetically derived) (59 FR 13044).

Under section 612 of the Clean Air Act, EPA is authorized to review substitutes for class I (CFCs) and class II (HCFCs) chemicals. The following

decision expands the existing acceptable listing for petroleum hydrocarbons as substitutes for CFCs and HCFCs in aerosols solvents to include petroleum hydrocarbon C5.

(a) Aerosol Solvent

(1) Petroleum Hydrocarbon (C5)

Petroleum hydrocarbon C5 is an acceptable substitute for CFCs and HCFCs in aerosol solvents. Petroleum hydrocarbons are fractionated from the distillation of petroleum. These compounds are loosely grouped into paraffins or aliphatic hydrocarbons and light aromatics (toluene and xylene) and come in various stages of purity. Components with up to twenty carbons are now also being used in an effort to reduce flammability. These compounds have good solvent properties, are relatively inexpensive, and are readily available from chemical distributors. When a controlled substance is used only as a diluent, such as automotive undercoatings, substitution using petroleum hydrocarbons can be achieved with minor reformulation. Many of these products containing petroleum hydrocarbons have been reported to be comparable to or to outperform their chlorinated counterparts.

Petroleum hydrocarbons are, however, flammable and thus cannot be used as replacement solvents in applications where the solvent must be nonflammable such as electronic cleaning applications. In addition, pesticide aerosols formulated with certain petroleum hydrocarbons must adhere to requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

2. Clarification

(a) n-Propyl-Bromide

Review of the SNAP submission docket control number VI-D-114 for n-propyl-bromide has disclosed that a submission for the Aerosol sector has yet to be received. As such, all distribution and sale into this area must cease until a complete submission is obtained and the necessary review period has elapsed.

D. Solvent Cleaning

1. Clarification

a. Hydrofluoroether (HFE): C₄F₉OCH₃

In reference to the **Federal Register** dated September 5, 1996, HFE 7100 was characterized as exhibiting moderate toxicity (61 FR 47012). This Notice serves to inform users that additional toxicity data indicate that a characterization of low toxicity is now

warranted. This revision is made based on the 600 ppm 8-hr Time Weighted Average workplace standard set by the manufacturer. As with workplace exposure standards for other CFC alternatives, this standard will be examined by the Workplace Environmental Exposure Limit subcommittee of the American Industrial Hygiene Association.

b. Definition of Solvent Cleaning End Uses

In reference to the **Federal Register** dated March 18, 1994, the solvents cleaning sector was subdivided into three end uses; metals cleaning, electronics cleaning, and precision cleaning. This notice serves to further clarify the definition of these end uses in order to avoid any confusion as to user placement.

(1) Electronics Cleaning

Primarily the removal of flux residues from wiring assemblies after a soldering operation has been completed. This is considered a high value end use application where performance is critical.

(2) Metals Cleaning

The removal of a wide variety of contaminants from metal objects during a manufacturing or maintenance process. At each stage in the manufacturing process contaminants must be removed from the piece to ensure a clean metal surface for the next step in the production process or for final consumption. These parts tend to be metal objects ranging from fully assembled aircraft down to small metal parts stamped out in high volume. These contaminants are most often greases, cutting oils, coatings, large particles, and metal chips.

(3) Precision Cleaning

Applies to components and surfaces of any composition for which an extremely high level of cleanliness is necessary to ensure satisfactory performance during the manufacturing process or in final consumption. This end use is characterized as very high value end use segment based on a non-cost criteria. Examples of such criteria would be: high value products, protection or safeguarding of human life, compatibility concerns with plastics, temperature and mechanical stress limitations, precision mechanical assemblies/components with demanding machining tolerances or complex geometries, and base or mix of metals readily pitted, corroded, eroded or otherwise compromised.

2. Acceptable Substitutes

Under Section 612 of the Clean Air Act, EPA is authorized to review substitutes for class I (CFCs) and class II (HCFCs) chemicals. The following listing expands the list of acceptable petroleum hydrocarbon substitutes for CFCs, HCFCs and MCF as used in semiaqueous and straight organic solvent cleaning to include C5.

(a) Metals, Precision and Electronics Cleaning

(1) Semi-aqueous

Petroleum hydrocarbon C5 is an acceptable substitute for CFCs and HCFCs in semi-aqueous solvents. Semi-aqueous cleaners are alternatives for cleaning in all three SNAP solvent cleaning end-uses. These cleaners employ hydrocarbons/surfactant either emulsified in water solutions or applied in concentrated form and then rinsed with water. As both approaches involve water as part of the formulation, the system is commonly referred to as "semi-aqueous." The principal categories of chemicals used in this formulation were previously defined under the SNAP program as terpenes, C6-C20 petroleum hydrocarbons (both naturally or synthetically derived), or oxygenated solvents (such as alcohols) (59 FR 13044). This determination expands petroleum hydrocarbons to include C5.

An extensive discussion of various semi-aqueous cleaning alternatives may be found in the Industry Cooperative for Ozone Layer Protection (ICOLP) documents on the subject. Users can obtain these documents from the EPA Stratospheric Protection Hotline at 1-800-296-1996.

(b) Straight Organic Solvent Cleaning

(1) Petroleum Hydrocarbon (C5)

Petroleum hydrocarbon C5 is an acceptable substitute for CFCs and HCFCs as a straight organic solvent. Organic solvents can be used to replace CFC-113 and MCF in certain cleaning operations. This classification is defined to include terpenes, C5-C20 petroleum hydrocarbons (both naturally and synthetically derived), and oxygenated organic solvents such as alcohols, ethers, (including propylene glycol ethers), esters and ketones. These compounds are commonly used in solvent tanks at room temperature, although the solvents can also be used in-line cleaning systems or be heated to increase solvency power. If heated, the solvents must be used in equipment designed to control vapor losses.

These solvents, unlike class I and II compounds, do not contribute to

stratospheric ozone depletion, and generally have short atmospheric lifetimes. Yet many of the organic solvents are regulated as VOCs because they can contribute to ground level ozone formation. In addition, certain of the organic solvents are toxic to human health and are subject to waste handling standards under the Resource Conservation and Recovery Act (RCRA) and to workplace standards set by Occupational Safety and Health Administration (OSHA). For example, xylene and toluene may be used as substitutes but are, once they become wastes, regulated under RCRA as listed or characteristic wastes.

E. Adhesives, Coatings & Inks

1. Clarification

(a) n-Propyl-Bromide

Review of the SNAP submission, docket control number VI-D-114, for n-propyl-bromide has disclosed that a submission for the Adhesives, Coatings & Inks sector has yet to be received. As such, all distribution and sale into this sector must cease until a complete submission is obtained and the mandatory 90-day review period has elapsed.

III. Additional Information

Contact the Stratospheric Protection Hotline at 1-800-296-1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). **Federal Register** notices can be ordered from the Government Printing Office Order Desk (202) 783-3238; the citation is the date of publication. This Notice may also be obtained on the World Wide Web at <http://www.epa.gov/ozone/title6/snap/snap.html>.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 82

Environmental Protection, Administrative Practice and Procedure, Air Pollution Control, Reporting and Record keeping Requirements.

Dated: February 12, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

Appendix A: Summary of Acceptable Decisions

Note: The following Appendix will not appear in the Code of Federal Regulations.

End-use	Substitute	Decision	Comments
Refrigeration and Air Conditioning			
CFC-12, R-502, and HCFC-22 Household Refrigeration, Transport Refrigeration, Vending Machines, Cold Storage Warehouses, and Retail Food Refrigeration (Retrofit and New).	Self-chilling cans using carbon dioxide.	Acceptable	This decision is based on a maximum design pressure of 150 psig and the use of CO ₂ captured from either other industrial activities or the atmosphere.
CFC-12 Household Refrigerators and Freezers (New).	THR01	Acceptable.	
R-500 Centrifugal and Reciprocating Chillers, Industrial Process Refrigeration, Cold Storage Warehouses, Refrigerated Transport, Retail Food Refrigeration, Vending Machines, Water Coolers, Commercial Ice Machines, and Residential Dehumidifiers, and CFC-12 Centrifugal Chillers (Retrofit and New).	FR-12	Acceptable	
CFC-11, CFC-12, CFC-113, CFC-114, CFC-115 Non-Mechanical Heat Transfer (Retrofit).	Galden Fluids	Acceptable	The principal environmental characteristic of concern for PFCs is that they have high GWPs and long atmospheric lifetimes.
CFC-13, R-13B1, and R-503 Very Low Temperature Refrigeration and Industrial Process Refrigeration (Retrofit and New).	R-508A and R-508B	Acceptable	This listing expands the prior determination for R-508 to R-508A and R-508B.
Foam Blowing			
CFCs and HCFCs, Polyurethane Integral Skin.	Formic Acid	Acceptable	Formic acid is flammable thus additional investment may be required to ensure safe handling, use and shipping for flammable materials. Formic acid is a VOC and subject to control under Title I of the Clean Air Act.
	Acetone	Acceptable	Acetone is flammable thus additional investment may be required to ensure safe handling, use and shipping.
Aerosol			
CFC-11, CFC-113, MCF, and HCFC-141b as aerosol solvents.	C5-C20 Petroleum hydrocarbons	Acceptable	Petroleum hydrocarbons are flammable. Use with the necessary precautions. Pesticides aerosols must adhere to FIFRA standards.
Solvent Cleaning			
Metals cleaning w/CFC-113, MCF	Straight organic solvent cleaning with petroleum hydrocarbon C5.	Acceptable	OSHA standards must be met, if applicable.
Electronics cleaning w/CFC-113, MCF	Semi-aqueous cleaners	Acceptable	EPA effluent guidelines must be met.
	Straight organic solvent cleaning with petroleum hydrocarbon C5.	Acceptable	OSHA standards must be met, if applicable.
Precision Cleaning w/CFC-113, MCF	Semi-aqueous cleaners	Acceptable	EPA effluent guidelines must be met.
	Straight organic solvent cleaning with petroleum hydrocarbon C5.	Acceptable	OSHA standards must be met, if applicable.
	Semi-aqueous cleaners	Acceptable	EPA effluent guidelines must be met.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 201

[Docket No. MARAD-98-3511]

RIN 2133-AB33

Removal of Obsolete Regulations;
Revisions Removing Obsolete
ReferencesAGENCY: Maritime Administration,
Department of Transportation.

ACTION: Final rule.

SUMMARY: In connection with the review, by the Maritime Administration (MARAD), pursuant to the President's ongoing Regulatory Reinvention Initiative, certain regulations relating to agency practice and procedure have been identified for updating or for removal. The identified regulations in 46 CFR Charter II, or portions thereof, are obsolete and noncontroversial.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Joel C. Richard, Secretary, Maritime Administration, Telephone No. (202) 366-5746.

SUPPLEMENTARY INFORMATION: The ongoing regulatory review of all agency regulations in force has identified certain MARAD regulations as being in need of either elimination or of revision. Obsolete regulations for removal or for revision by part, subpart, section or portion of a section include the following:

46 CFR Part 201—Rules of Practice and Procedure

Section 201.1. Mailing address; hours, is being revised since the address has changed. In the last sentence of this section "in room 7300" is being revised to "room 7210".

Section 201.21. Persons not attorneys at law, is being removed since it covers practice in MARAD proceedings by practitioners other than attorneys, who have actually never represented parties in these proceedings.

Section 201.85. Commencement of functions of Office of Hearing Examiners, is being revised in orders to make the terms consistent with the Department's nomenclature.

Section 201.86. Presiding Officer, was unintentionally removed, and is being restored revised consistent within the Department's nomenclature.

Section 201.87. Authority of Presiding Officer, is being revised consistent with the Department's nomenclature.

Subpart U—Charges for Orders, Notices, Rulings, Decisions, is being removed since this subpart concerns fees that are covered by the Department's Freedom of Information Act regulations at 49 CFR Part 7, Subpart I—Fees.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory
Planning and Review)

This rulemaking has been reviewed under Executive Order 12866 and Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is not considered to be an economically significant regulatory action under section 3(f) of E.O. 12866, since it has been determined that it is not likely to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. It is not considered to be a significant rule under the Department's Regulatory Policies and Procedures.

MARAD has determined that this rulemaking presents no substantive issue which it could reasonably expect would produce meaningful public comment since it is merely removing, pursuant to a Presidential directive, regulations or portions thereof that are obsolete, retention of which could serve no useful purpose. Accordingly, pursuant to 5 U.S.C. 553(c) and (d), Administrative Procedure Act, MARAD finds that good cause exists to publish this as a final rule, without opportunity for public comment, and to make it effective on the date of publication. This rule has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Federalism

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

Regulatory Flexibility Act

The Maritime Administration certified that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has considered the environmental impact of

this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR Part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Maritime Administration has determined this rulemaking contains no unfunded mandates.

List of Subjects in 46 CFR Part 201

Administrative practice and procedure.

Accordingly, for the reasons set forth, 46 CFR Part 201 is amended as set forth below:

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

Authority: 46 App. U.S.C. 1114(b); 49 CFR 1.66 and 1.69.

§ 201.2 [Amended]

2. Section 201.2 Mailing Address; hours, is amended in the last sentence by removing room number "7300" and adding "7210" in its place.

§ 201.21 [Removed and Reserved]

3. Section 201.21 is removed and reserved.

§ 201.85 [Amended]

4. Section 201.85 Commencement of functions of Office of Hearing Examiners, is amended in the heading and in the text by removing "Office of Hearing Examiners", and adding "Department of Transportation Office of Hearings" in its place.

§ 201.87 [Amended]

5. Section 201.87 Authority of Presiding Officer, is amended in the last sentence by removing "Chief Hearing Examiner" and adding "Chief Administrative Law Judge" in its place.

6. Section 201.86 is added to read as follows:

§ 201.86 Presiding Officer.

An Administrative Law Judge in the Department of Transportation Office of Hearings will be designated by the Department's Chief Administrative Law Judge to preside at hearings required by statute, or directed to be held under the Administration's discretionary authority in hearings not required by statute, in rotation so far as practicable, unless the Administration shall designate one or more of its officials to serve as presiding

officer(s) in hearings required by statute, or member(s) of the staff in proceedings not required by statute.

Subpart U—[Removed]

7. In part 201, Subpart U—Charges for Orders, Notices, Rulings, Decisions, is removed.

Dated: February 18, 1998.

By Order of the Maritime Administration.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 98-4505 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

48 CFR Chapter 4

Use of Direct Final Rulemaking

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Policy Statement.

SUMMARY: The Office of Procurement and Property Management (OPPM) publishes rules governing USDA acquisition in 48 CFR chapter 4. OPPM also has proposed adding 7 CFR chapter XXXII to publish rules governing personal property management (63 FR 3481-3483, January 23, 1998). OPPM is implementing a new rulemaking procedure to expedite making noncontroversial changes to its regulations. Rules that the agency judges to be non-controversial and unlikely to result in adverse comments will be published as "direct final" rules. ("Adverse comments" are comments that suggest that a rule should not be adopted or suggest that a change should be made to the rule.) Each direct final rule will advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notice of intent to submit adverse comments are received within 30 days, the revision made by the rule will be effective 60 days from the date the direct final rule is published in the **Federal Register**. This new policy should expedite the promulgation of routine or otherwise noncontroversial rules by reducing the time that would be required to develop, review, clear, and publish separate proposed and final rules.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Joseph J. Daragan, U.S. Department of Agriculture, Office of Procurement and Property Management, Procurement

Policy Division, STOP 9303, 1400 Independence Avenue SW, Washington, DC 20250-9303, telephone (202) 720-5729.

SUPPLEMENTARY INFORMATION: OPPM is committed to improving the efficiency of its regulatory process. In pursuit of this goal, we plan to employ the rulemaking procedure known as "direct final rulemaking" to promulgate some of OPPM's rules.

OPPM Regulations

OPPM promulgates USDA-wide policies, standards, techniques and procedures pertaining to procurement (acquisition), property management, disaster management, and coordination of emergency programs. To accomplish this function, OPPM may publish rules governing USDA acquisition in 48 CFR chapter 4. In a notice of proposed rulemaking (63 FR 3481-3483, January 23, 1998) OPPM proposed to publish rules governing personal property management by adding 7 CFR chapter XXXII.

The Direct Final Rule Process

Rules that OPPM judges to be noncontroversial and unlikely to result in adverse comments will be published as direct final rules. Each direct final rule will advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notice of intent to submit adverse comments are received within 30 days, the revision made by the direct final rule will be effective 60 days from the date the direct final rule is published in the **Federal Register**.

"Adverse comments" are comments that suggest that the rule should not be adopted, or that suggest that a change should be made to the rule. A comment expressing support for the rule as published will not be considered adverse. Further, a comment suggesting that requirements in the rule should, or should not, be employed by OPPM in other programs or situations outside the scope of the direct final rule will not be considered adverse.

In accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553), the direct final rulemaking procedure gives the public general notice of OPPM's intent to adopt a rule, and gives interested persons an opportunity to participate in the rulemaking through submission of comments. The major feature of direct final rulemaking is that if OPPM receives no written adverse comments and no written notice of intent to submit adverse comments within 30 days of the publication of the direct final rule, the rule will become effective without the

need to publish a separate final rule. However, OPPM will publish a notice in the **Federal Register** stating that no adverse comments were received regarding the direct final rule, and confirming that the direct final rule is effective on the date stated in the direct final rule.

If OPPM receives written adverse comments or written notice of intent to submit adverse comments within 30 days of the publication of a direct final rule, a notice of withdrawal of the direct final rule will be published in the **Federal Register**. If OPPM intends to proceed with the rulemaking, the direct final rule will be republished as a proposed rule and we will proceed with the normal notice-and-comment rulemaking procedures.

Determining When to Use Direct Final Rulemaking

Not all OPPM rules are good candidates for direct final rulemaking. OPPM intends to use the direct final rulemaking procedure only for rules that we consider to be non-controversial and unlikely to generate adverse comments. The decision to use direct final rulemaking for a rule will be based on OPPM's experience with similar rules.

Electronic Access Address

You may request additional information by sending electronic mail (E-mail) to JDARAGAN@USDA.GOV, or via fax at (202) 720-8972.

Done in Washington, D.C., this 7th day of January, 1998.

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 98-919 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-XE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 021798E]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Fishery Openings

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

ACTION: Opening of Fisheries.

SUMMARY: NMFS announces openings of three fisheries for the Gulf migratory group of king mackerel in the exclusive economic zone (EEZ) of the eastern and western zones of the Gulf of Mexico. Two are in the Florida west coast subzone of the eastern zone, i.e., the run-around gillnet fishery and the hook-and-line fishery, and the third fishery is in the western zone. These openings result from implementation of a recent framework action that increased total allowable catch (TAC) and commercial quotas for Gulf group king mackerel for the 1997/98 fishing year.

DATES: Effective 12:01 a.m., local time, February 20, 1998.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-570-5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Councils recommended to increase TAC for Gulf group king mackerel from 7.8 to 10.6 million lb (3.54 to 4.81 million kg). NMFS published a proposed rule on October 14, 1997 (62 FR 53278) and a final rule on February 19, 1998, in the Federal Register. Accordingly, the commercial quota was increased from 2.50 million lb (1.13 million kg) to 3.39 million lb (1.54 million kg) with corresponding quota increases for the associated zones and subzones. Quotas for the eastern and western zones were increased from 1.73 million lb (0.78 million kg) to 2.34 million lb (1.06 million kg) and from 0.77 million lb

(0.35 million kg) to 1.05 million lb (0.48 million kg), respectively. The eastern zone quota is divided into equal quotas for the Florida west and east coast subzones that increased from 865,000 lb (392,357 kg) to 1.17 million lb (0.53 million kg). The quota for the Florida west coast subzone is further divided, based upon gear types, into two equal quotas that increased from 432,500 (196,179 kg) to 585,000 lb (265,352 kg) for vessels using run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)). These increased commercial quotas are applicable for the 1997/98 fishing year, which began on July 1, 1997.

Prior to implementing the increased quotas, NMFS, in accordance with 50 CFR 622.43(a)(3), closed three commercial fisheries for Gulf group king mackerel based on the former, lower quotas. NMFS closed the commercial fishery in the western zone on August 2, 1997 (62 FR 42417, August 7, 1997). Similarly, NMFS closed the two commercial fisheries in the Florida west coast subzone. The commercial hook-and-line fishery was closed January 7, 1998 (63 FR 1772, January 12, 1998) and the commercial run-around gillnet fishery was closed at 12:00 noon, local time, February 3, 1998 (63 FR 6109, February 6, 1998). All three fisheries were closed through June 30, 1998, the end of the fishing year.

As a result of implementing the increased quotas for Gulf group king mackerel, unharvested balances are available for all three of the previously closed fisheries for the 1997/98 fishing year. Therefore, NMFS opens the commercial fisheries for Gulf group king mackerel in the western zone and in the Florida west coast subzone effective 12:01 a.m., local time, February 20, 1998. The fisheries will remain open under applicable trip limits until NMFS determines that the quota balances have been taken and the increased quota levels have been reached.

During the opening, a vessel fishing in the Florida west coast subzone under

the run-around gillnet quota or hook-and-line quota may not exceed the commercial trip limits of 25,000 lb (11,340 kg) or 500 lb (227 kg) per day, respectively. A person who fishes in the EEZ may not combine these trip/possession limits with any trip or possession limit applicable to state waters. No trip limit is applicable for the western zone.

The 500-lb (227-kg) trip limit for hook-and-line vessels operating in the Florida west coast subzone is in accordance with 50 CFR 622.44(a)(2)(ii)(B) which specifies king mackerel may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day from the date that 75 percent of the subzone's hook-and-line gear quota has been harvested. NMFS has determined that 75 percent of the hook-and-line quota for Gulf group king mackerel from the Florida west coast subzone has been reached.

The boundary between the eastern and western zones is 87°31'06" W. long., which is a line directly south from the Alabama/Florida boundary. The Florida west coast subzone extends from 87°31'06" W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1998; and (2) 25°48' N. lat. (due west of the Monroe/Collier County, FL, boundary) from April 1, 1998, through October 31, 1998.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: February 18, 1998.

Richard W. Surdi,

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

[FR Doc. 98-4548 Filed 2-18-98; 5:03 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 63, No. 36

Tuesday, February 24, 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 993

[Docket No. FV98-993-1 PR]

Dried Prunes Produced in California; Undersized Regulation for the 1998-99 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on changes to the undersized prune regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 1998-99 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets, and allow handlers to dispose of the undersized prunes in such outlets as livestock feed. The Committee estimated that this rule would reduce the calculated excess of about 78,000 tons of dried prunes expected at the end of the 1997-98 crop year, by approximately 7,300 tons, leaving sufficient prunes to fulfill foreign and domestic trade demand.

DATES: Comments received by March 26, 1998, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 205-6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax: (209) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file 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 law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the 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 his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on changes to the undersized regulation currently in effect for French prunes which pass freely through a screen opening from 23/32 to 24/32 in diameter and for non-French prunes from 28/32 to 30/32 of an inch in diameter for the 1998-99 crop year for volume control purposes. This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets. The rule would be in effect from August 1, 1998, through July 31, 1999, and was unanimously recommended by the Committee at a November 18, 1997, meeting.

Section 993.19b of the prune marketing order defines undersized prunes as prunes which pass freely through a round opening of a specified diameter. Since August 1, 1982, the undersized dried prune regulation specified in § 993.49(c) of the prune marketing order has been 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes. These diameter openings have been in effect continuously for quality control purposes. Section 993.49(c) also provides that the Secretary upon a recommendation of the Committee may establish larger openings for undersized dried prunes whenever it is determined that supply conditions for a crop year warrant such regulation. Section 993.50(g) states in part: "No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes * * *." Pursuant to § 993.52, minimum standards, pack specifications, including the openings prescribed in § 993.49(c), may be modified by the Secretary, on the basis of a recommendation of the Committee or other information.

Pursuant to the authority in § 993.52 of the order, § 993.400 modifies the undersized openings prescribed in § 993.49(c) to permit undersized regulations using openings of 23/32 or 24/32 of an inch for French prunes, and 28/32 or 30/32 of an inch for non-French prunes.

During the 1974–75 and 1977–78 crop years, the undersized prune regulation was established by the Department at 23/32 of an inch in diameter for French prunes and 28/32 of an inch in diameter for non-French prunes. These diameter openings were established in §§ 993.401 and 993.404, respectively (39 FR 32733; September 11, 1974; and 42 FR 49802; September 28, 1977). During the 1975–76 and 1976–77 crop years, the undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in §§ 993.402 and 993.403, respectively (40 FR 42530; September 15, 1975; and 41 FR 37306; September 3, 1976). The prune industry had an excess supply of prunes, particularly small size prunes. Rather than recommending volume regulation percentages for the 1975–76, 1976–77, and 1977–78 crop years, the Committee recommended the establishment of an undersized prune regulation applicable to all prunes received by handlers from producers and dehydrators during each of those crop years. For the 1994–95 crop year, the Committee recommended and the Department established volume regulation percentages and an undersized regulation at the aforementioned 23/32 and 28/32 inch diameter screen sizes.

The objective of the undersized regulations during each of those crop years was to preclude the use of small prunes in manufactured prune products, such as juice and concentrate. Handlers could not market undersized prunes for human consumption, but could dispose of them in nonhuman outlets such as livestock feed.

With these experiences as a basis, the marketing order was amended on August 1, 1982, establishing the continuing quality-related regulation for undersized French and non-French prunes under § 993.49(c). That regulation has removed from the marketable supply those prunes which are not desirable for use in prune products.

As in the 1970's, the prune industry is currently experiencing an excess supply of prunes, particularly in the smaller sizes. At its meeting on November 18, 1997, the Committee unanimously recommended establishing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for volume control purposes for the 1998–99 crop year. That crop year begins August 1, 1998, and ends July 31, 1999.

The Committee estimated that this rule would reduce the calculated excess

of about 78,000 natural condition tons of dried prunes as of July 31, 1998, by approximately 7,300 natural condition tons, still leaving sufficient prunes to fill domestic and foreign trade demand during the 1998–99 crop year, and provide an adequate carryout on July 31, 1999, for early season shipments until the new crop is available for shipment. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop is almost 41,000 natural condition tons.

In its deliberations, the Committee reviewed statistics reflecting: (1) A worldwide prune demand which has been relatively stable at about 260,000 tons; (2) a world wide oversupply that is expected to continue growing into the next century (estimated at 387,170 natural condition tons by the year 2001); (3) a continuing oversupply situation in California caused by increased production from increased plantings and higher yields per acre (between the 1993–94 and 1996–97 crop years, the yield ranged from 2.3 to 2.8 versus a 10 year average of 2.2 tons per acre); and (4) a worsening of California's excess supply situation, even though dried prune shipments in 1996–97 reached a near-record high of 183,252 packed tons. The Committee also considered the quantity of "D" screen (24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes) prunes produced during the 1990–91 through 1996–97 crop years. The production of these small sizes ranged from 2,575 to 8,778 natural condition tons during that period. The Committee concluded that it had to utilize supply management techniques to accelerate the return to a balanced supply/demand situation in the interest of California dried prune producers and handlers. The proposed changes to the undersized regulation for the 1998–99 crop year are the result of these deliberations, and the Committee's desire to bring supplies more in line with market needs.

The current oversupply situation facing the California prune industry has been caused by four consecutive large crops of over 180,000 natural condition tons. Another large crop of 215,000 natural condition tons is forecast for the 1997–98 crop year, which will add to the existing oversupply. The yield per acre is forecast at 2.6 tons per acre. With an anticipated increase in bearing acreage, the 1998–99 season crop could be larger.

Because of the oversupply situation, producer prices for undersized prunes during the 1997–98 crop year have declined to \$40–50 per ton. This

represents a loss to the producer of about \$260–270 per ton. The lower pricing of the smaller prunes is expected to provide producers an incentive to produce larger sizes which the industry needs to meet the increasing market demand for pitted prunes. However, the Committee felt that the undersized rule change was needed to expedite the reduction of the inventories of small prunes, and more quickly bring supplies in line with needs. Attainment of this goal would benefit all of the producers and handlers of California prunes.

The recommended decision of June 1, 1981 (46 FR 29271) regarding undersized prunes states that the undersized prune regulation at the 23/32 and 28/32 inch diameter size openings would be continuous for the purposes of quality control even in above parity situations. It further states that any change (i.e., increase) in the size of those openings would not be for the purpose of establishing a new quality-related minimum. Larger openings would only be applicable when supply conditions warranted the regulation of a larger quantity of prunes as undersized prunes. Thus, any regulation prescribing openings larger than those in § 993.49(c) should not be implemented when the grower average price is expected to be above parity. As discussed later, the average grower price for prunes during the 1998–99 crop year is not expected to be above parity, and implementation of this more restrictive undersized regulation would be appropriate as far as parity is concerned.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for volume control, not quality control, purposes. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented for the purpose of improving product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of volume control. Therefore, the increased diameters would not be applied to imported prunes.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of

this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,400 producers of dried prunes in the production area and approximately 21 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Last year, as a percentage, about 34 percent of the handlers shipped over \$5,000,000 worth of dried prunes and 66 percent of the handlers shipped under \$5,000,000 worth of prunes. In addition, based on production, producer prices, and the total number of dried prune producers provided by the Committee, the average annual producer revenue is approximately \$136,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This proposed rule would establish an undersized prune regulation of 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for the 1998-99 crop year for volume control purposes. This change in regulation would result in more of the smaller sized prunes being classified as undersized prunes, and is expected to benefit producers, handlers, and consumers. The prune industry currently uses a "D" screen (24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes) for separating small prunes from the larger sizes. Thus, producers and handlers, both small and large, would not incur extra costs from having to purchase new screen sizes. Moreover, because the quality related undersized regulation has been in place continuously since the early 1980's, the only additional cost resulting from the increased openings would be the disposal of additional undersized prune tonnage (about 1,600 natural condition tons) to nonhuman consumption outlets as required by the order. With the less restrictive openings, only 5,686 natural

condition tons or 3.4 percent of the marketable production has been removed on average over the past seven crop years since 1990-91. Since the benefits and costs of the proposed action would be directly proportional to the quantity of "D" screen prunes produced or handled, small businesses should not be disproportionately affected by the proposal. Sugar content, prune density, and dry-away ratio vary from county-to-county, from orchard-to-orchard, and from season-to-season in the major producing areas of the Sacramento and San Joaquin Valleys. These areas account for over 99 percent of the State's production, and the prunes produced are homogeneous enough so that the proposal would not be inequitable to producers, both large and small, in any area of the State.

The quantity of small prunes in a lot is not dependent on whether a producer or handler is small or large, but is primarily dependent on cultural practices, soil composition, and water costs. The cost to minimize the quantity of small prunes is similar for small and large entities. The anticipated benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for larger entities. While this proposed rule may initially impose some additional costs on producers and handlers, the costs are expected to be minimal, and would be offset by the benefits derived by the elimination of some of the excess supply of small sized prunes.

At the November 18, 1997, meeting, the Committee discussed the impact of this change on handlers and producers in terms of cost. Handlers and producers receive higher returns for the larger size prunes. According to industry members, the small size prunes being eliminated through this rule have very little value. As mentioned earlier, the current situation for these small sizes is quite bleak with producers losing money on every ton they deliver to handlers. The 1997 grower field price for "D" screen prunes is ranging between \$40 and \$50 per ton. The cost of drying a ton of such prunes is \$260 per ton at a 4 to 1 dry-away ratio, the cost to haul these prunes is at least \$20 per ton, and the producer assessment that must be paid to the California Prune Board (a body which administers the State marketing order for promotion) is \$30 per ton. The total cost is about \$310 per ton which equates to a loss of about \$260 per ton for every ton of "D" screen prunes produced and delivered to handlers.

The proposed rule is expected to benefit all producers and handlers by eliminating the smallest, least valuable prunes from the crop. This is expected

to help reduce the oversupply situation and lessen the downward pressure on small prune prices to producers. Further, producers may alter their cultural practices to grow the larger sizes needed by the industry to meet the market demand for pitted prunes.

Utilizing data provided by the Committee, the Department has evaluated the impact of the proposed undersized regulation change upon producers and handlers in the industry. The analysis shows that a reduction in the marketable production and handler inventories would result in higher season-average prices which would benefit all producers. The removal of the smallest least desirable of the marketable dried prunes produced in California from human consumption outlets would eliminate an estimated 7,300 tons of small-sized dried prunes during the 1998-99 crop year from the marketplace. This would help lessen the negative marketing and pricing effects resulting from the excess supply situation facing the industry. California prune handlers reported that they held 102,386 tons of natural condition prunes on July 31, 1997, the end of the 1996-97 crop year. This was the largest year-end inventory reported since the Committee began collecting such statistics in 1949. The desired inventory level, which is based on an average 12-week supply deemed desirable to keep trade distribution channels full while awaiting new crop, is 40,991 natural condition tons. This leaves an inventory surplus of over 61,000 tons which will likely take the industry several years to market.

Further burdening this oversupply situation will be larger California prune crops over the next few years caused by the new prune plantings of recent years and higher yields per acre. During the 1990-91 crop year, the non-bearing acreage totaled 5,900 acres, but by 1996-97, the non-bearing acreage had quadrupled to more than 23,000 acres. Yields have ranged from 2.3 to 2.8 tons to the acre over the most recent three-year period, compared to a 10-year average of 2.2 tons to the acre. The 1997-98 crop is expected to be 215,000 natural condition tons which will add to the existing oversupply. Barring unforeseen circumstances, the 1998-99 crop may be larger further worsening the industry's oversupply problems.

As the marketable dried prune production and surplus prune inventories are reduced through this proposal, the trade should begin taking a position early in the season for their dried prune needs, which would help firm up market prices and eventually reflect a higher overall price to the

producers. In addition, as producers implement improved cultural and thinning practices, the overall size of the prunes will get larger. As a result, producer returns would increase because producers will no longer be receiving \$40–50 per ton for the small-sized fruit at a \$260–270 per ton loss, but be receiving the higher prices paid for the larger sizes.

For the 1992–93 through the 1996–97 crop years, the season average price received by the producers ranged from a high of \$1,121 per ton to a low of \$838 per ton during the 1996–97 crop year. The season average price received by producers averaged about 60 percent of parity during the 1992–93 through 1996–97 crop years. Based on available data and estimates of prices, production, and other economic factors, the season average producer price for the 1997–98 and 1998–99 seasons is expected to be below \$800 per ton, or about 40 percent of parity.

The Committee discussed alternatives to this change, including making no changes to the undersized prune regulation and allowing market dynamics to foster prune inventory adjustments through lower prices on the smaller prunes. While reduced grower prices for small prunes are expected to contribute toward a slow reduction in dried prune inventories, the Committee believed that the undersized rule change was needed to expedite that reduction. With the excess tonnage of dried prunes, the Committee also considered establishing a reserve pool and diversion program to reduce the oversupply situation. These initiatives were not supported because they would not specifically eliminate the smallest, least valuable prunes which are in oversupply. Instead the reserve pool and diversion program would eliminate larger size prunes from human consumption outlets. Reserve pools for prunes have historically been implemented on dried prunes regardless of the size of the prunes. While the marketing order also allows handlers to remove the larger prunes from the pool by replacing them with small prunes and the value difference in cash, this exchange would be cumbersome and expensive to administer compared to the proposal.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation

because the action to be implemented is for volume control, not quality control, purposes. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented for the purpose of improving product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of volume control. Therefore, the increased diameters would not be applied to imported prunes.

This action would not impose any additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the Committee's meeting was widely publicized throughout the prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 18, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of twenty-two members, of which seven are handlers, fourteen are producers, and one is a public member. The majority of the producer and handler members are small entities. Moreover, the Committee and its Supply Management Subcommittee have been reviewing this supply management problem for almost a year, and this proposed rule reflects their deliberations completely. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule, if adopted, needs to be in place as soon as possible so that handlers and producers will be informed of any regulation for the 1998–99 crop year (beginning August 1, 1998). Producers would need time to thin prune-plums in order to obtain larger sizes. Producers generally begin thinning in late April. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 993.405 is added to read as follows:

§ 993.405 Undersized prune regulation for the 1998–99 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 1998–99 crop year is hereby established. Undersized prunes are prunes which pass through openings as follows: for French prunes, 24/32 of an inch in diameter; for non-French prunes, 30/32 of an inch in diameter.

Dated: February 17, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–4595 Filed 2–23–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–248–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require repetitive inspections of the fuselage skin to detect corrosion or fatigue cracking around and under the chafing plates of the wing root; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracks and corrosion around and under chafing plates of the wing root,

which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by March 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-248-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-248-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-1114, Attention: Rules Docket No. 96-NM-248-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes. The DGAC advises that it has received reports from operators of the presence of corrosion under the chafing plates and around the fasteners of the wing root between fuselage frames (FR) 36 and FR 39. Investigation revealed that the corrosion damage was due to moisture penetrating into the sealant between the fuselage skin and the stainless steel chafing plates. This corrosion damage is accelerated by the galvanic activity created by the aluminum skin and the stainless steel plates. If corrosion is present, the area is susceptible to fatigue cracking. Such corrosion and fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A310-53-2069, Revision 1, dated September 19, 1995, which describes procedures for repetitive inspections to detect corrosion and fatigue cracking around and under the chafing plates of the wing root between fuselage FR 36 and FR 39; and corrective actions, if necessary.

Airbus has also issued Service Bulletin A310-53-2070, dated October 3, 1994, which describes procedures for replacement of the stainless steel chafing plates with new chafing plates made of aluminum alloy. Accomplishment of the replacement would eliminate the need for the repetitive inspections described in the previous service bulletin.

Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletin A310-53-2069, Revision 1, dated September 19, 1995, as mandatory, and issued French airworthiness directive 96-008-175(B), dated January 3, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Airbus Service Bulletin A310-52-2070 described previously, except as discussed below. The proposed AD also provides for an optional replacement, which would constitute terminating action for the repetitive inspection requirements.

Differences Between the Proposed AD and the Related Service Bulletin

Airbus Service Bulletin A310-52-2070 specifies that appropriate corrective action may be obtained by contacting the manufacturer, Airbus, directly. However, this proposed AD would require that any such repair be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 68 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$146,880, or \$4,080 per inspection cycle.

Should an operator elect to accomplish the optional terminating action rather than continue the repetitive inspections, it would take approximately 45 work hours per airplane to accomplish the modification, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$2,229 per airplane. Based on these figures, the cost impact of this optional terminating action is estimated to be \$4,929 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 96–NM–248–AD.

Applicability: Model A310 series airplanes on which Airbus Modifications 8888 and 8889 have not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking and corrosion around and under chafing plates of the wing root between fuselage frames (FR) 36 and FR 39, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Except as provided by paragraph (b) of this AD: Within 4 years since date of manufacture, or within 12 months after the effective date of this AD, whichever occurs later, perform an inspection to detect discrepancies around and under the chafing plates of the wing root, in accordance with paragraph B. of the Accomplishment Instructions of Airbus Service Bulletin A310–53–2069, Revision 1, dated September 19, 1995. If any discrepancy is found, prior to further flight, accomplish follow-on corrective actions (i.e. removal of corrosion, corrosion protection, high frequency eddy current inspection, x-ray inspection) as applicable, in accordance with the service bulletin. Repeat the inspections, as applicable, thereafter, at intervals specified in the service bulletin.

(b) If any discrepancy is found as a result of an inspection required by paragraph (a) of this AD, and Airbus Service Bulletin A310–53–2069, Revision 1, dated September 19, 1995, specifies to contact Airbus for an appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Where differences in the compliance times or corrective actions exist between the service bulletin and this AD, the AD prevails.

(c) Accomplishment of the replacement of the chafing plates in accordance with Airbus Service Bulletin A310–53–2070, dated October 3, 1994, constitutes terminating action for the repetitive inspection requirement of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–008–175(B), dated January 3, 1996.

Issued in Renton, Washington, on February 12, 1998.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–4249 Filed 2–23–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS No. NM–038–FOR]

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of recodification of the New Mexico Surface Coal Mining Regulations. The amendment is intended to revise the New Mexico program to improve operational efficiency and assure that the New Mexico Surface Coal Mining Regulations are codified according to the New Mexico administrative procedures.

DATES: Written comments must be received by 4 p.m., m.s.t., March 26, 1998. If requested, a public hearing on the proposed amendment will be held on March 23, 1998. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t. on March 11, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Willis Gainer at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive

one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Willis Gainer, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102. Mining and Minerals Division, New Mexico Energy & Minerals Department, 2040 South Pacheco Street, Santa Fe, New Mexico 87505. Telephone: (505) 827-5970.

FOR FURTHER INFORMATION CONTACT: Willis Gainer, Telephone: (505) 248-5096.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated January 6, 1998, New Mexico submitted a proposed amendment (administrative record No. NM-795) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment at its own initiative. New Mexico proposes to recodify the New Mexico Surface Coal Mining Regulations.

Specifically, New Mexico proposes to recodify its regulations from Coal Surface Mining Code Rule 80-1 (CSMC Rule 80-1), sections 1 through 15 and sections 19 through 34, to Title 19 (Natural Resources and Wildlife), Chapter 8 (Coal Mining), Part 2 (Coal Surface Mining) of the New Mexico Administrative Code (19 NMAC 8.2), Subparts 1 through 34. No substantive changes to the text of the regulations is proposed.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t. on March 11, 1998. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 17, 1998.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 98-4619 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 212

[DoD Instruction 1000.15]

RIN 0790-AG53

Private Organizations on DoD Installations

AGENCY: Assistant Secretary of Defense for Force Management Policy, DoD.

ACTION: Proposed rule.

SUMMARY: The proposed revision of this part will ensure that private organizations operating on DoD installations do so in accordance with parameters established for their authorization and support. Private organizations are self-sustaining, non-Federal entities which operate on DoD installations outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

DATES: Comments are requested by April 27, 1998.

ADDRESSES: Forward comments to: ODASD (PSF&E), Room 1B700, 4000 Defense Pentagon, Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: Martin S. Thomas III, LTC, USA, (703) 614-3112.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

I, Francis M. Rush, Jr., Acting Assistant Secretary of Defense for Force

Management Policy, hereby determine that 32 CFR part 212 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

I, Frank M. Rush, Jr., Acting Assistant Secretary of Defense for Force Management Policy, hereby certify that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The primary effect of this rule will not be on small businesses, but on private organizations operating on DoD installations as the procedures for their authorization and support have been redefined and reestablished in this proposed rule.

Public Law 104-13, "Paperwork Reduction Act of 1995" (44 U.S.C. Chapter 35)

I, Francis M. Rush, Jr., Acting Assistant Secretary of Defense for Force Management Policy, hereby certify that CFR part 212 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 32 CFR Part 212

DoD installations, Federal buildings and facilities, Private organizations.

Accordingly, 32 CFR part 212 is proposed to be revised to read as follows:

PART 212—PRIVATE ORGANIZATIONS ON DOD INSTALLATIONS

Sec.

- 212.1 Reissuance and purpose.
- 212.2 Applicability.
- 212.3 Definitions.
- 212.4 Policy.
- 212.5 Responsibilities.
- 212.6 Procedures.

Authority: 5 U.S.C. 301.

§ 212.1 Reissuance and purpose.

This part:

- (a) Revises 32 CFR part 212.
- (b) Implements policy in DoD Directive 5124.5.¹

(c) Updates responsibilities and procedures to define and reestablish parameters for private organizations located on DoD installations for their authorization and support.

§ 212.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as the "DoD Components").

(b) Private organizations authorized to operate on DoD installations.

§ 212.3 Definitions.

(a) *DoD Installation.* A location, facility, or activity owned, leased, assigned to, controlled, or occupied by a DoD Component.

(b) *Private Organizations.* Self-sustaining and non-Federal entities, incorporated or unincorporated, which are operated on DoD installations with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

§ 212.4 Policy.

It is DoD policy under DoD Directive 5124.5 that procedures be established for the operation of private organizations on DoD installations to prevent the official sanction, endorsement, or support by DoD Components except as in 32 CFR part 84. Private organizations are not entitled to sovereign immunity and privileges accorded to Federal entities and instrumentalities. Private organizations are not Federal entities and are not to be treated as such, in order to avoid conflicts of interest and unauthorized expenditures of appropriated, commissary surcharge, or nonappropriated funds.

§ 212.5 Responsibilities.

(a) The *Assistant Secretary of Defense for Force Management Policy*, under the *Under Secretary of Defense for Personnel and Readiness*, shall be responsible for all policy matters and OSD oversight for the monitoring of

¹ Copies may be obtained, if needed, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

private organizations on DOD installations.

(b) The *Heads of the DoD Components* shall implement this part, shall be kept aware of all private organizations located on installations under their jurisdiction, and ensure that periodic reviews of private organizations are conducted to:

(1) Ensure for each such private organization that the membership provisions and purposes on the basis of which the organization was permitted on the installation continue to apply, thereby justifying continuance on the installation. Substantial changes to those conditions shall necessitate further review, documentation, and approval for continued permission to remain on the installation.

(2) Furnish reports to the Assistant Secretary of Defense for Force Management Policy on private organizations covered by this part as required.

§ 212.6 Procedures.

(a) To prevent the appearance of an official sanction or support by the Department of Defense, a private organization covered by this part shall not utilize the following in its title or letterhead:

(1) The name or seal of the Department of Defense or the acronym "DoD."

(2) The name, abbreviation, or seal of any DoD Component or instrumentality.

(3) The seal, insignia, or other identifying device of the local installation.

(4) Any other name, abbreviation, seal, logo, insignia, or the like, used by any DoD Component to identify any of its programs, locations, or activities.

(b) Activities of private organizations covered by this part shall not in any way prejudice or discredit the DoD Components or the other Agencies of the Federal Government.

(c) The nature, function, and objectives of a private organization covered by this part shall be delineated in a written constitution, by-laws, charter, articles of agreement, or other authorization documents acceptable to the head of the DoD installation. That documentation shall also include:

(1) Description of membership eligibility in the private organization.

(2) Designation of management responsibilities, to include the accountability for assets, satisfaction of liabilities, disposition of any residual assets on dissolution, and other matters that show responsible financial management.

(3) Documentation indicating an understanding by all members as to

whether they are personally liable if the assets are insufficient to discharge all liabilities.

(d) A private organization covered by this part that offers programs or services similar to either appropriated or nonappropriated fund activities on a DoD installation shall not compete with, but may, when specifically authorized in the approval document, supplement those activities.

(e) Private organizations covered by this part shall be self-sustaining, primarily through dues, contributions, service charges, fees, or special assessment of members. There shall be no financial assistance to a private organization from a nonappropriated fund instrumentality in the form of contributions, repairs, services, dividends, or other donations of money or other assets. Fundraising and membership drives are governed by 32 CFR part 84.

(f) The DoD Components may provide logistical support to private organizations with appropriated Federal Government resources in accordance with 32 CFR part 84. In conformance with DoD Directive 1015.1,² nonappropriated fund instrumentalities funds or assets shall not be directly or indirectly transferred to private organizations.

(g) Personal and professional participation in private organizations by DoD employees is governed by 32 CFR part 84.

(h) Neither appropriated fund activities nor nonappropriated fund instrumentalities may assert any claim to the assets, or incur or assume any obligation of any private organization covered by this part except as may arise out of contractual relationships. Property abandoned by a private organization on its disestablishment or departure from the installation, or donated by it to the installation, may be acquired by the DoD installation under the terms of applicable agreements, statutes, and DoD policy.

(i) Adequate insurance, as defined by the Service concerned, shall be secured by the organization to protect against public liability and property damage claims or other legal actions that may arise as a result of activities of the organization or one or more of its members acting in its behalf, or the operation of any equipment, apparatus or device under the control and responsibility of the private organization.

(j) Private organizations shall be responsible for ensuring applicable fire and safety regulations, environmental

laws, local, state, and Federal tax codes, and any other applicable statutes and regulations are complied within the operation of the private organization.

(k) Income shall not accrue to individual members except through wages and salaries as employees of the private organization or as award recognition for service rendered to the private organization or military community. The head of a DoD installation concerned may approve the operation of private organizations, such as investment clubs, in which the investment of members' personal funds result in a return on investment directly and solely to the individual members.

(l) No person because of race, color, creed, sex, age, disability or national origin shall be unlawfully denied membership, unlawfully excluded from participation, or otherwise subjected to unlawful discrimination by any private organization on a DoD installation covered by this part. DoD installations will publicly disseminate information on procedures for individuals to follow at the local installation when unlawful discrimination by private organizations is suspected.

(m) Applicable laws on labor standards for employment shall be observed.

(n) This part does not apply to the following organizations, which are governed by DoD Directives and Instructions as referenced:

(1) Scouting organizations operating at U.S. military installations located overseas (DoD Instruction 1015.9³).

(2) American National Red Cross (DoD Directive 1330.5⁴).

(3) United Service Organizations, Inc. (DoD Directive 1330.12⁵).

(4) United Seamen's Service (DoD Directive 1330.16⁶).

(5) Financial Institutions on DoD Installations (32 CFR part 231).

(o) Certain unofficial activities may be conducted on DoD installations, but need not be formally authorized because of the limited scope of their activities, membership or funds. Examples are office coffee funds, flower funds, and similar small, informal activities and funds. DoD Components shall establish the basis upon which such informal activities and funds shall operate.

Dated: February 19, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98-4630 Filed 2-23-98; 8:45 am]

BILLING CODE 5000-04-M

³ See footnote to § 212.1(b).

⁴ See footnote to § 212.1(b).

⁵ See footnote to § 212.1(b).

⁶ See footnote to § 212.1(b).

² See footnote to § 212.1(b).

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 721**

[OPPTS-50631, etc; FRL-5767-2]

RIN 2070-AB27

Proposed Modification of Significant New Use Rules for Certain Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to modify significant new use rules (SNURs) for five substances promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) based on new data. Based on the new data the Agency finds that activities not described in the corresponding TSCA section 5(e) consent order or the significant new use notice (SNUN) for these chemical substances may result in significant changes in human or environmental exposure.

DATES: Written comments must be received by EPA by March 26, 1998.

ADDRESSES: Each comment must bear the docket control number OPPTS-50631 and the name(s) of the chemical substance(s) subject to the comment. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G-099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543A, 401 M St., SW., Washington, DC 20460, telephone: (202) 554-1404, TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document 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/>).

In the **Federal Register** referenced for each substance, EPA issued a SNUR establishing significant new uses for the substances listed in Unit I. of this preamble, OPPTS-50591, April 25, 1991 (56 FR 19235 and 19241); OPPTS-50537A, January 26, 1987 (52 FR 2703); OPPTS-50583, August 9, 1990 (55 FR 32419); and OPPTS-50582, August 15, 1990 (55 FR 33296). Because of additional data EPA has received for these substances, EPA is hereby proposing to modify the SNURs.

I. Proposed Modifications

EPA is proposing to modify the significant new use and recordkeeping requirements under 40 CFR part 721, subpart E for several chemical substances. In this unit, EPA provides a description for each substance, including its premanufacture notice (PMN) number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if available), the proposed modification and basis, **Federal Register** reference, docket number, and the CFR citation. Further background information for the substances is contained in the rulemaking record referenced in Unit III. of this preamble.

PMN Number P-88-436

Chemical name: (generic) Poly(substituted triazinyl) piperazine.
CAS number: Not available.
Federal Register publication date and reference: August 9, 1990 (55 FR 32419).
Docket number: OPPTS-50583.
Basis for modification: The original TSCA section 5(e) consent order and SNUR contained hazard communication requirements for a label and Material Safety Data Sheet (MSDS) accompanying the substance in commerce. The original requirements were intended only for manufacturers, as processors incorporated the substance within a polymer (polyolefin) matrix prior to shipping from their

processing site and thus not in a form likely to result in significant exposures. Based on this lack of significant exposures, the TSCA section 5(e) consent order was modified so that hazard communication requirements were not applicable once the substance is encapsulated in a polymeric matrix. The proposed SNUR modification will extend this exemption to all manufacturers, importers, and processors.

CFR citation: 40 CFR 721.9800 (Formerly 40 CFR 721.2196).

PMN Numbers P-88-864, P-90-211, and P-94-921

Chemical name: Phenol, 4,4'-methylenebis (2,6-dimethyl-).

CAS number: 5384-21-4.
Federal Register publication date and reference: August 15, 1990 (55 FR 33306).

Docket number: OPPTS-50582.

Basis for modification: EPA received an additional PMN, P-94-921, for this substance. Based on the most recent toxicity data and potential exposures, a TSCA section 5(e) consent order was issued for P-94-921. This TSCA section 5(e) consent order contained additional hazard communication warnings and water release restrictions not found in previous consent orders and the SNUR for this substance. The proposed SNUR modification will extend these requirements to all manufacturers, importers, and processors.

CFR citation: 40 CFR 721.5740 (Formerly 40 CFR 721.1537).

PMN Number P-90-333

Chemical name: 2-Propenoic acid, 2-methyl-, 2-[3-(2H-benzotriazol-2-yl)-4-hydroxyphenyl]ethyl ester.

CAS number: 96478-09-0.
Federal Register publication date and reference: April 25, 1991 (56 FR 19241) amended June 9, 1995 (60 FR 30468).

Docket number: OPPTS-50591.

Basis for modification: Based on test data submitted pursuant to the TSCA section 5(e) consent orders for similar substances EPA no longer has concerns for potential carcinogenicity of this substance. In addition, the original SNUR included requirements for statements on the label and MSDS warning of potential birth defects, when instead it should have included statements warning of potential immune system effects. The SNUR modification will remove all references to potential carcinogenicity (40 CFR 721.72(h)) and will also change the warning statements by eliminating references to birth defects while including warnings about immune system effects.

CFR citation: 40 CFR 721.8450 (Formerly 40 CFR 721.1817).

PMN Number P-90-335

Chemical name: 2-Substituted benzotriazole.

CAS number: Not available.

Federal Register publication date and reference: April 25, 1991 (56 FR 19235) amended June 9, 1995 (60 FR 30468).

Docket number: OPPTS-50591.

Basis for modification: The original SNUR included requirements for statements on the label and MSDS warning of potential cancer. As EPA did not make a finding of potential cancer for this substance, the SNUR modification will remove all references to potential carcinogenicity (40 CFR 721.72(h)).

CFR citation: 40 CFR 721.1765 (Formerly 40 CFR 721.586).

PMN Number (not available)

Chemical name: Polybrominated biphenyls.

CAS number: 92-66-0.

Federal Register publication date and reference: January 26, 1987 (52 FR 2703).

Docket number: OPPTS-50537A.

Basis for modification: EPA received a SNUN for this substance for a limited specific use. EPA was unable to make an unreasonable risk finding based on limited human and environmental exposures. Based on test data demonstrating carcinogenicity of chlorinated and brominated biphenyls, EPA has concerns for cancer. Based on structural analogy to monochloro biphenyl and neutral organic substances, EPA also has a concern for potential toxicity to aquatic organisms at concentrations as low as 7 parts per billion (ppb). In addition, based on the potential high toxicity of the substance, its expected high bioaccumulation (log fish bioconcentration factor of 3.5) and its expected persistence in the environment, EPA considers this substance to be a persistent bioaccumulator. Based on these health and environmental concerns, EPA will issue a SNUR modification requiring additional 90-day notification before the SNUN substance, 1,1'-Biphenyl, 4-bromo, is used for any other uses other than the specific use described in the SNUN already received by EPA, is manufactured domestically, is predictably or purposefully released to surface waters, or exceeds a maximum yearly production volume of 10,000 kilograms (kg). All other brominated biphenyl compounds subject to this section will still require a SNUN for any use.

CFR citation: 40 CFR 721.1790 (Formerly 40 CFR 721.230).

II. Rationale for Modification of the Rules

During review of the chemical substances that are the subject of these modifications, EPA concluded that regulation was warranted based on the fact that activities not described in the TSCA section 5(e) consent order or the PMN may result in significant changes in human or environmental exposure. In the case of polybrominated biphenyls, EPA concluded that any use may result in significant changes in human or environmental exposure. The basis for such findings is in the rulemaking record referenced in Unit III. of this preamble. Based on these findings, a TSCA section 5(e) consent order was negotiated with the PMN submitter and/or a SNUR was promulgated.

In light of the modification to a consent order, toxicity data submitted for another PMN or the data submitted in a SNUN or a PMN, the Agency has determined that modifying these SNURs would not result in significant changes in human or environmental exposure. The modification of SNUR provisions for these substances designated herein is consistent with the provisions of the TSCA section 5(e) consent order or data submitted in the SNUN or PMN.

III. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-50631 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS-50631. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

IV. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special considerations of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL-5597-1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 13, 1998.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. Section 721.1765 is amended by revising paragraphs (a)(2)(i) and (a)(2)(ii) to read as follows:

§ 721.1765 2-Substituted benzotriazole.

(a) * * *

(2) * * *

(i) *Protection in the workplace.*

Requirements as specified in § 721.63

(a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72

(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iv), (g)(1)(vi), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(5).

* * * * *

3. Section 721.1790 is revised to read as follows:

§ 721.1790 Polybrominated biphenyls.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified as 1,1'-(Biphenyl, 4,4'-dibromo- (CAS No. 92-86-4); 1,1'-(Biphenyl, 2-bromo- (CAS No. 2052-07-5); 1,1'-(Biphenyl, 3-bromo- (CAS No. 2113-57-7); 1,1'-(Biphenyl, 2,2', 3,3', 4,4', 5,5', 6,6'-decabromo- (CAS No. 13654-09-6); Nonabromobiphenyl (CAS No. 27753-52-2); Octabromobiphenyl (CAS No. 27858-07-7); and Hexabromobiphenyl (CAS No. 36355-01-8) are subject to reporting under this section for the significant new uses described in paragraph (a)(1)(i) of this section.

(i) The significant new use is: Any use.

(ii) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes a substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(B) [Reserved]

(2) The chemical substance identified as 1,1'-(Biphenyl, 4-bromo- (CAS No. 92-66-0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2)(i) of this section.

(i) The significant new uses are:

(A) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (j), and (p) (10,000 kg).

(B) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(B) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(C) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

(b) [Reserved]

4. Section 721.5740 is amended by revising paragraphs (a) and (b)(1) as follows:

§ 721.5740 Phenol, 4,4'-methylenebis(2,6-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as phenol, 4,4'-methylenebis(2,6-dimethyl- (PMNs P-88-864, P-90-211, and P-94-921; CAS No. 5384-21-4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63

(a)(1), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72

(a), (b), (c), (d), (e) (concentration set at 1 percent), (f), (g)(1)(iv), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statements: This substance may cause blood effects. This substance may cause chronic effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (g), (l), and (q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (k) are applicable to manufacturers,

importers, and processors of this substance.

* * * * *

5. Section 721.8450 is amended by revising paragraphs (a)(2)(i) and (a)(2)(ii) to read as follows:

§ 721.8450 2-Propenoic acid, 2-methyl-, 2-[3-(2H-benzotriazol-2-yl)-4-hydroxyphenyl]ethyl ester.

(a) * * *

(2) * * *

(i) *Protection in the workplace.*

Requirements as specified in § 721.63

(a)(1), (a)(2)(i), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72

(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iv), (g)(1)(vi), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(5).

* * * * *

6. Section 721.9800 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 721.9800 Poly(substituted triazinyl) piperazine (generic name).

(a) * * *

(2) * * *

(i) *Hazard communication program.*

Requirements as specified in § 721.72

(b)(2), (c), (e) (concentration set at 1.0 percent), (f), (g)(1) (statement-health effects not fully determined), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), and (g)(5). The requirements of this paragraph shall not apply when the PMN substance is encapsulated in a polymeric matrix.

* * * * *

[FR Doc. 98-4657 Filed 2-23-98; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Parts 3100, 3106, 3130 and 3160**

[AA-610-08-4111-2410]

RIN 1004-AC54

Oil and Gas Leasing; Onshore Oil and Gas Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Bureau of Land Management (BLM) hereby gives notice that it is extending the public comment period on a Notice of Proposed Rule,

which was published in the **Federal Register** on January 13, 1998 (63 FR 1936). The comment period for the proposed rule expires on March 16, 1998. The proposed rule would clarify the responsibilities of oil and gas lessees for protecting Federal oil and gas resources from drainage by operations on nearby lands that would result in lower royalties to the Federal government. It would specify when the obligations of the lessee or operating rights owner to protect against drainage begin and end and specify what steps should be taken to determine if drainage is occurring. It also would clarify the obligation of the assignor and assignee for drainage obligations, well abandonment and environmental remediation when BLM approves an assignment of record title or operating rights. In response to requests from the public, BLM extends the comment period to May 15, 1998.

DATES: Submit comments by May 15, 1998.

ADDRESSES: You may submit your comments by any one of several methods. You may mail comments to the Bureau of Land Management, Administrative Record, 1849 C Street, N.W., Room 401LS, Washington, D.C. 20240. You may also comment via the Internet to WOCComment@Wo.blm.gov. Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: AC54" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452-5030.

Finally, you may hand-deliver comments to Bureau of Land Management at 1620 L Street, N.W., Room 401, Washington, D.C. Comments, including names and street addresses of respondents, will be available for public review at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality, which BLM will consider on a case-by-case basis. If you wish to request that BLM consider withholding your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be

made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Donnie Shaw of BLM's Fluid Minerals Group at (202) 452-0382.

Dated: February 18, 1998.

Frank Bruno,

Acting Group Manager, Regulatory Affairs Group.

[FR Doc. 98-4610 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Child Support Enforcement

45 CFR Part 303

RIN 0970-AB82

Child Support Enforcement Program, Standards for Program Operations

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend Federal regulations governing procedures for the case closure process in the child support program. The proposed rule clarifies the situations in which States may close child support cases and makes other technical changes.

DATES: Consideration will be given to comments received by April 27, 1998.

ADDRESSES: Send comments to Director, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447. Attention: Director, Policy and Planning Division, Mail Stop: OCSE/DPP. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Craig Hathaway, Policy Branch, OCSE (202) 401-5367, e-mail: chathaway@acf.dhhs.gov. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These proposed regulatory changes are made under the authority granted to the Secretary by section 1102 of the Social Security Act (the Act). Section

1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act. In accordance with the Presidential directive of March 4, 1995 to executive branch regulatory agencies to identify existing regulations that are redundant or obsolete, OCSE has examined Part 300 of Title 45, Code of Federal Regulations to evaluate those areas where regulations should be revised and/or removed. Accordingly, we are revising and removing existing regulations concerning criteria to close child support enforcement cases.

Background

The Child Support Enforcement program was established under Title IV-D by the Social Services Amendments of 1974, for the purpose of establishing paternity and child support obligations, and enforcing support owed by noncustodial parents. At the request of the States, OCSE originally promulgated regulations in 1989 which established criteria for States to follow in determining whether and how to close child support cases. In the final Program Standards regulations dated August 4, 1989, we gave examples of appropriate instances in which to close cases. In the Supplementary Information accompanying the final regulations, we stated that the goal of the case closure regulations was not to mandate that cases be closed, but rather to clarify conditions under which cases may be closed. The regulations allowed States to close cases that were not likely to result in any collection in the near future and to concentrate their efforts on the cases that presented a likelihood of collection.

In an effort to be responsive to the President's Memorandum of March 4, 1995 which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector, and in compliance with section 204 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, OCSE formed a regulation reinvention workgroup to exchange views, information and advice with respect to the review of existing regulations in order to eliminate or revise those regulations that are outdated, unduly burdensome, or unproductive. This group is made up of representatives of Federal, State and local government elected officials and their staffs.

As part of the regulation reinvention effort, § 303.11 on case closure criteria was reviewed to determine what

changes could be made to help States with their case closure process, while ensuring all viable cases remain opened. Somewhat earlier, the State IV-D Directors' Association had established a committee to examine the case closure issue. The committee developed several recommendations, which were considered in the development of the proposed regulation. We also consulted with several advocates and other interested parties and stakeholders, including custodial parents and groups advocating on their behalf, to discuss their concerns with the IV-D Directors' Association recommendations and about the case closure criteria in general. Their concerns were considered throughout the deliberations on each area under consideration for addition, deletion or revision. As the result of these exchanges of information, recommendations for changes in the criteria which States must use to determine whether child support cases may be closed were developed. These recommendations are reflected in the proposed rule.

The deliberative process to develop this proposal operated under a set of principles that balanced our joint concern that all children receive the help they need in establishing paternity and securing support, while being responsive to administrative concerns for maintaining caseloads that include only those cases in which there is adequate information or likelihood of successfully providing services. The circumstances under which a case could be closed include, for example, instances in which legitimate and repeated efforts over time to locate putative fathers or obligors are unsuccessful because of inadequate identifying or location information, or in interstate cases in which the responding State lacks jurisdiction to work a case and the initiating State has not responded to a request for additional information or case closure. Decision to close cases are linked with notice to recipients of the intent to close the case and an opportunity to respond with information or a request that the case be kept open. The proposals in this regulation balance good management and workable administrative decisions with providing needed services, always erring in favor of including any case in which there is any chance of success. For example, cases would remain open even if there is no likelihood of immediate or great success in securing support, perhaps because of a period of incarceration. In our consultations, we were consistently impressed with the

commitment of all those involved to these operating principles.

The IV-D Directors' Association recommended that the requirement that a case in which the agency is unable to locate the putative father or noncustodial parent remain open with ongoing locate efforts for three years be changed to require a shorter time in cases in which the biological father is unknown or there is insufficient information to initiate a locate effort. This recommendation was accepted and is incorporated in the proposed rules.

We are aware of the concerns of the advocacy groups about closing cases too soon. However, we believe the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 (PRWORA) provide adequate safeguards to prevent this from happening. Section 333 of PRWORA requires that the applicant for assistance under Title IV-A of the Act provide the IV-D agency with the name of the putative father, as well as additional identifying information. Failure to do so constitutes noncooperation and compromises the eligibility for benefits. Determinations of noncooperation are to be documented, with notice provided to the applicant. We anticipate that cases under this changed criterion will be few and will be well documented.

The IV-D Directors' Association also recommended that the regulations be changed to allow notice of intent to close a case to be sent by first class mail, as opposed to the current requirement of certified mail. This recommendation was accepted, as well. The IV-D Directors' Association further recommended that immediate case closure be permitted in cases in which the parental rights of the noncustodial parent have been terminated by the court, unless an arrearage remains. Upon consideration of this suggestion we concluded that closure of such a case is already permitted by current regulations which allow closure in cases in which there is no longer a current obligation and in which there are no arrearages owed. The IV-D Directors' Association also recommended that case closure be permitted in cases in which neither party is a legal resident of the State, there is no order from the State and there is no State jurisdiction over the noncustodial parent. We concluded that this recommendation is contrary to the requirements section 454(6) of the Social Security Act, and, thus, declined to accept it. The IV-D Directors' Association recommended that cases involving an interstate request to locate an individual be eligible for closure by the responding State after all sources of

information to help locate the individual have been exhausted and results forwarded to the initiating State, or when the initiating State has not provided enough information to the responding State to locate the noncustodial parent. In response, new criteria have been added to allow a responding State to close an interstate case if it can document inaction by the initiating State that renders the responding State unable to proceed with the case, as it would close a case for failure to cooperate by the recipient of services. Finally, the IV-D Directors' Association recommended that case closure be allowed after sixty days in cases in which the custodial parent's address is unknown and repeated attempts to contact the custodial parent are unsuccessful, with the States to have the flexibility to determine what type of locate attempts will be appropriate. In response, we decided to extend the time period to sixty days from thirty, and to require at least one letter by first class mail, as opposed to the current requirement of certified mail and a phone call. The allowance of a first class letter was thought to be in accord with the new requirements in welfare reform.

Description of Regulatory Provisions

We propose to amend and make technical changes to § 303.11 Case Closure Criteria. Under § 303.11, paragraph (b)(1) allows closure of a case where the child has reached the age of majority, there is no longer a current support order, and either no arrearages are owed or arrearages are under \$500 or unenforceable under State law. In addition, paragraph (b)(2) currently allows case closure where the child has not reached the age of majority, arrearages are less than \$500 or unenforceable under State law, and there is no longer a current support order.

In the final Program Standards regulations published in 1989, we gave examples of instances in which it would be appropriate to close cases under subsection (b)(1) and (b)(2); however, after reviewing the two subparagraphs, it is apparent that the distinction between subsections (b)(1) and (b)(2) which is based upon whether or not the child has reached the age of majority is unnecessary, as the criteria are the same. Therefore, we propose combining (b)(1) and (b)(2) to read, "There is no longer a current support order and arrearages are under \$500 or unenforceable under State law[.]"

Paragraphs (b)(3) through (b)(12) would be renumbered as (b)(2) through (b)(11), and "absent parent" would be revised to read "noncustodial parent"

throughout, for consistency with preferred statutory terminology under PRWORA.

Under the new redesignated paragraph (b)(3), we would add a new subparagraph (3)(iv) to read, "The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D agency with the recipient of services." The IV-D Directors, concerned about having an abundance of unenforceable cases within the system, requested that the amount of time a case is required to remain open be reduced. Additionally, several States reported increased success in obtaining information to help identify a putative father when the recipient of services is interviewed personally. The interview is intended to be an attempt to gain additional information to aid the IV-D agency in establishing paternity. Therefore, the interview must be conducted by IV-D staff; the initial intake interview for another public assistance program is not sufficient to satisfy the requirement of an interview with the recipient of services.

Under the new redesignated paragraph (b)(4), we propose to delete, "over a three-year period" and to add new subparagraphs (i) and (ii) to read, "(i) over a three-year period when there is sufficient information to initiate automated locate efforts; or (ii) over a one-year period when there is not sufficient information to initiate automated locate efforts." As discussed above, the IV-D Directors expressed a desire to be permitted to close cases in which it is impossible to undertake any locate effort due to the scarcity of information. This change would allow States to close a case in which the recipient of services does not have even minimum information, such as name, date of birth, or social security number of the putative father or noncustodial parent.

In new redesignated paragraphs (b)(8), (b)(10) and (b)(11) "custodial parent" would be revised to read "recipient of services." In certain situations, such as paternity establishment or review and adjustment, the noncustodial parent may have opened the case. This language change would more accurately encompass all situations to which these provisions apply.

We propose to revise redesignated paragraph (b)(9) to add IV-D agencies to the list as an option for making good cause determinations. This section identifies the entities that may make a determination of good cause for failure to cooperate with IV-D efforts. Section 333 of PRWORA provides flexibility to

the States to identify the agency which may make good cause determinations. Good cause for noncooperation may arise after IV-D services have been undertaken; the addition of this provision would allow the IV-D agency itself to determine whether good cause exists in appropriate cases.

In the redesignated paragraph (b)(10), we propose to revise the language after "within a" to read "60 calendar day period despite an attempt by at least one letter sent by first class mail to the last known address; or[.]" The IV-D directors, concerned about having an abundance of unenforceable cases within the system, requested that we reduce the amount of time a case is required to remain open despite an inability to contact the recipient of services.

Under § 303.11, we propose to add a new subparagraph (12) to read, "The IV-D agency documents failure by the initiating State to take an action which is essential for the next step in providing services." Under the current regulations, a responding State is not free to close a case without the permission of the initiating State. In some of these cases, the responding State may be unable to locate the noncustodial parent, or may locate him or her in another State, and request to close the case. If the initiating State fails to respond to this request, the responding State is obligated to leave the case open in its system. Similarly, if the initiating State fails to provide necessary information to enable the responding State to provide services, and fails to respond to requests to provide the information, the responding State is required to keep the case open, although it is unable to take any action on it. The proposed changes would permit the responding State to close the case if it is unable to process the case due to lack of cooperation by the initiating State.

In paragraph (c), we propose revisions based upon the proposed renumbering of paragraph (b). In the first sentence, the reference to "paragraphs (b)(1) through (7) and (11) and (12) of this section" would be changed to read "paragraphs (b)(1) through (6) and (10) and (11) of this section[.]" In addition, the references to "custodial parent" would be revised to read "recipient of services," for the reasons explained above. Also, in the second sentence, we propose to replace the reference to "paragraph (b)(11)" with paragraph "(b)(10)," based upon the proposed renumbering of paragraph (b).

In paragraph (d), we propose to remove the reference to "Subpart D," as that subpart has been reassigned and no

longer addresses the issue of record retention.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this proposed regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this proposed rule.

Unfunded Mandates Act

The Department has determined that this proposed rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This rule does not contain information collection provisions subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: August 8, 1997.

Olivia A. Golden,

Principal Deputy Assistant Secretary for Children and Families.

Approved: November 4, 1997.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons discussed above, we propose to amend title 45 CFR Chapter III of the Code of Federal Regulations as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 303.11 Case closure criteria. [Amended]

2. Section 303.11 is amended as follows:

a. Paragraph (b)(1) is revised and paragraph (b)(2) is removed to read as follows:

* * * * *

(b) * * *

(1) There is no longer a current support order and arrearages are under \$500 or unenforceable under State law.

* * * * *

b. Paragraph (b)(3) is redesignated as paragraph (b)(2).

c. Paragraph (b)(4) is redesignated as paragraph (b)(3) and amended by adding paragraph (b)(3)(iv) to read as follows:

* * * * *

(b) * * *

(3) * * *

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D agency with the recipient of services.

* * * * *

d. Paragraph (b)(5) is redesignated as paragraph (b)(4) and revised to read as follows:

* * * * *

(b) * * *

(4) The noncustodial parent's location is unknown, and the State has made regular attempts using multiple sources, all of which have been unsuccessful, to locate the noncustodial parent

(i) Over a three-year period when there is sufficient information to initiate an automated locate effort, or

(ii) Over a one-year period when there is not sufficient information to initiate an automated locate effort.

* * * * *

e. Paragraphs (b)(6) through (b)(12) are redesignated as paragraphs (b)(5) through (b)(11), respectively.

f. Newly redesignated paragraph (b)(9) is revised to read as follows:

* * * * *

(b) * * *

(9) There has been a finding of good cause as set forth at § 302.31(c) and either § 232.40 of this chapter or 42 CFR 433.147 and the State or local IV-A, IV-D, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative[.]

* * * * *

g. Newly redesignated paragraph (b)(10) is revised to read as follows:

* * * * *

(b) * * *

(10) In a non-IV-A case receiving services under § 302.33(a)(1) (i) or (iii), the IV-D agency is unable to contact the recipient of services within a 60 calendar day period despite an attempt by at least one letter sent by first class mail to the last known address, or[.]

* * * * *

h. Paragraph (b)(12) is added to read as follows:

* * * * *

(b) * * *

(12) The IV-D agency documents failure by the initiating State to take an action which is essential for the next step in providing services.

* * * * *

i. Paragraph (c) is revised to read as follows:

* * * * *

(c) In cases meeting the criteria in paragraphs (b) (1) through (6) and (10) and (11) of this section, the State must notify the recipient of services in writing 60 calendar days prior to closure of the case of the State's intent to close the case. The case must be kept open if the recipient of services supplies information in response to the notice which could lead to the establishment

of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(10) of this section, if contact is reestablished with the recipient of services. If the case is closed, the recipient of services may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order.

* * * * *

j. Paragraph (d) is revised to read as follows:

* * * * *

(d) The IV-D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR part 74.

* * * * *

k. In addition to the amendments set forth above, remove the words "absent parent," and add, in their place, the words "noncustodial parent" in the following places:

(1) Newly redesignated paragraph (b)(2);

(2) Newly redesignated paragraph (b)(4);

(3) Newly redesignated paragraph (b)(5); and

(4) Newly redesignated paragraph (b)(6).

l. In addition to the amendments set forth above, remove the words "custodial parent," and add, in their place, the words "recipient of services" in the following places:

(1) Newly redesignated paragraph (b)(8);

(2) Newly redesignated paragraph (b)(10); and

(3) Newly redesignated paragraph (b)(11).

[FR Doc. 98-4229 Filed 2-23-98; 8:45 am]

BILLING CODE 4190-11-M

Notices

Federal Register

Vol. 63, No. 36

Tuesday, February 24, 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

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on March 31, 1998, at the Madras Fire Department Convention Hall located on the corner of Adam and J Street off of Hwy 97 in Madras, Oregon. The meeting will begin at 9:30 am and finish at 4:00 p.m. Agenda items include: (1) Ratify comment on Draft EIS for Interior Columbia Basin Ecosystem Management project, (2) Overview of FERC licensing project for Round Butte Pelton Dam, (3) Update on Working Groups (4) Open Public Forum. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Fort Rock Ranger District, 1230 N.E. 3rd, Bend, Oregon 97701, 541-383-4769.

Dated: February 11, 1998.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 98-4674 Filed 2-23-98; 8:45 am]

BILLING CODE 3410-11-M

AMERICAN BATTLE MONUMENTS COMMISSION

Performance Review Board Appointments

AGENCY: American Battle Monuments Commission.

ACTION: Notice of performance review board appointments.

SUMMARY: This notice provides the names of individuals who have been

appointed to serve as members of the American Battle Monuments Commission Performance Review Board. The publication of these appointments is required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub.L. 95-454, 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective as of February 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Theodore Gloukhoff, Director of Personnel and Administration, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, Virginia, 22201, Telephone Number: (703) 696-6908.

American Battle Monuments Commission SES Performance Review Board—1998/1999

Donald Leverenz, Assistant Director, Research and Development, US Army Corps of Engineers
John P. D'Aniello, P.E., Deputy Director of Civil Works, US Army Corps of Engineers
William A. Brown, Sr., Deputy Director of Military Programs, US Army Corps of Engineers

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. 98-4565 Filed 2-23-98; 8:45 am]

BILLING CODE 6120-01-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts 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 Massachusetts Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn 3:00 p.m. on Tuesday, March 10, 1998, at Sugarman, Rogers, Barshak & Cohen, 101 Merrimack Street, 9th Floor Conference Room, Boston, Massachusetts 02114. The purpose of the meeting is to discuss and make last minute decisions for the Civil Rights Leadership Conference scheduled for March 20-21, 1998 in Boston.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Fletcher A.

Blanchard, 413-585-3909, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). 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, February 18, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98-4561 Filed 2-23-98; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 953]

Grant of Authority; Establishment of a Foreign-Trade Zone, Wood and Jackson Counties, West Virginia

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 Wood County Development Authority (Grantee), a West Virginia public corporation, has made application to the Board (FTZ Docket 43-97, 62 FR 31070, 6/6/97), requesting the establishment of a foreign-trade zone at sites in Wood and Jackson Counties, West Virginia, adjacent to the Charleston Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register**; and,

Whereas, the Board adopts the findings and recommendations of the

examiner's report, and finds that the requirements of the Act and the Board's regulations are satisfied and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 228, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 13th day of February 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-4691 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 954]

Grant of Authority; Establishment of a Foreign-Trade Zone, Charleston, West Virginia

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 West Virginia Economic Development Authority (the Grantee), a West Virginia public corporation, has made application to the Board (FTZ Docket 61-97, 62 FR 40332, 7/28/97), requesting the establishment of a foreign-trade zone at a site in Charleston, West Virginia, within the Charleston Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register**; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the

requirements of the Act and the Board's regulations are satisfied and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 229, at the sites described in the application, subject to the Act and the Board's regulations.

Signed at Washington, DC, this 13th day of February 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-4692 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 955]

Grant of Authority for Subzone Status; Toyota Motor Manufacturing West Virginia, Inc. (Automobile Engines), Buffalo, West Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the West Virginia Economic Development Authority, grantee of FTZ 229, for authority to establish special-purpose subzone status for the automobile engine manufacturing plant of Toyota Motor Manufacturing West Virginia, Inc., in Buffalo, West Virginia, was filed by the Board on July 22, 1997, and notice inviting public comment was

given in the **Federal Register** (FTZ Docket 62-97, 62 FR 40333, 7-28-97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Toyota Motor Manufacturing West Virginia, Inc., plant in Buffalo, West Virginia (Subzone 229A), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 13th day of February 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-4693 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-274-802]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Trinidad & Tobago

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Abdelali Elouaradia or Alexander Braier, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2243 or (202) 482-3818, respectively.

The Applicable Statute and Regulations

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 references to the provisions codified at

19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296, May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Final Determination

We determine that steel wire rod ("SWR") from Trinidad & Tobago is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod from Trinidad & Tobago*), 62 FR 51581 (October 1, 1997) ("SWR"), the following events have occurred:

In November 1997, we conducted a verification of the respondent's questionnaire responses. On December 15, 1997, the Department issued its reports on verification findings for Caribbean Ispat, Ltd. (CIL). On December 29, 1997, respondents submitted new computer sales listings which included only data corrections identified through verification. Petitioners and respondents submitted case briefs on December 22, 1997, and rebuttal briefs on January 5, 1998. A public hearing was not held as there were no requests for a hearing.

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States ("HTSUS") definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

- Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as "Tire Cord Wire Rod."

- Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth, containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as "Valve Spring Quality Wire Rod."

- Coiled products 11 mm to 12.5 mm in diameter, with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.72 percent; manganese 0.50–1.10 percent; phosphorus less than or equal to 0.030 percent; sulfur less than or equal to 0.035 percent; and silicon 0.10–0.35 percent. This product is free of injurious piping and undue segregation. The use of this excluded product is to fulfill contracts for the sale of Class III pipe wrap wire in conformity with ASTM specification A648–95 and imports of this product must be accompanied by such a declaration on the mill certificate and/or sales invoice. This excluded product is commonly referred to as "Semifinished Class III Pipe Wrap Wire."

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Exclusion of Pipe Wrap Wire

As stated in the Notice of Preliminary Determination, North American Wire Products Corporation ("NAW"), an importer of the subject merchandise from Germany, requested that the Department exclude steel wire rod used to manufacture Class III pipe wrapping wire from the scope of the investigation of steel wire rod from Canada, Germany, Trinidad and Tobago, and Venezuela. On December 22, 1997, NAW submitted

to the Department a proposed exclusion definition. On December 30, 1997 and January 7, 1998, the petitioners submitted letters concurring with the definition of the scope exclusion and requesting exclusion of this product from the scope of the investigation. We have reviewed NAW's request and petitioners' comments and have excluded steel wire rod for manufacturing Class III pipe wrapping wire from the scope of this investigation (see, Memorandum to Richard W. Moreland dated January 9, 1998 and instructions to Customs dated February 3, 1998).

Period of Investigation

The period of investigation ("POI") is January 1, 1996 through December 31, 1996.

Fair Value Comparisons

To determine whether sales of steel wire rod sold by CIL to the United States were made at less than fair value, we compared the Export Price ("EP") to the normal value ("NV"), as described in the "EP" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs for comparisons to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of Investigation* section above, and sold in the home market during the POI, 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 next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 22, 1997, reporting instructions.

Consistent with our practice, we compared prime merchandise sold in the United States to prime merchandise sold in the home market, and secondary merchandise to secondary merchandise. See, e.g., *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 61 FR 48465, (September 13, 1996).

On January 8, 1998, the Court of Appeals of the Federal Circuit issued a decision in *Cemex, S.A. v. United States*, No. 97–1151, 1998 WL 3626 (Fed. Cir. Jan. 8, 1998). In that case,

based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value ("CV") as the basis for foreign market value when the Department finds home market sales to be outside the ordinary course of trade. This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales disregarded as below cost. See section 771(15) of the Act. Because the Court's decision was issued so close to the deadline for completing this administrative review, we have not had sufficient time to evaluate and apply (if appropriate and if there are adequate facts on the record) the decision to the facts of this "post-URAA" case. For these reasons, we have determined to continue to apply our policy regarding the use of CV when we have disregarded below-cost sales from the calculation of NV.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. 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 (SG&A) expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually the sale from the exporter to the 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 the 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. 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).

Neither CIL nor petitioners commented on our preliminary level of trade analysis. Furthermore, our verification findings were consistent with our preliminary level of trade analysis. Therefore, consistent with our

findings in the preliminary determination, for this final determination we have continued to treat all of CIL's home market and U.S. sales as being at a single level of trade and we have made no level of trade adjustment when matching its U.S. sales to home market sales.

Export Price

We based price in the United States on EP, in accordance with subsections 772 (a) and (c) of the Act because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on the record.

We calculated EP based on packed prices to the first unaffiliated customer in the United States. We made adjustments, where appropriate, for international ocean freight, marine insurance, U.S. brokerage and handling, U.S. Customs duties and user fees, U.S. inland freight from port to unaffiliated customer, U.S. inland insurance, dock handling and survey fees in both the United States and Trinidad in accordance with section 772(c)(2) of the Act.

We corrected the CIL's data for certain errors and omissions found at verification and submitted to the Department.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, if the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since CIL's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Cost of Production Analysis

Pursuant to an allegation made by petitioner, we initiated a cost of production investigation in our notice of initiation (62 FR 13854 March 24, 1997). Before making any fair value comparisons, we conducted the COP analysis described below.

Calculation of COP

We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market general expenses and packing costs in accordance with section 773(b)(3) of the Act. We relied on the submitted COP data, except in the following instances where the costs were not appropriately quantified or valued:

1. We revised the reported general and administrative expense ("G&A") rate to include only net foreign exchange losses related to accounts payable. See comment 4.
2. We used CIL's COP/CV files which assign the cost of purchased billets to specific control numbers. See comment 5.

Test of Home Market Prices

We used the respondent's submitted POI weighted-average COPs, as adjusted (see above). We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities," and within an extended period of time in accordance with section 773(b)(2)(B) of the Act. Where we determined that such sales were also not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV.

Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses and profit. As noted above, we assigned the cost of purchased billets to specific control numbers and recalculated Ispat's general and administrative expense amount. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We calculated NV based on prices to unaffiliated home market customers. We made deductions for discounts, rebates, and inland freight. In addition, we made circumstance-of-sale adjustments or deductions for credit, mark-up by affiliated parties, and warranty, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Currency Conversion

For purposes of the preliminary determination, we made currency conversions using the official daily exchange rate in effect on the date of the U.S. sales. The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Trinidad currency. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Business Information Service, as published in the Wall Street Journal. This is consistent with the Department's practice. See, *i.e.*, *Final Affirmative Countervailing Duty Determination on Steel Wire Rod From Trinidad and Tobago*, (FR cite).

Verification

As provided in section 782 (i) of the Act, we conducted a verification of the information submitted by CIL for use in our final determination. We used standard verification procedures, including examination of relevant accounting and sales/production

records and original source documents provided by respondents.

Interest Party Comments

Comment 1: Composite Coils

CIL argues that the Department incorrectly treated its sales of composite coil as sales of secondary merchandise rather than prime merchandise. CIL states that a composite coil consists of smaller sections of prime merchandise, which are physically banded together to produce a full coil of prime merchandise. CIL argues that "[F]or foot, composite coil is prime merchandise" (CIL Case Brief at 2) because it shares the identical physical characteristics as prime merchandise. Further, CIL maintains, petitioners have not introduced any evidence that the physical characteristics of composite coils make it a second quality product.

CIL notes that petitioner's argument that the Department should classify sales of composite coils as secondary merchandise on the basis of price alone is contrary to section 1677(16)(A) of the Act, which states that the preferred "foreign like product" is the merchandise "identical in physical characteristics" with the subject merchandise (CIL Case Brief at 3). CIL concludes, therefore, that the Department must consider its sales of composite coils to be sales of prime merchandise.

Petitioners urge the Department to uphold its preliminary determination to treat composite coil sales as non-prime merchandise sales, arguing that (1) the physical characteristics of composite coils are different from prime merchandise, (2) composite coils are much more difficult for wire drawers to process because they are not one continuous piece of wire rod, and (3) therefore, composite coils are priced lower than prime coils because they are less desirable to customers, and not, as CIL contends, because of competitive pressures in the home market. Petitioners assert that the very definition of a composite coil points to the most significant physical difference between it and prime merchandise, the fact that there are one or more breaks in the coil which renders it much more difficult to process and hence less desirable to customers. Petitioners conclude by rebutting CIL's allegation that the Department has based its preliminary finding that composite coils are not prime merchandise only based on price differences. Petitioners state that " * * * the Department is using the unquestionable physical difference between composite coils and prime

merchandise as a matching criterion, not price" (CIL Case Brief at 3).

DOC Position

We agree with CIL. Section 771(16) of the Act directs the Department to compare sales of home market merchandise which are "such or similar" to merchandise sold in the United States. In accordance with section 771(16)(A), the Department first identifies and compares that merchandise which is "identical" in terms of physical characteristics, followed by sales of merchandise which is most "similar" in physical characteristics. To make these determinations, the Department devises a hierarchy of commercially meaningful characteristics suitable to each class or kind of merchandise. The Department considers merchandise to be identical within the meaning of section 771(16)(A) when all the relevant characteristics match. Composite coils were verified as identical in every way to prime merchandise within each CONNUM (see CIL Sales Verification) (Dec. 15, 1997), within the meaning of the statute and the Department's product matching hierarchy. In addition, composite coils are purchased and used by customers as prime merchandise, are used to fill orders of prime merchandise sold, and are used in the same applications as continuous coils. Therefore, as there is no basis for considering them as secondary merchandise, the Department has revised these final results to treat composite coils as prime merchandise.

Comment 2: U.S. Commissions

CIL claims that we made an improper adjustment to the U.S. price, by deducting the mark-up retained by its affiliated parties from the U.S. price. CIL further states that for the U.S. price calculation, in the case of EP sales, the Department should not deduct any selling expenses, direct or indirect, but can adjust normal value to reflect differences in direct selling expenses incurred on U.S. and home market sales through a "circumstance of sale adjustment". Furthermore, CIL argues that the mark-up retained by its U.S. affiliates is irrelevant to the dumping calculation, since it represents revenue to the overall Ispat group, not an expense.

Petitioners argue that this mark-up is commission incurred only on certain U.S. sales, but not in the home market. In addition, petitioners argued that (1) the Department policy is to adjust for commissions to affiliates or employees on EP sales, and (2) the regulations

permit circumstance of sale adjustments for direct selling expenses.

DOC Position

We disagree with both CIL and petitioners, in part. We disagree with CIL that the Department made an improper adjustment to U.S. price based on the mark-up retained by CIL's U.S. sales affiliates. The program log which was disclosed to all parties at disclosure clearly indicates that no such adjustment relating to this mark-up was made to U.S. price, and CIL's price calculation sheets for U.S. sales (see, *i.e.* Sales Analysis Memo) (Sept. 24, 1997) clearly demonstrate that this mark-up is incorporated into the gross unit price reported to the Department (See, *i.e.*, CIL Verification Exhibit 7).

We disagree with petitioners that this mark-up is a commission warranting a circumstance of sale adjustment, because the Department applies a two-pronged test to determine whether an adjustment for related party commissions is appropriate. First, we determine if the commissions are directly related to specific sales and, secondly, we determine whether the commissions are at arm's length (See *Final Results of Antidumping Duty Administrative Review; Certain Welded Carbons Steel Standard Pipes and Tubes from India*, 57 FR 54360 (Nov. 18, 1992). Even though the facts on the record support the allegation that this mark-up is directly related to specific sales, they do not demonstrate that it is at arm's length. Since the preliminary determination, we have reconsidered this issue. The Department's current practice, as well as the stated preference in the finalized regulations, is to use actual expenses incurred by U.S. affiliates. See 19 CFR 351.402; and *e.g.* *Granular Polytetrafluoroethylene Resin from Italy*, 62 Fed. Reg. 48592, 48593 (September 16, 1997) (Comment 2). The reported expenses incurred by CIL's U.S. affiliate are indirect expenses. Thus, a circumstance of sale adjustment pursuant to section 353.56(a) of the Department's regulations is not warranted.

Comment 3: Applicable Exchange Rates

CIL contends that in absence of official Trinidad dollar to U.S. dollar exchange rates from the Federal Reserve Bank, the Department should use the publicly available published rates from the Central Bank of Trinidad and Tobago ("Bank"). CIL argues that these rates are more appropriate than the (Dow Jones rates) rates the Department used in the preliminary determination because the difference between the Bank rates and the preliminary determination

rates is significant, and the Bank rates are more reasonable and reflective of commercial reality in Trinidad during the POI. CIL asserts that these rates do not represent "new factual information" in the context of the Department's regulations because exchange rates are not provided by respondents, but rather are obtained independently by the Department from publicly available sources.

Petitioners argue that CIL's proposition to use the Bank exchange rates should be rejected because (1) the Bank's exchange rates constitute new factual information, and (2) CIL's argument that the Bank's rates are more reflective of commercial reality is predicated on an analysis of only two weeks of data, which is an insufficient sample to determine any significant difference between the two rates during the POI.

DOC Position

The Department's normal practice is to use exchange rates provided by the Federal Reserve Bank. When the Federal Reserve does not provide exchange rates, as in the case of Trinidad, a reasonable alternative is to use rates from the Dow Jones Business Information Services (see *Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey*, 62 FR 9737 (March 4, 1997), and *Ferrosilicon From Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 20793 (May 8, 1996)). The Dow Jones is a well established, reliable source of commercially available exchange rates. Thus it is reasonable to use these rates for this final determination. Furthermore, Ispat provided no evidence that the Bank rate was available to Ispat, or that Ispat used this rate during the POI. For all of these reasons, the Department is continuing to utilize Dow Jones exchange rates for this final determination.

Comment 4: Exchange Gains and Losses

CIL argues that the Department's policy to include exchange gains and losses arising from the purchase of production inputs, but exclude gains and losses arising from other foreign currency denominated accounts, fails to reflect normal commercial business practices. CIL argues that the Department calculated a nonexistent cost by recognizing a foreign exchange loss on purchases transactions (accounts payable), but disregarding foreign exchange gains on sales transactions (cash and accounts receivable). CIL states that in normal financial practices, corporate treasurers do not manage

specific accounts, but instead manage the net exposed position of the corporation. For example, if a corporation is holding an accounts receivable (or cash) balance and an accounts payable balance in the same currency maturing on approximately the same date, the treasurer will consider the company hedged. Under these circumstances any change in relative currency values will be offset with no cost to the corporation. CIL claims that this situation is in fact what happened within their organization during the POI.

CIL explains that the Act requires the Department to use the exchange rate prevailing on the date of the sales transaction to convert foreign currency amounts to U.S. dollars, and any exchange gain or loss incurred when the actual payment is received is ignored. CIL argues that the Department uses the exchange rate as of the date of the sales transaction because the Department does not expect the producer to adjust its sales prices for unforeseeable future favorable or unfavorable exchange rate fluctuations. The Department's current policy for purchase transactions, however, assumes that a producer can foresee favorable or unfavorable exchange rate fluctuations, and can adjust sales prices accordingly. CIL argues that to ensure nonexistent (due to hedging) or unforeseeable (due to exchange rate fluctuations) costs are not included in the cost of production, the Department should either totally ignore the exchange gains and losses (regardless of whether they arise from purchase or sales transactions) or offset the exchange losses from purchase transactions with the exchange gain on sales transactions.

Petitioners argue that the Department should follow its longstanding practice as outlined in *Circular Welded Non-Alloy Steel Pipe and Tube from Mexico*, (62 FR 37014, 37026, July 10, 1997) (*Final Results of the Administrative Review*), where the Department did not include exchange gains and losses on accounts receivables, because these gains and losses relate to selling activities rather than production costs. Petitioners state that the Department should not alter its longstanding policy and should continue to ignore exchange gains and losses on accounts receivables, as it did in the preliminary determination.

DOC Position

We agree with the petitioner that foreign exchange gains and losses arising from sales transactions should not be included in CIL's COP and CV. It is the Department's normal practice to

distinguish between exchange gains and losses from sales transactions and exchange gains and losses from purchase transactions. See, e.g., Circular Welded Non-Alloy Steel Pipe and Tube from Mexico, 62 FR 37014, 37026 (July 10, 1997) (Final Results of the Administrative Review, Comment 31). The Department normally includes in its calculation of COP and CV foreign exchange gains and losses resulting from transactions related to a company's manufacturing operations (e.g., purchases of inputs). See, e.g., *Final Determination of Sales Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Ship From the Republic of Korea*, 56 FR 16305, 16313 (April 22, 1991) (comment 16). We do not consider foreign exchange gains and losses arising from sales transactions to relate to manufacturing activities of a company. Accordingly, for the final determination we included in COP and CV exchange gains and losses arising from purchase transactions (accounts payable), but disallowed exchange gains and losses arising from sales transactions.

Comment 5: Purchased Billet Costs

CIL argues that the Department should not specifically assign the cost of purchased billets to the specific CONNUMs produced from these billets. Instead, CIL maintains that the Department should allocate the cost of the purchased billets over all of CIL's production of subject merchandise. CIL claims that assigning the cost of purchased billets to the specific CONNUM distorts CIL's actual cost of production. CIL states that the company could have produced the purchased billet internally. The decision of which types of billets to purchase, however, was discretionary and driven by revenue and cost considerations, not by the type of billet.

CIL further claims that the purchase of billets is a departure from the company's normal course of business, in which it internally produces all billets. CIL states that, consistent with section 773(f)(1)(B) of the Act, its purchase of billets was a type of nonrecurring cost that benefitted the company's current production. Thus, according to CIL, the Department should adjust costs such that purchased billets are spread across all production.

Petitioners contend that whenever the Department is able to do so, it should assign costs only to those specific products whose production incurred such costs. Petitioners state that because the costs for purchased billets can be directly tied to specific CONNUMs, the most accurate method of calculating

COP is to allocate purchased billet costs to the specific CONNUMs they were used to produce.

DOC Position

We agree with petitioners that the costs incurred for purchased billets should be charged directly to the products produced from these same billets. In fact, in this case, to do otherwise would not result in a product-specific cost since the record clearly demonstrates which products were manufactured by CIL from purchased billets.

With respect to CIL's characterization of purchased billets as a nonrecurring cost, we consider the company's reliance upon section 773(f)(1)(B) of the Act to be misplaced (19 U.S.C. 1677(f)(1)(B)). The billets at issue were purchased as direct material inputs used in the production of specific steel rod products. The statute, on the other hand, envisions nonrecurring costs as indirect costs that, by their nature, can be shown to benefit current or future production and, thus, should be systematically allocated to those products benefitted. As an example of such nonrecurring costs, the Statement of Administration Action (SAA), at page 835, cites preproduction research and development costs. Such costs may be demonstrated to provide a clear but indirect benefit to future production. In that regard, they differ markedly from the cost of purchased billets at issue here since the billets are simply a direct material input for a specific type of finished steel rod.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of steel wire rod from Trinidad and Tobago, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated duty margins by which the normal value exceeds the expert price, as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average percentage margin
CIL	11.85
All other	11.85

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue antidumping duty orders directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: February 13, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-4695 Filed 2-23-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-826]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Braier at 202/482-3818, Lisette Lach 202/482-0190, Cindy Sonmez 202/482-0961 or Dorothy Woster at 202/482-3362, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act") as amended, 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 references to the provisions codified at

19 CFR part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296 (May 19, 1997)) do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Final Determination

We determine that steel wire rod ("SWR") from Canada is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination in this investigation (see *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod ("SWR") from Canada*, 62 FR 51572 (October 1, 1997) ("*Preliminary Determination*")), the following events have occurred:

In October and November 1997, we conducted verification of the responses of the following respondents: Sidbec-Dosco (Ispat) Inc. (now Ispat-Sidbec), Stelco, Inc. ("Stelco"), and Ivaco, Inc. ("Ivaco"). In November and December 1997, the Department instructed Ispat-Sidbec, Ivaco, and Stelco to resubmit their computer data which incorporated corrections made at verification. On December 2, 1997, Stelco submitted its revised computer data. On December 15, 1997, Ispat-Sidbec requested an extension of time to resubmit its data. On December 18, 1997, the Department granted Ispat-Sidbec an extension, until January 7, 1998, in which to resubmit its computer data. On December 12, 1997, Ivaco requested an extension of time for the case and rebuttal briefs, originally due December 23, 1997, and December 30, 1997, respectively. On December 18, 1997, the Department granted an extension of time for submission of case and rebuttal briefs to all interested parties. The new deadline for the case briefs was January 7, 1998, and rebuttal briefs, January 14, 1998. As none of the parties requested a public hearing, no such hearing was held.

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical

characteristics and meeting the Harmonized Tariff Schedule of the United States ("HTSUS") definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

- Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as "Tire Cord Wire Rod."

- Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth, containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as "Valve Spring Quality Wire Rod."

- Coiled products 11 mm to 12.5 mm in diameter, with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.72 percent; manganese 0.50–1.10 percent; phosphorus less than or equal to 0.030 percent; sulfur less than or equal to 0.035 percent; and silicon 0.10–0.35 percent. This product is free of injurious piping and undue segregation. The use of this excluded product is to fulfill contracts for the sale of Class III pipe wrap wire in conformity with ASTM specification A648–95 and imports of this product must be accompanied by such a declaration on the mill certificate and/or sales invoice. This excluded product is commonly referred to as "Semifinished Class III Pipe Wrapping Wire."

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided

for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Exclusion of Pipe Wrapping Wire

As stated in the *Preliminary Determination*, North American Wire Products Corporation ("NAW"), an importer of the subject merchandise from Germany, requested that the Department exclude SWR used to manufacture Class III pipe wrapping wire from the scope of the antidumping and countervailing duty investigations of SWR from Canada, Germany, Trinidad and Tobago, and Venezuela. Because petitioners did not agree to this scope exclusion, we did not exclude this merchandise in the preliminary determination. On December 22, 1997, NAW submitted to the Department a proposed exclusion definition. On December 30, 1997, and January 7, 1998, the petitioners submitted letters concurring with the definition of the scope exclusion and requesting exclusion of this product from the scope of the investigation. We have reviewed NAW's request and petitioners' comments and have excluded SWR for manufacturing Class III pipe wrapping wire from the scope of this investigation. See Memorandum to Richard W. Moreland dated January 12, 1998. Accordingly, on February 3, 1998, we instructed the U.S. Customs Service to terminate suspension of liquidation on all entries of Class III pipe wrapping wire from Canada.

Period of Investigation

The period of investigation ("POI") for all respondents is January 1, 1996 through December 31, 1996.

Fair Value Comparisons

To determine whether sales of SWR sold by respondents to the United States were made at less than fair value, we compared the Export Price ("EP") to the normal value ("NV"), as described in the "EP and CEP" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs or CEPs for comparison to weighted-average NVs.

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 Investigation" section above, and sold in the home market during the POI, 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 next most similar foreign like product on the basis of the characteristics listed in the antidumping duty questionnaire and the May 22, 1997, reporting instructions.

Consistent with our practice, we compared prime merchandise sold in the United States to prime merchandise sold in the home market, and secondary merchandise to secondary merchandise. See e.g., *Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Review*, 61 FR 48465 (Sept. 13, 1996).

On January 8, 1998, the Court of Appeals of the Federal Circuit issued a decision in *Cemex, S.A. v. United States*, No. 97-1151, 1998 WL 3626 (Fed. Cir. Jan. 8, 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value ("CV") as the basis for foreign market value when the Department finds home market sales to be outside the ordinary course of trade. This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales disregarded as below cost. See section 771(15) of the Act. Because the Court's decision was issued so close to the deadline for completing this administrative review, we have not had sufficient time to evaluate and apply (if appropriate and if there are adequate facts on the record) the decision to the facts of this "post-URAA" case. For these reasons, we have determined to continue to apply our policy regarding the use of CV when we have disregarded below-cost sales from the calculation of NV.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the 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 ("SG&A") 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).

Ispat-Sidbec and Stelco did not claim a LOT adjustment. In the preliminary determination, for both respondents, we made no LOT adjustment, because we found all sales in the U.S. and home market to be at the same LOT. Our findings at verification do not warrant a change from our preliminary determination. Therefore, for the final determination, no LOT adjustment is warranted for Ispat-Sidbec and Stelco.

Ivaco did claim a LOT adjustment for its sales. In the preliminary determination, we determined that a LOT adjustment was appropriate, because we found sales in the U.S. and home market to be at different LOTs. Our findings at verification do not warrant a change from the preliminary determination. Therefore, for the final determination, where applicable, we have made a LOT adjustment for Ivaco's sales.

Export Price ("EP") and Constructed Export Price ("CEP")

We calculated EP and CEP, as appropriate, in accordance with subsections 772(a), (c) and (d) of the Act. The calculation for each respondent was based on the same methodology used in the preliminary determination.

Normal Value ("NV")

We calculated NV, in accordance with subsections 773(a) of the Act. The calculation for each respondent was based on the same methodology used in the preliminary determination.

Cost of Production Analysis

A. Calculation of COP

The calculation for each respondent was based on the respective cost

submissions for each respondent, with the following exceptions:

Ispat-Sidbec

We adjusted Ispat-Sidbec's reported COP to include the consolidated financing cost of Ispat International N.V. We recalculated Walker Wire's further manufacturing COM to reflect the yield loss incurred during the production process. See Memorandum to Chris Marsh from Stan Bowen, dated February 13, 1998.

Ivaco

We recalculated Ivaco's general and administrative amounts based on the expenses incurred by IRM, Sivaco Ontario, and Sivaco Quebec. We adjusted the cost of billets to account for Atlantic Steel's selling, general, and administrative costs. We recalculated further manufacturing general and administrative amounts to reflect Sivaco New York's verified expenses rather than IRM's expenses. We adjusted Ivaco's COM to reflect the green rod yield loss incurred during rod processing at Sivaco Ontario and Sivaco Quebec. See Memorandum to Chris Marsh from Art Stein, dated February 13, 1998.

Stelco

We adjusted Stelco's reported COP to allocate ingot teeming costs only to the products manufactured from billets produced at the facility for which these costs were incurred. We subtracted Stelco McMaster Ltee's G&A expenses from Stelco's combined G&A expense calculation. Stelco McMaster Ltee's G&A expense was applied to the billet cost of only those CONNUMs that were produced using Stelco McMaster Ltee's billets. We recalculated Stelco's general and administrative amounts to exclude certain off-sets to research and development and capital tax expenses. See Memorandum to Chris Marsh from Stan Bowen, dated February 13, 1998.

B. Test of Home Market Prices

The calculation for each respondent was based on the same methodology used in the preliminary determination.

C. Results of the COP Test

The calculation for each respondent was based on the same methodology used in the preliminary determination.

D. Calculation of Constructed Value (CV)

The calculation for each respondent was based on the same methodology used in the preliminary determination. We used the cost information submitted by each respondent, except for the

adjustments noted above under "Calculation of COP."

Currency Conversion

For purposes of the preliminary determination, we made currency conversions using the official daily exchange rate in effect on the date of the U.S. sales. These exchange rates were derived from actual daily exchange rates certified by the Dow Jones & Company, Inc. See Change in Policy Regarding Currency Conversions, 61 FR 9434 (March 8, 1996).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by all respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and sales/production records and original source documents provided by respondents.

Comments Related to U.S. Price

Comment 1: Ispat-Sidbec Freight Expenses

Ispat-Sidbec contends that the Department should use Ispat-Sidbec's reported and verified freight expenses in its final determination. In the normal course of business, Ispat-Sidbec maintains all freight costs recorded in its accounting system in Canadian dollars, regardless of whether the original invoice was issued in U.S. or Canadian dollars by the shipper. Due to the large number of sales, and the fact that one sale may have multiple freight invoices, Ispat-Sidbec claims that it would be virtually impossible to report the freight expense for each sale in the currency in which the freight invoice was received. Moreover, Ispat-Sidbec states that the Department verified that the freight expenses had been properly converted to Canadian dollars, and that this is how these expenses are maintained in the company's internal accounting system. To support its position, Ispat-Sidbec claims that the Department recently reaffirmed its preference for the use of verified information maintained in a company's normal course of business, even when that information may not correspond exactly to that requested by the Department, citing *Certain Cut-to-Length Steel Plate From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 62 FR 61964, 91991 (November 20, 1997).

Petitioners counter that, pursuant to section 776(a)(2)(A), the Department should substitute the highest rate reported as adverse facts available for

Ispat-Sidbec's U.S. freight costs because Ispat-Sidbec refused to submit freight expenses reported in the currency incurred, as requested by the Department. Petitioners argue that the Department must not accept Ispat-Sidbec's unilateral determination that the requested information is unnecessary. Petitioners claim that if the Department does not apply adverse inferences, Ispat-Sidbec will benefit from its own lack of candor and cooperation.

Department's Position

Before applying facts available, section 782(e) of the Act permits the Department to consider the ability of an interested party to submit requested information if the party notifies the Department it cannot provide the necessary information and includes a full explanation and suggested alternatives. In its January 7, 1998 submission, Ispat-Sidbec notified the Department that to report freight expenses in the currency in which they were incurred would create an enormous burden requiring Ispat-Sidbec to review numerous sales individually. While the Department's standard questionnaire normally requires all parties to report expenses in the currency in which they were incurred, the Department verified that the expenses had been properly converted to Canadian dollars using the daily exchange rate, and that this is how the expenses were kept in the company's internal accounting system. In this case, we have continued to use Ispat-Sidbec's reported and verified freight expenses for these final results.

Comment 2: Ispat-Sidbec U.S. Selling Expenses

Ispat-Sidbec claims that in converting Ispat-Sidbec's U.S. selling expenses to Canadian dollars for purposes of the CEP profit calculation, the Department incorrectly applied the exchange rate conversion to Ispat-Sidbec's inventory carrying cost in the country of manufacture, which was already reported in Canadian dollars.

Department's Position

We agree with respondent and have corrected the CEP profit calculation for this final determination.

Comments Related to Normal Value

Comment 1: Ispat-Sidbec Home Market Rebates

Ispat-Sidbec contends that the Department should continue to deduct both of its reported rebates on home market sales from NV in the final determination. Ispat-Sidbec claims that

the Department verified the terms and conditions of one (REBATE2H), and that another (REBATE1H) clearly qualifies as a rebate under the Department's definition.

Department's Position

We agree with respondent that the record evidence supports a deduction from NV for these rebates. In both instances, we verified the terms and conditions of REBATE1H and REBATE2H. See Verification of the Sales Data for Sidbec-Dosco (Ispat) Inc., December 18, 1997, at 12 and 19. Therefore, we will continue to deduct both REBATE1H and REBATE2H from NV for purposes of this final determination.

Comment 2: Exclusion of Certain Stelco Home Market Sales

Petitioners argue that Stelco has reported home market sales of subject merchandise that are neither made in commercial quantities nor made in the ordinary course of business. Petitioners contend that sales which do not meet Stelco's minimum order requirements are not sold in commercial quantities. Particularly, petitioners argue that Stelco's home market sale of a single coil was not made in commercial quantities, as confirmed by Stelco at verification. Petitioners reject Stelco's explanation that the sale at issue was made to fulfill a previous under-delivery, as consistent with the record evidence.

Petitioners also argue that Stelco's sale of a single coil was not made in the ordinary course of trade. They insist that the sale of a single coil is aberrational in the wire rod industry and claim that sales of single coils are used for samples, testing purposes, or other aberrational circumstances. Petitioners allege that the preliminary determination produced an anomalous result in the model match, where Stelco's largest volume of U.S. sales was matched to the sale at issue. Therefore, petitioners contend that the Department should exclude this sale from the margin calculations, citing *Nachi-Fujikoshi Corp. v. United States*, 798 F. Supp. 716, 718 (CIT 1992); *Stainless Steel Angle from Japan*, 60 FR 16608, 16614 (March 31, 1995); *Granular Polytetrafluoroethylene Resin from Japan*, 60 FR 5622, 5623 (January 30, 1995); *Carbon Steel Plate from France*, 58 FR 37125, 37126 (July 9, 1993).

Stelco urges the Department to reject petitioners' request to exclude certain home market sales made by Stelco. Respondent maintains that petitioners' arguments are meritless, because they rely primarily on one sale made by

Stelwire. Stelco asserts that this sale of one coil is a perfectly normal sale because it was part of shipment of multiple products, all of which constituted a complete truckload.

Stelco also asserts that it included this sale, along with other sales made by Stelwire, in the sales listings at petitioners' insistence. It excluded this sale in the original response because the sale at issue was a sale to an affiliated party. However, upon the request of petitioners and the Department, Stelco included sales to affiliates in its supplemental submissions to the Department. Consequently, the sale of one coil was included in Stelco's subsequent submissions of the sales tapes.

Moreover, Stelco insists that petitioners misinterpret Department practice with respect to sales outside the ordinary course of trade. Stelco alleges that petitioners have cited to court cases and Department determinations arguing for, rather than against, the inclusion of the sale at issue. First, respondent asserts that the court case, *Nachi-Fujikoshi Corp. v. United States*, involved a decision in which the Court upheld the Department's decision not to exclude a sample sale from its LTFV comparisons as outside the ordinary course of trade. Second, with regard to petitioners' cite to *Stainless Steel Angles from Japan*, Stelco contends that petitioners fail to acknowledge that, in that case, the Department rejected requests from both petitioners and respondents to exclude certain sales as outside the ordinary course of trade. Instead, the Department included in its dumping comparisons the sales which parties argued were outside the ordinary course of trade. Finally, Stelco asserts that *Granular Polytetrafluoroethylene Resin from France*, and *Carbon Steel Flat Products from France*, also do not support petitioners' argument. Respondent maintains that, in both those cases, the Department decided to exclude sales from its dumping comparisons because they were samples and sales of seconds. Since petitioners have not alleged the sale at issue is a sample sale, Stelco argues that these decisions are not relevant to this investigation.

Department Position

We disagree with petitioners that certain Stelco home market sales, including the sale of the single coil they reference, should be excluded as sales not in "usual commercial quantities" and not in the ordinary course of trade. First, we note that, while petitioners refer to "certain sales" their arguments exclusively address Stelco's sale of a

single. With respect to petitioners' claim that this sale was made in a non-commercial quantity, we reviewed the volumes, values, and prices of Stelco's home market sales and found no evidence on the record that this sale was not sold in "usual commercial quantities" within the meaning of section 771(17) of the Act. The record evidence demonstrates that over 10% of the number of Stelco's home market sales, to affiliated and unaffiliated customers, is comprised of quantities comparable to the sale of the single coil. The prices of these sales, including the price of the sale of the single coil, fall very close to the midpoint of the price range of both Stelco's home market affiliated and unaffiliated sales. Moreover, based upon the particular facts of this case, we do not consider Stelco's minimum order practices as determinative of whether these sales are within "usual commercial quantities" because the record evidence demonstrates that Stelco made a large number of sales of SWR in quantities below the volume orders, and we have discovered nothing aberrational concerning these sales.

We also found the sale of the single coil to be within the ordinary course of trade under section 771(15) of the Act. The Department considers sales outside the ordinary course of trade to have extraordinary characteristics for the market in question. 19 CFR 351.102, 62 FR at 27381. An ordinary course of trade determination requires evaluation of sales on "an individual basis taking account all of the relevant facts of each case." *Nachi-Fujikoshi Corp. v. United States*, 798 F. Supp. 716, 719 (CIT 1992). This means that the Department must review all circumstances particular to the sales in question. See *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 17153 (April 9, 1997). The particular facts of this case do not support a finding that the sale of the single coil was an extraordinary transaction in relation to other home market sales transactions. First, during the POI, the sale of the single coil was shipped as a line item in an invoice including more than one type of subject merchandise, consistent with the vast majority of Stelco's sales, and was shipped pursuant to Stelco's regular shipping procedures. See Stelwire verification Exhibit 3. Second, Stelco had many similar sales of similar volumes in the home market to both affiliated and unaffiliated customers. Third, as noted above, the price of the sale at issue is near the midpoint of the price range of

Stelco's home market sales, and there is no evidence that the price was aberrational. Fourth, there were no special handling or shipping arrangements made for this particular coil. In sum, we have found no record evidence demonstrating any significant distinctions between the sale of the single coil and Stelco's other home market sales. Therefore, since this sale was made in usual commercial quantities and in the ordinary course of trade, we will not exclude it from the home market sales listing.

Comments Related to Cost of Production

Comment 1: Ivaco Deferred Pre-Production Costs

Petitioners claim that the Department should deny Ivaco's deferral of "start-up" costs associated with its furnace conversion. Petitioners assert that the circumstances involving the furnace upgrade fail to satisfy the statutory and regulatory standards for a start-up cost adjustment because the furnace upgrade did not constitute a new production facility or the replacement or rebuilding of nearly all production machinery. Petitioners concede that the Department may rely on records kept by the respondent in the normal course of business if those accounts are in accordance with the home country GAAP and reasonably reflect the costs associated with the production of the subject merchandise. Petitioners argue that in this case, however, Canadian GAAP distorts actual costs. Petitioners, citing *Final Determination: Certain Pasta from Italy*, 62 FR 3026, 30355 (June 14, 1996) and *Micron Technology, Inc. v. United States*, 893 F. Supp. 21, 34 (CIT 1995), *aff'd* 117 F.3d 1386 (Fed. Cir. 1997), contend that because the furnace upgrade costs were incurred during the POI, they should be matched to the sales of the same period, and therefore, included in the POI production costs.

Ivaco asserts that it never requested a "start-up adjustment under the statute," but that it deferred these expenses in its own books. Respondent claims that the upgrades implemented during the furnace conversion were extensive in nature and constituted major production changes. Ivaco states that its external auditors approved its deferral of its pre-production costs, as disclosed in notes (2) and (5) of IRM's 1996 audited financial statements. Ivaco argues that if the Department chooses to disallow Ivaco's methodology of deferring and amortizing its pre-production costs, then the Department must net out the pre-production costs that Ivaco

capitalized prior to 1996 and amortized in 1996.

Department's Position

We agree with Ivaco that it properly deferred and amortized its pre-production costs associated with its furnace conversion. Section 773(f) of the Act directs the Department to calculate costs based upon the respondent's records, provided that such records are kept in accordance with respondent's home country GAAP and reasonably reflect the costs associated with the production of the merchandise. In this case, Ivaco is not claiming a start-up adjustment in accordance with section 773(f)(1)(C) of the Act. Rather, Ivaco, in the ordinary course of business, capitalized certain costs related to its conversion of a furnace. Ivaco's methodology of capitalizing and amortizing certain pre-production costs over periods of up to five years is consistent with Canadian GAAP and was approved by the company's auditors, as evidenced by the disclosures in notes (2) and (5) of IRM's 1996 audited financial statements.

Additionally, we consider it reasonable in this instance for Ivaco to spread the furnace upgrade costs over future periods because these costs will benefit the company's future operations through higher, more efficient production levels. Ivaco has demonstrated this, having deferred similar costs in past accounting periods. In fact, the amortization recognized by Ivaco this year with respect to such deferred costs from previous years approximates the total amount of furnace upgrade costs that Ivaco deferred in the current year. Thus, we find no reason to determine that such a methodology distorts the costs associated with the production of the merchandise. Because we have accepted Ivaco's methodology, the issue of netting out pre-production costs capitalized prior to 1996 is moot.

Comment 2: Ivaco Deferred Foreign Exchange Costs

Petitioners assert that the full amount of the POI foreign exchange losses should be included in the POI costs. Petitioners claim that Department precedent is to treat foreign exchange gains and losses as current period income or expenses, regardless of home country GAAP. According to petitioners, the Department may rely on records kept by the respondent in the normal course of business if those accounts are in accordance with the home country GAAP and reasonably reflect the costs associated with the production of the subject merchandise.

Petitioners maintain that Canadian GAAP distorts actual costs in this situation. Petitioners cite *Certain Pasta from Italy*, where the Department stated that the extinguishment of debt caused a foreign exchange loss which represents a cost that provides no future benefit and that if the current foreign exchange losses were deferred they would not be properly matched against the sales of the period. Petitioners also cite *Micron Technology, Inc. v. U.S.*, an appeal from the Department's determination in *DRAMS from Korea*, in which it was ruled that if the foreign exchange translation gains and losses on outstanding foreign currency monetary assets and liabilities were deferred, the costs would not be appropriately matched to the sales of the company during the POI.

Ivaco justifies its practice of deferring foreign exchange gains and losses arising from non-current monetary items (i.e., payments to be made after December 31, 1997) and amortizing those gains and losses over the payment of the debt, as being consistent with Canadian GAAP. Ivaco argues that this case differs from *Certain Pasta from Italy* because, in that case, the respondent sought to defer current foreign exchange gains and losses related to debt that had already been extinguished. Ivaco claims that it has deferred only those foreign exchange losses related to loans that were not extinguished, and that it has expensed all foreign exchange losses related to extinguished loans. Ivaco asserts that its methodology does not conflict with the decision in *Micron Technology, Inc. v. United States*, where the Court ruled that foreign exchange losses should be matched to the period in which the loss occurred. Ivaco maintains that all its foreign exchange losses related to loan repayments made in 1996 and projected loan repayments to be made in 1997 were expensed in 1996 and included in its COP, and that it deferred only those unrealized foreign exchange losses related to the non-current portion of its loans as of December 31, 1996. Finally, Ivaco makes the same consistency argument it made regarding its accounting for pre-production costs. Ivaco asserts that if the Department chooses to disallow the deferral of the foreign exchange losses, it should exclude the current period amortization of foreign exchange costs that were deferred from prior years. Ivaco claims that such treatment would result in a minimal difference in Ivaco's costs.

Department's Position

We agree with Ivaco that it properly amortized foreign exchange losses

related to loans that were not extinguished during the POI. In this instance, there is little difference between its method of accounting for foreign exchange gains and losses and the method of amortizing deferred exchange gains and losses used by the Department in past cases. The Department normally relies upon the respondent's records, provided that such records are kept in accordance with respondent's home country GAAP and reasonably reflect the costs associated with the production of the merchandise. Ivaco demonstrated that its methodology of capitalizing non-current foreign exchange gains/losses attributable to its outstanding debt and amortizing the gains/losses over the payment of the debt is consistent with Canadian GAAP and was approved by its auditors, as disclosed in notes (1) and (6) of Ivaco Inc.'s 1996 audited financial statements. The Department's position, established in recent cases, is that exchange gains/losses should be amortized over the remaining life of the respondent's loans. See *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador*, 24 FR 7019, 7039 (February 6, 1995) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 42 FR 9737, 9743 (March 4, 1997). In this case, the impact of the difference between Ivaco's methodology of deferring and amortizing exchange gains/losses on only the non-current portion of long term debt and the Department's preferred methodology of deferring and amortizing exchange gains/losses over the remaining life of the debt is immaterial. Therefore, we find Ivaco's methodology acceptable because it reasonably reflects the costs associated with the production of the subject merchandise.

Comment 3: Sivaco Ontario and Quebec Yield Cost

Ivaco claims that it explained in its cost submissions and at verification that because Sivaco Ontario's cost computation is based on the volume produced at each production stage, its computation properly accounts for the yield loss associated with the green rod. Ivaco asserts that the yield losses are accurately reflected because the denominator used to compute the per unit costs is the produced volume, net of the yield loss.

Department's Position

We disagree with Ivaco that its methodology properly accounts for yield loss, and therefore, reflects the actual cost of production of SWR as

required by section 773(b)(3) of the Act. Although Sivaco Ontario and Sivaco Quebec properly accounted for the heat treating and cleaning/coating materials and processing costs associated with the rod lost during their processing, the companies failed to include such costs associated with the green rod received from IRM. We therefore calculated a weighted average yield loss percentage for the rod used in production at Sivaco Ontario and Sivaco Quebec. We based our calculation on the yields reported in Ivaco's submissions and the production volumes reported at verification. We then applied the yield loss percentage to the cost of the green rod.

Comment 4: Sivaco New York Further Manufacturing G&A Calculation

Ivaco states that the Department should use the reported further manufacturing data and G&A denominator in computing the further manufacturing G&A rate for Sivaco New York. Ivaco claims that the Sivaco New York cost of sales figure reported in the company's Section D submission is based on Sivaco New York's audited financial statement. Ivaco notes, however, that the cost of sales figure reported at verification is based on Sivaco New York's internal financial statement. Ivaco asserts that the cost of sales per Sivaco New York's audited financial statement exceeds the cost of sales per its internal financial statement by the sum of its shipping department and certain freight-in costs (for returning damaged or defective merchandise or racks). According to Ivaco, because these shipping department and certain freight-in costs are included in Sivaco New York's submitted further manufacturing costs, these costs must be included in the cost of sales figure used as the denominator in computing Sivaco New York's further manufacturing G&A rate.

Department's Position

We agree with Ivaco's contention that the cost of sales figure reported at verification was based on Sivaco New York's internal financial statement and excludes its shipping department and certain freight-in costs. We also agree with Ivaco that these costs were included in Sivaco New York's submitted further manufacturing costs. However, the difference between the cost of sales figure reported in the Section D submission and the cost of sales figure reported at verification is slightly larger than the sum of the shipping department and freight-in costs. We therefore adjusted the cost of sales figure reported at verification to include these costs and recalculated

Ivaco's further manufacturing G&A rate for our final determination.

Comment 5: Ispat-Sidbec Interest Expense

Ispat-Sidbec contends that it is inappropriate for the Department to request that the company use an interest expense factor that is based on a reorganization that occurred after the POI. Ispat-Sidbec maintains that the company derived the revised interest expense factor solely for the Department's investigation and that it is not based on POI data maintained by Ispat-Sidbec in the ordinary course of business. According to Ispat-Sidbec, the statute requires the Department to calculate costs based on a company's normal records if the respondent maintains those records in accordance with GAAP. Ispat-Sidbec further notes that in *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands*, 59 FR 23684, 23688 (May 6, 1994), the Department declined to calculate interest expense based on consolidated data, when the corporate restructuring did not occur until after the POI. Thus, Ispat-Sidbec argues that the Department should accept its interest expense factor as originally calculated based on the company's 1996 consolidated financial statements in accordance with Canadian GAAP.

Petitioners respond that for corporate groups, such as Ispat International and its subsidiaries, the Department generally calculates interest expense based on the consolidated financial results of a parent corporation and its subsidiaries, whether or not the respondent normally maintains such information in the ordinary course of business. Petitioners state that the Department's policy is "based on the fact that the group's parent, primary operating company, or other controlling entity . . . because of its influential ownership interest, has the power to determine the capital structure of each member company within the group." *New Minivans from Japan*, 57 FR 21937, 21946 (May 26, 1992). Petitioners also note that Ispat-Sidbec's argument that this interest information as derived solely for the investigation is flawed because Ispat International's consolidated financial statements for 1994 through 1996 were part of the record.

Department's Position

We agree with petitioners that it is the Department's long-standing practice to calculate interest expense for COP and CV purposes based on the borrowing costs incurred at the consolidated group level. This methodology, which has

been upheld by the CIT in *Camargo Correa Metals, S.A. v. U.S.*, No. 91-09-00641, Slip Op. 93-163 (CIT August 13, 1993), is based on the fact that the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. Thus, financial expenses at the group consolidation level must reasonably reflect the borrowing costs incurred by each member of the group. In this instance, prior to the POI, Ispat-Sidbec was a wholly-owned subsidiary within a large group of companies. Although these companies would normally prepare consolidated financial statements at the group level, it was unnecessary for them to do so because they were privately owned. Shortly after the POI, the Ispat Group reorganized its operations, eliminating certain holding companies as well as making other changes to its overall corporate structure. As part of the reorganization, Ispat International N.V. emerged as the lead entity of the former Ispat Group. Ispat International prepared consolidated financial statements for the group, including statements covering the POI.

Contrary to respondents arguments, this situation differs from that in *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands*, 59 FR 23684, 23688 (May 6, 1994). In that instance, the Department did not compute interest expense at the consolidated level because the equity ownership in the respondent did not meet the requirements for consolidation until the post POI reorganization. However, in this case, Ispat-Sidbec was a member of the same group of consolidating companies both prior to and after the reorganization. Therefore, we will continue to use the Ispat Group's consolidated interest expense factor for purposes of this final determination.

Comment 6: Walker Wire Further Manufacturing Yield Loss

Ispat-Sidbec states that the Department should accept the yield loss reported in Walker Wire's further manufacturing Section E questionnaire. Ispat-Sidbec claims that Walker Wire submitted the yield loss that it normally calculates. Respondent maintains that Walker Wire's cost accounting system appropriately tracks all costs, including yield loss. In addition, Ispat-Sidbec asserts that the method used to allocate yield loss to merchandise is appropriate and reasonable.

Department's Position

We disagree with Ispat Sidbec that Walker Wire's reported costs adequately

accounts for yield loss associated with the further manufacture of the subject merchandise. Walker Wire's reported yield loss accounts only for a portion of its total yield loss because the company determined the reported loss based on the quantity of raw material recovered and sold for scrap. The company's methodology does not account for loss that it never recovers. Secondly, Walker Wire's reported conversion costs fail to account for yield loss incurred during production, which understates Walker Wire's conversion costs. Finally, Walker Wire uniformly allocates its yield loss to all products sold. Walker Wire allocated yield loss to merchandise bought for resale that required no fabrication and to customer-owned material that it fabricated. Neither of these items should incur the yield loss associated with Walker Wire's processing of its own materials. Therefore, for this final determination, we have increased Walker Wire's reported costs to account for the company's total yield loss.

Comment 7: Stelco Allocation of Excess Cost of Ingot Teeming

Stelco argues that it properly allocated the excess cost of ingot teeming (*i.e.*, the cost of ingots that are not required by Stelco's internal order practice) to only round products produced during the POI. Stelco notes that in its normal books and records it allocates these costs to all products produced, both flat-rolled and round products. However, in its submitted COP and CV data, Stelco allocated its ingot teeming costs to only round products produced since it cannot use ingots to produce flat-rolled products. Stelco contends that the Department should accept this allocation methodology because, in accordance with section 773(f) of the Act, it is the closest to Stelco's normal accounting procedures and because it reasonably reflects the actual cost of producing subject merchandise. Stelco further supports this argument by stating that the company can produce all of its round (*i.e.*, rod and bar) products from either ingot steel or cast steel.

Stelco further argues that if the Department does not accept its methodology of allocating excess ingot teeming costs to all round products, the Department should allocate these costs to those products that, because of customer requirements, could only be manufactured using ingots. Stelco maintains that during the POI, while no customers specifically required that only ingot steel be used in their orders, some customers required cast steel only.

Petitioners argue that the Department should reject Stelco's COP and CV data

and apply total adverse facts available for the final determination because Stelco has repeatedly misreported its costs incurred on the teeming of ingots. Petitioners claim that Stelco incurs these costs on specific products and had the ability to assign its ingot teeming costs in a product-specific manner. Petitioners contend, however, that Stelco did not allocate its ingot teeming costs to specific products produced from ingots but, instead, allocated these costs over products that it claims could potentially be produced from ingots. Petitioners argue that this allocation methodology is unacceptable because the statute and the Department's long-standing practice require product-specific cost reporting. Petitioners cite *Final Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Mexico*, 58 FR 25803, 25809 (April 28, 1993), as precedent for use of best information available, in this case, when the respondent does not report product-specific materials costs.

Petitioners also assert that Stelco's submitted costs are not based on its books and records maintained in the normal course of business and argue that neither of Stelco's various cost submissions reasonably reflect the costs associated with the production and sale of subject merchandise. Petitioners claim that because Stelco's submitted methodologies do not assign costs only to the products for which those costs were incurred, Stelco diluted the dumping margins on ingot-teemed products, while reducing its profit margins on non-ingot teemed products. Petitioners further argue that since there is no verified evidence on the record demonstrating which specific CONNUMs are ingot-teemed products, the Department does not have the ability to correct Stelco's reported costs. Thus, petitioners urge the Department to reject Stelco's reported costs in their entirety and apply total adverse facts available, using either the dumping margin alleged in the petition for a Canadian respondent, or the highest dumping margin generated on any sale reported in Stelco's questionnaire response.

Department's Position

We disagree with petitioners that because Stelco was unable to allocate ingot teeming costs only to those products manufactured from ingot-produced billets, the Department should reject Stelco's reported costs in their entirety and resort to total adverse facts available. First, we do not find that Stelco's cost submissions are totally flawed and rendered unusable for the final determination under section 782(e)

of the Act. Stelco submitted its cost data in a timely manner, we were able to verify significant elements of its COP and CV data, and as discussed below, we were able to use the cost data without undue difficulties. Thus, the facts in this case, do not support rejection of the entire cost submission. See *e.g.*, *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819-20 (Oct. 16, 1997) (resorting to total adverse facts available because the respondent's cost submission was unverifiable). In addition, we do not find a sufficient basis to apply adverse inferences in accordance with section 776(b) of the Act because we determine that Stelco reported these costs to the best of its ability. Although Stelco did not report product-specific costs for all subject merchandise that used ingot steel, we confirmed at verification Stelco's claim that its computerized production records do not permit it to identify when a product is made using ingot steel. Based on this examination, we consider it acceptable for Stelco to allocate ingot teeming costs using an alternative methodology that reasonably reflects the costs associated with producing the subject merchandise.

However, we find neither of Stelco's alternative methodologies acceptable for the final determination. Because Stelco McMaster Ltee does not produce billets from ingots, allocating the ingot teeming costs incurred at the Hilton Works facility to all round products, including those made from billets manufactured at Stelco McMaster Ltee, unreasonably understates ingot teeming costs. Also, allocating ingot costs only to products that may be produced from ingots in the absence of actual production records unreasonably relies upon unsubstantiated costs. Therefore, we find that because Stelco states that it teems ingot to allow maximum utilization of available steel in the Hilton Works' ladles and that all round products can be produced using ingot steel, a reasonable methodology is to allocate ingot teeming costs to all products which used Hilton Works billets. Accordingly, for the final determination, we allocated ingot teeming costs incurred at the Hilton Works facility to all products manufactured from billets produced at this facility.

Comment 8: Inclusion of Stelco Capital Tax Credit in the G&A Expense Calculation

Stelco argues that its capital tax credit should be included in the general and administrative ("G&A") expense

calculation. Stelco cites *Final Results of Antidumping Duty Administrative Reviews: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 62 FR 18448, 18465 (April 15, 1997) ("Carbon Steel from Canada"), as precedent for classifying capital taxes as a G&A expense. Stelco contends that because capital tax is a G&A expense, it properly offset the capital tax credit against G&A expenses. Furthermore, Stelco notes that the Department's practice is to include income items that are properly a part of G&A in the G&A expense calculation. To support this argument, Stelco cites *Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit from Thailand*, 60 FR 36775, 36776 (July 18, 1995), in which the Department states it inadvertently relied on the gross, rather than the net, G&A expenses of the company in the calculations of COP and CV. Stelco maintains that the full amount of the credit relates to the POI, and not to prior years.

Stelco further argues that if the Department accepts expense items which relate to non-POI periods because they are recorded in the company's normal books and records for the period, the Department should accept income items which relate to non-POI periods if they are recorded in the company's normal books and records in accordance with GAAP. Stelco cites *Final Results of Antidumping Duty Administrative Review: Certain Cold-Rolled Carbon Steel Flat Products from Canada*, 58 FR 37099, 37120 (July 9, 1993), in which the Department determined that because the respondent chose to expense the entire amount of certain expenses which related to future periods in the current period, the total expense was included in the calculation of COP and CV. Therefore, Stelco argues that even if the costs did relate to prior POI events, section 773(f) of the Act and the Department's long-standing policy require that costs be included in the calculation of COP and CV in the year those costs are recorded in a company's books, if those records are in accordance with GAAP and reasonably reflect the costs associated with the production and sale of the merchandise. Thus, Stelco maintains that its capital tax credit should be included in the calculation of G&A expenses for the final determination because it is recorded in Stelco's normal books and records in accordance with GAAP and reasonably reflects COP.

Petitioners urge the Department to exclude Stelco's capital tax offset from its G&A expense calculation. Petitioners

argue that Stelco's credit to G&A expenses is improper because the Department does not normally include income taxes in its COP and CV calculations and because it does not relate to the POI since Stelco recorded this credit to reverse an overstated accrued liability from 1991. Petitioners state that, contrary to Stelco's claim, the Department does not have a long-standing policy of accepting such credits, particularly from prior years. To support this argument, petitioners cite *Final Results of Antidumping Duty Administrative Review: Fresh Kiwifruit from New Zealand*, 57 FR 13695, 13702 (April 17, 1992), in which the Department determined that "tax recoveries cannot be used to offset costs." In addition, petitioners argue that while the Department often accepts costs in the year they are recorded in a company's books, the statute specifically notes that COP shall be based on those records only when they reasonably reflect the costs associated with the production and sale of the merchandise. Thus, petitioners maintain that Stelco's capital tax credit should be excluded from the G&A expense calculation because it artificially and improperly lowers G&A expenses for the POI.

Department's Position

We agree with Stelco that the capital tax, which is a non-income-based tax, is a G&A expense item and, therefore, credits to capital tax should be offset to G&A expenses. See e.g., *Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value*, 51 FR 15029 (April 22, 1986) and *Certain Steel from Canada*, 62 FR at 18465. However, we disagree with Stelco that the total amount of the capital tax credit should be included in the calculation of G&A expenses. While it is reasonable to offset Stelco's capital tax expense with its capital tax credit, it is not reasonable to offset other G&A expenses by the amount of the credit that exceeds the amount of the capital tax expense. Specifically, because the credit represents a reduction in the amount of capital taxes due by the company, it is unreasonable to offset unrelated G&A expenses, such as administrative salaries, professional fees, and office supplies. Therefore, for the final determination, we are including in Stelco's calculation of G&A expenses its capital tax credit only to the extent of its current capital tax expenses.

Comment 9: Inclusion of Stelco Tax Credit in G&A Expense Calculation

Stelco asserts that its investment tax credit should be included as a reduction

to the company's G&A expenses. Stelco maintains that the credit is a reimbursement by the Canadian government of research and development ("R&D") expenses and, therefore, the company properly offset this credit to the R&D expenses it included as part of the total G&A expense. Stelco explains that although the Canadian government reimburses the company through a reduction of its income tax payable, the credit is not an income tax benefit. To support its argument that it properly recorded the credit as an offset to G&A expenses, Stelco cites the *Canadian Institute of Chartered Accountants ("CICA") Handbook*, the Canadian equivalent of U.S. GAAP. The *Handbook* states, where the investment tax credit relates to R&D costs, it should be accounted for using the cost reduction approach by including it in the period's net income if it relates to current expenses. If on the other hand, the ITC relates to fixed asset purchases, it may be accounted for either, by deducting the credit from the related assets and calculating depreciation expense on the net basis of the asset, or by deferring it if it relates to the acquisition of assets and amortizing it to income. The *Handbook*, however, states that "when the investment tax credits are not accrued in the year in which the qualifying expenditures are made because there is no reasonable assurance that the credit will be realized, such credits should be accrued in the subsequent year in which reasonable assurance of realization is first obtained." Stelco contends that reasonable assurance occurred in 1996 when the company had sufficient net income taxes payable to apply the investment tax credit. Stelco further argues that the Department's long-standing policy is to calculate COP and CV using net G&A expenses. Stelco maintains that the full amount of this credit should be included in the calculation of G&A expenses for the final determination. However, Stelco states that if the Department rejects its argument, it should at a minimum allow a full offset to Stelco's R&D expenses for the POI.

Petitioners counter that the Department should exclude Stelco's investment tax credit from the G&A expense calculation because the Department normally does not include income taxes in its COP and CV calculations. Petitioners cite *Statement of Financial Accounting Standards No. 109: Accounting for Income Taxes* to show that U.S. GAAP provides that investment tax credits be recorded as a reduction to income tax expense.

Petitioners respond that since Stelco concedes that the method of payment by the government is a reduction of income tax payable, the Department should adopt the approach that if a tax credit (such as an investment tax credit) results in an income tax reduction, it should be considered as an income tax item and thus excluded from G&A. Petitioners further argue that the credit should be excluded because portions of the credit may relate to R&D costs from previous years, or the credit may be calculated based on the purchase of equipment that is to be depreciated over future years. Petitioners allege that Canadian companies would receive an unfair advantage if the Department allows this credit to be classified as a reduction of cost of production instead of a reduction to income tax expense. Finally, petitioners claim that Stelco did not adequately support its classification of this credit to G&A expenses. They argue that the Department should reject as new factual information the CICA *Handbook* excerpts submitted by Stelco in its January 7, 1998, brief which relate to the timing of the receipt of the benefit, but do not address its classification. Petitioners conclude that Stelco's approach does not conform to Canadian GAAP because Stelco did not submit material to support its presentation and disclosure of the credit. Therefore, petitioners maintain that Stelco's investment tax credit should be excluded in the calculation of G&A expenses for the final determination.

Department's Position

We disagree with petitioners that the excerpts from the CICA *Handbook* submitted by Stelco in its January 7, 1998, brief constitute untimely new factual information which should be rejected. Stelco previously provided this information during the cost verification to clarify and support information already on the record. See Stelco Cost Verification Exhibit 29 at 10. However, we agree with petitioners that the Department normally does not include income taxes in its COP and CV calculations. The CICA *Handbook* states that "investment tax credits are a type of government assistance related to specific qualifying expenditures that are prescribed by tax legislation." These credits reduce the amount of income taxes Stelco pays. We do not consider it appropriate to offset production costs by the reduced income tax liability arising from tax legislation, because the Department does not include income taxes in the calculation of COP and CV. See e.g., *Fresh Cut Flowers From Mexico*; *Final Results of Antidumping*

Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 61 FR 63822, 63824 (December 2, 1996). Thus, we are excluding Stelco's investment tax credit in the calculation of G&A expenses for the final determination.

Comment 10: Inclusion of Stelco Pension Expenses in the G&A Expense Calculation

Stelco included in its G&A expenses an adjustment for the company's additional pension liability as of December 31, 1995, which resulted from a 1996 court decision to partially wind up the company's pension plan. Stelco notes that the company did not have any "control" over the events which triggered the applicability of its pension expense or its capital tax credit recorded during the POI. Stelco argues that if the Department excludes its capital tax and investment tax credits from its calculation of G&A expenses because these credits relate to prior years, the Department should also exclude this partial pension wind-up cost from the G&A calculation because it relates to prior years.

Petitioners state that Stelco's recognition in the POI of pension costs from prior years was proper and should be included in the G&A expense calculation. Petitioners reason that Stelco should include this cost because, unlike Stelco's tax credits, this amount was not "controlled" by Stelco, but by the Canadian courts. In addition, petitioners claim that, unlike the tax credits, the pension expense was recorded in accordance with both Canadian and U.S. GAAP which state that a liability contingent on a lawsuit's outcome is recorded only if the company is likely to lose the suit. Therefore, petitioners argue that the Department should include Stelco's pension cost expense related to prior years in the G&A expense calculation.

Department's Position

We agree with petitioners that Stelco's partial pension wind-up costs should be included in the calculation of G&A expenses. In *Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea*, 62 FR 18404, 18443 (April 15, 1997), ("*Carbon Steel Flat Products from Korea*"), we determined that including prior-period expenses, such as severance benefits, as an element of COP and CV is appropriate to reasonably reflect the costs associated with the production and sale of the subject merchandise. We disagree with Stelco that if the

Department excludes the company's capital tax and investment tax credits from the calculation of G&A expenses, we must also exclude these pension expenses. The Department considers each cost issue separately, based on the facts and circumstances surrounding each issue. Stelco did not recognize the pension expenses as a contingent liability in prior years because Stelco expected to successfully appeal the Canadian pension commissioner's ruling that employees terminated in the early 1990's were entitled to certain pension benefits. Stelco recognized these costs for the first time during the POI in accordance with GAAP after the Canadian Supreme Court denied Stelco's appeal. See Cost Verification Report, at 2-3. Consistent with *Carbon Steel Flat Products from Korea*, we determine that including Stelco's prior-period pension expenses as an element of COP and CV is appropriate to reasonably reflect the costs associated with the production and sale of the subject merchandise. Therefore, for the final determination, we have included Stelco's partial pension wind-up cost in the calculation of G&A expenses.

Comments Related to Other Issues

Comment 1: Whether a LOT Adjustment for Ivaco is Warranted

Petitioners state that the Department should reverse its preliminary determination to grant a level of trade adjustment to Ivaco. Petitioners argue that when examining the way in which IRM and its affiliates do business, the record evidence demonstrates that no level of trade adjustment is applicable in this case.

Petitioners first note that in its Level of Trade Memorandum ("*LOT Memorandum*") and *Preliminary Determination*, the Department found that IRM and Sivaco both sell to the same category of customer, and that both sell green and processed rod. Petitioners then state that the Department also found that warranty and credit services were provided at the same level. Petitioners argue that based on these similarities in business practices, and without record evidence of any substantial differences in the selling functions offered by the companies, the Department must determine that an LOT adjustment is not warranted in this case.

Petitioners then argue that the distinctions in selling functions between IRM and Sivaco, which Ivaco claims are indicative of different levels of trade, are instead simply a function of product mix, as IRM sells mostly green rod, while Sivaco, being a

processor, sells mostly processed rod. Petitioners argue that a comparison of IRM and Sivaco on a product-to-product basis would yield very similar selling practices and expenses. First, petitioners assert that IRM provides the same inventorying and JIT services that Sivaco provides through a certain type of IRM sale. They argue that this type of IRM sale is identical to a Sivaco sale from inventory, as in both types of sale, the seller incurs all opportunity costs up to the point of sale, and the customer purchases merchandise only when needed.

Second, petitioners state that Ivaco's claimed differences in inventory carrying periods do not constitute evidence of substantially different selling activities but instead are largely attributable to product mix differences. Petitioners assert that the inventory periods for processed rod is similar for both entities. In addition, petitioners argue that the average inventory period verified by the Department does not include the inventory period of a particular type of IRM's sales. Petitioners point out that while it is true that Sivaco maintains green rod inventory for a different period than IRM, this is only logical since Sivaco's green rod typically must go through additional processing. Petitioners conclude that since IRM's sales of a particular type allow IRM to extend the same JIT services as Sivaco, both companies offer the same products and inventory services.

Third, petitioners take issue with Ivaco's claims concerning differences in delivery terms, arguing that differences in shipment quantities are irrelevant to the level of trade analysis because both companies sell rod on a delivered basis, both deliver rod to the majority of their customers by truck, and both sell in truckload and less than truckload quantities. Finally, petitioners' comments also briefly addressed other selling function distinctions alleged by Ivaco. Petitioners claim that Sivaco's provision of bid assistance does not constitute a substantial difference between IRM and Sivaco, because Sivaco supplied this service to only a few of its customers, and because the provision of this service occupied a small percentage of the time of their employees. They state that the other alleged selling functions, (producing to order, small order processing, shipping in small quantities, and customer pick-up services) are all part of the services offered by both IRM and Sivaco and as such, do not constitute differences in levels of trade.

In response, Ivaco notes that petitioners do not dispute the fact that

IRM's sales are made at an earlier point in the chain of distribution than Sivaco's sales, which is the first criterion that must be established in order to qualify for an LOT adjustment. Petitioners' argument that the Department should look at the customer category is the old law standard. The new standard, citing *Professional Electric Cutting Tools from Japan*, is that " * * Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them." Ivaco Rebuttal Brief at 1. Ivaco notes that in the LOT Memorandum, the Department agreed with Ivaco on both these points.

According to Ivaco, petitioners ignore one of the most important differences between IRM and Sivaco: the fact that Sivaco offers significant inventory services while IRM does not. Ivaco notes that in order to provide these services, Sivaco maintains a large uncommitted general inventory, whereas IRM maintains no general uncommitted inventory. Ivaco notes that in its verification report, the Department confirmed that Sivaco Ontario inventories green rod many times longer than IRM. Further, Ivaco asserts that Sivaco acts as a service center for rod, bar, and wire, and maintains a large uncommitted inventory in order to service its customers' requirements for: "(i) small quantities of rod; (ii) inventory services; and/or (iii) JIT delivery." Ivaco Rebuttal Brief at 9. Ivaco goes on to cite several cases (*Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea* and *Welded Carbon Steel Pipe and Tube from Turkey*), in which the Department has recognized the importance of services associated with maintaining inventory as a factor in defining distinct levels of trade.

Ivaco states that none of the arguments raised in petitioners' case brief alters the conclusion in the LOT memorandum, and confirmed by the Department's verification report and *Preliminary Determination*, that Sivaco offers significantly different services than IRM. Ivaco states, for example, that petitioners' contention that the difference in actual number of days of credit outstanding between IRM and Sivaco is not "particularly large" is contradicted by the facts on the record which indicate the actual difference in average payment dates is almost double for Sivaco Ontario as compared to IRM. Further, Ivaco noted that the Department stated in its LOT Memorandum that "IRM's customer's average payment period * * * reflects

the greater liquidity of a larger company, whereas Sivaco's * * * reflects the generally smaller size of its customers." Ivaco Rebuttal Brief at 7.

Ivaco states that petitioners' attempt to categorize the inventory services provided by Sivaco Ontario as a "product-mix" issue is without merit. The company asserts that petitioners' comparison of the quantity of processed rod sold by IRM versus Sivaco Ontario is misleading, because during the POR, processed rod as a percentage of IRM's total sales is extremely small, while for Sivaco Ontario, this percentage is a very high percentage of sales. Therefore, Ivaco concludes that petitioners' comparison of overall tonnage does not take into consideration the "actual magnitude of sales or the business practices of either company." Ivaco Rebuttal Brief at 11.

Ivaco asserts that petitioners' argument that Sivaco does not offer significantly different delivery services is without merit because IRM's delivery services are structured to serve high-volume customers, whereas Sivaco's delivery services are structured to serve smaller customers who do not have the inventory capacity or buying power of larger customers and therefore require JIT or short-lead time delivery capability. Accordingly, Ivaco states, IRM sales structure is organized around its quarterly rolling schedule, while Sivaco's sales structure is organized around its uncommitted green rod inventory. Sivaco delivery services are set up to accommodate routine customer pick-up, while IRM is set up to provide for train-load deliveries. Further, Ivaco states that the Department's LOT Memorandum and Verification report confirm that Sivaco and IRM offer significantly different delivery services.

Ivaco also disagrees with petitioners' claim that IRM provides, for a particular type of sale, delivery services similar to those Sivaco provides its customers. Ivaco states that the only difference between its typical direct sales and this particular type of sale are the payment terms. Ivaco stresses that IRM provides no other services for this type of sale that are distinct from its other direct sales.

Department's Position

We disagree with petitioners that Ivaco's sales are made at the same LOT, and therefore, a LOT adjustment is not warranted in this case. As detailed in the LOT Memorandum for the preliminary determination, we examined the selling functions performed by IRM and Sivaco at each stage in the marketing process and identified substantial differences in

services provided. We concluded that these differences were attributed to selling at different points in the chain of distribution, *i.e.*, IRM primarily sells direct from the factory and Sivaco acts as a reseller of SWR. Our findings at verification confirmed this analysis, and petitioners have identified no record evidence to warrant changing our preliminary determination. For example, petitioners continue to assert that no LOT differences exist because both IRM and Sivaco sell to end-users and provide the same type of warranty and credit services. However, customer category alone is not the determinative factor of establishing a level of trade. See *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997). Moreover, the mere fact that certain selling activities are performed in a similar manner does not refute a finding of different LOTs, rather, the Department considers the totality of the circumstances in evaluating whether qualitatively and quantitatively different selling functions are performed for purchasers at different places in the chain of distribution. In this instance, the record evidence supports our finding of significant differences in the selling activities performed by IRM and Sivaco and no substantiation of petitioners' claim that these differences are attributable to product mix.

Comment 2: Petitioners' LOT Adjustment Methodology

Petitioners argue that if the Department does grant Ivaco a LOT adjustment, the Department should apply the cost test to the LOT-adjusted home market sales prices, and remove those sales which fail from the margin calculation. Petitioners state that this proposed methodology is supported by the statute, which requires the Department to make "due allowance" for any differences in EP CEP and NV caused by a difference in levels of trade. They assert that section 773(b) states that where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than COP, the Department should disregard the below cost sales in the determination of normal value. Petitioners also point out that the Statement of Administrative Action (SAA) states that "[t]he Administration intends that Commerce will disregard sales [below cost] when the conditions in the law are met." See Petitioners Case Brief at 13. Petitioners argue that, when viewed together, these provisions establish a clear intention that the

Department must not make "due allowance" for a level of trade adjustment when such adjustment would cause the home market normal value to fall below cost. Petitioners state that the importance of the below-cost principle to the Department is demonstrated in *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan*, 61 FR 38139, 38144 (July 23, 1996) ("*Printing Presses from Japan*"), in which the Department excluded below-cost sales from normal value, even though it did not initiate a below-cost investigation.

Finally, petitioners assert that, after removing the sales with prices below the cost of production, the data available does not provide an "appropriate basis" to determine a level of trade allowance, and therefore the Department should deny a level of trade adjustment for CEP sales in this investigation. Petitioners note, however, that the Department may grant a CEP offset where a LOT adjustment is not warranted, and where the comparison sales are made at a more advanced level of trade than sales to the United States, in accordance with section 773(a)(7)(B) of the Act.

Ivaco responds that petitioners' argument is specious, because it fails to take into account the fact that the sales used to calculate the LOT adjustment have already passed a below-cost test. As such, petitioners' cite to *Newspaper Presses* is not relevant, since, Ivaco claims, the issue there was whether the Department could use sales when no formal below-cost test was performed. In this case, the Department has already applied the below-cost test once; petitioners are requesting that it now be applied a second time. Ivaco states that petitioners, by contending that the LOT adjustment causes normal values to fall below cost, are asking the Department to: (1) Ignore the actual pricing differentials that exist between above cost sales at levels one and two; (2) perform a second below-cost test on home market sales that have already passed one below-cost test; and (3) perform a below-cost test on weighted-average normal values, which is contrary to the Department's practice for performing a below-cost test. Furthermore, Ivaco points out that it is just as likely that applying a difmer adjustment or a circumstances of sale (COS) adjustment might cause a given FUPDOL to be lower than the original home market sale's cost of production. Despite this fact, the Department has never thrown out such home market sales for failing the cost test. The reason, according to Ivaco, is obvious: the

normal values in question have already passed a below-cost test.

Department Position

We disagree with petitioners that the Department should only apply the cost test to LOT-adjusted home market sales. The statute directs the Department to determine NV based on the price at which the foreign like product is sold for consumption in the home market, in the normal commercial quantities, and in the ordinary course of trade. Section 771(15) of the statute states that the sales which fail the cost test under section 773(b) are deemed to be outside the ordinary course of trade, and therefore should be excluded from the pool of home market sales used to determine NV. The statute contemplates that the remaining sales are suitable for purposes of determining NV. See section 773(b)(1) of the Act. The Department appropriately applies the LOT methodology after the cost test is administered to those sales which, according to the statute, are suitable for establishing NV. Moreover, petitioners ignore the fact that LOT-adjusted home market sales that "fail" the cost test do not do so because the actual selling prices are below cost, but do so as the result of other statutory adjustments to NV, which have nothing to do with determining COP. Thus, LOT-adjusted sales are not made at prices below cost within the meaning of section 773(b) of the Act. Based on the above, the Department finds that the petitioners' proposed methodology is inconsistent with the statute, and will not be used for the final determination.

Comment 3: Ivaco's Proposed Level of Trade Methodology

Ivaco asserts that the Department should use its proposed LOT methodology suggested in its pre-verification submissions. This methodology is to apply the Department's concordance program to the home market sales at level one and the home market sales at level two, and subsequently apply an appropriate difmer adjustment. Ivaco claims that this methodology allows the Department to analyze weight-averaged pricing for both identical and similar products, based on the same standard the Department uses for identifying similar products when comparing U.S. and home market sales. By employing this proposed methodology, the Department can assess the pricing differentials between levels one and two, rather than allowing a handful of products to determine the adjustment, as is currently the case. Furthermore, applying a difmer adjustment will

remove any distortions that would result from differences in the product mix at each level.

Ivaco states that the SAA provides the Department with wide latitude in making a LOT adjustment, and does not mandate that the Department rely solely on home market sales of *identical* products. Ivaco asserts that the Department's methodology is inadequate to demonstrate a pattern of price differences because it takes into account a small percentage of possible comparisons, and accounts for less than 25 percent of the home market sales quantity. Ivaco states that by applying the Department's "difmer" adjustment to the home market sales listing, the Department would avail itself of all home market sales.

Ivaco asserts that by using only identical sales to determine the amount of the adjustment, the Department failed to take into account most of the products sold in the home market, and that the identical matches used were of green rod, thus limiting the price comparison to products that are not representative of the Sivaco Ontario's overall business.

Department Position

We disagree with Ivaco that a difmer adjustment should be used in our LOT methodology in this case. The SAA states that the Department will normally base the calculation on sales of the same product; however, if this information is not available, the adjustment may be based on sales of similar products by the same company. See *The Statement of Administration Accompanying the URAA*, H.R. Doc. 316, Vol. 1, 103d Cong. 830 (1994). Consistent with the SAA, to the extent possible, the Department calculates the LOT adjustment based on identical merchandise to reasonably ensure that the LOT adjustment is isolated to differences in price between the two levels, and not other factors. See e.g., section 351.412 (d)(s) and (e), Final Rule, 62 FR 27415 (May 19, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings and Parts Thereof from France: Final Results of Antidumping Duty Administrative Review*, 62 FR 2081, 2016 (Jan. 15, 1997).

Moreover, we disagree that our standard LOT methodology results in distorted comparisons. Products sold at both home market LOTs account for nearly 25% of the quantity of Ivaco's home market sales. Ivaco's argument that over 98% of the home market control numbers were not used in this calculation does not diminish the fact nearly 25% of Ivaco's production was accounted for. Further, we note that the

control numbers used in the LOT analysis were sold at both LOTs in sufficient quantities for a finding of a pattern of consistent price differences. Ivaco further argued that the Department based its adjustment only on green rod sales, and thus limited the price comparison to products that are not representative of Sivaco Ontario's overall business. Ivaco's assertion, although factually accurate, fails to address the underlying rationale for making a LOT adjustment. The Department's LOT adjustment is designed to isolate pricing differentials due to the provision of *different services* by comparing sales of identical products at different levels of trade. The LOT adjustment isolates pricing differentials which exist due to *services provided to customers*, and not to differences in *products*. Sivaco provided these services to all of its customers, irrespective of the control number associated with the products it sold them. The Department found a pattern of consistence during the POI. These pricing *differentials*, therefore, between sales of identical products sold by Sivaco and IRM, reflect these different services, and thus the different levels of trade. The Department's methodology reflects this principle, in that it calculates only one LOT adjustment percentage for each type of comparison of identical products at different levels of trade, irrespective of the control number of the products being compared.

Comment 4: Freight and Packing Calculation

Ivaco states that the Department incorrectly allocated all freight and packing variables to U.S. and home market sales, when in fact some of these variables are cost items. Ivaco claims that in situations in which Sivaco Ontario, Sivaco Quebec, or Sivaco New York process on behalf of IRM or independently sell the rod themselves, IRM's freight or packing on the unfinished goods shipped to these entities should be part of the cost of production, constructed value and CEP profit.

Petitioners disagree that all freight and packing expenses for movement of rod from IRM to Sivaco Ontario, Sivaco Quebec and Sivaco New York should be included in the cost of production. Citing Section 773(a)(6)(B)(ii) of the Act, as well as several Department determinations, petitioners state that freight and packing expenses are charges deductible from the selling price of the subject merchandise, and the Department adjusts for freight as a COS adjustment where such adjustment constitutes a direct selling expense.

Department Position

We agree with Ivaco, and petitioners in part. We agree with Ivaco that the Department incorrectly assigned all freight and packing expense variables to selling expenses, when in fact some of these variables are cost items. For Ivaco sales of processed rod, the packing and freight required to transport the rod from IRM to the processor is necessary to complete the production process and, as such, is a cost of production. See e.g., *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 37099, 37118 (Feb. 4, 1993). The exception to this practice is with regard to CEP transactions. Consistent with the URAA, for these transactions, all packing and freight expenses incurred in order to transport the subject merchandise to the U.S. processor are treated as further manufacturing expenses for the purpose of establishing the constructed export price and CEP profit. See sections 772(d) and 772(f)(2)(B) of the Act. Freight and packing expenses incurred in order to transport the finished product in condition packed and ready for shipment to the place of delivery are deducted as movement expenses from EP and CEP and treated as direct selling expenses in the home market. See sections 772(c)(2)(A) and 773(a)(6)(B) of the Act. As petitioners have correctly noted, when appropriate, the Department adjusts for such direct expenses through a circumstances of sale adjustment to NV. Therefore, we have modified our programing for the final determination consistent with these principles.

Comment 5: Exclusion of Trials

Ivaco states that the Department should exclude trial sales from its calculations. Petitioners disagree, arguing that the statute only allows the Department to exclude sales that are not within the usual commercial quantities . . . or . . . ordinary course of trade. Petitioners state that the gross weighted-average home market and U.S. prices for the sales Ivaco reported as trials are comparable to the average prices reported for Ivaco's non-trial sales, and that only a certain number of trial sales exceed a certain quantity of short tons in shipment size. Petitioners conclude from these facts that Ivaco's trial sales are "clearly not aberrational and certainly fall within the ordinary course of trade. Accordingly, the Department

should retain these sales in the margin calculation, as well as other programs.

Department Position

We disagree with Ivaco. An analysis of the sales Ivaco reported as trials indicates that the majority of these sales were made in the typical quantities and prices of Ivaco's other sales that were found to be in the normal course of trade. Therefore, for the final determination, the Department has continued to include trial sales in the margin calculations for Ivaco.

Comment 6: Clerical Errors in the Level of Trade Program

Ivaco states that the pattern of price differences (LOT) program does not exclude Ivaco's sales of seconds, and sales of rod manufactured by other manufacturers. Petitioners did not comment on these items.

Department Position

We agree with Ivaco and have modified program for the final determination accordingly.

Comment 7: Clerical Errors in the Arm's Length Program

Ivaco claims that the Department's arm's length program does not exclude seconds, does not incorporate the LOT adjustment, and does not exclude sales of rod manufactured by other manufacturers. Petitioners did not comment on these items.

Department Position

We agree with Ivaco and have modified the final determination accordingly.

Comment 8: Clerical Errors in the Concordance Program

Ivaco claims the Department made several clerical errors in the concordance program used for the preliminary determination. First, Ivaco claims that the Department incorrectly applied the revised billet costs which overstated the reduction in the COM. Ivaco argues that this error artificially eliminates home market sales from comparison with U.S. sales. Ivaco contends that the revised billet costs should also be reflected in a revised value for variable COM. Second, Ivaco claims that the Department's concordance program failed to exclude sales of subject merchandise produced by other manufacturers, trial sales in the home and U.S. markets, and sales of secondary merchandise even though these categories of sales were excluded from the margin calculation program. Finally, Ivaco claims that the Department's concordance program

improperly converted values for control numbers for U.S. sales to character values.

Department Position

We agree with Ivaco that we inadvertently applied the incorrect amount to revised billet costs and inadvertently failed to make a corresponding correction to variable COM. We also agree that sales of subject merchandise produced by other manufacturers and sales of secondary merchandise should be excluded from the concordance program. As we stated in the preliminary determination, we concluded that sales of SWR produced by other manufacturers are outside the scope of this investigation. See *Preliminary Determination*, 62 FR at 51573. In addition, while the Department normally includes sales of secondary merchandise in its margin calculations, matching sales of secondary merchandise in the home market to sales of secondary merchandise in the U.S., the record evidence demonstrates that Ivaco had no U.S. sales of secondary merchandise during the POI; therefore, we have excluded home market sales of secondary merchandise from the concordance program. We have made all of the above changes to the concordance program for the final determination.

We have not excluded trial sales from the concordance program because we have determined that these sales are properly included in the margin calculation, and we have corrected the program accordingly. (see Comment 5). Finally, we have also corrected the concordance program with respect to the assigned values to control numbers for U.S. sales.

Comment 9: Ivaco's U.S. Price Calculations

Ivaco claims that the U.S. price calculation improperly calculates prices without considering levels of trade. Second, Ivaco contends that the Department's program improperly merged the revised further manufacturing data with the U.S. sales data set, causing numerous values to be uninitialized, including the value for revised total further manufacturing costs for all U.S. sales. Third, Ivaco asserts that the Department erred in calculating the indirect selling expenses incurred in Canada by expressing Sivaco Ontario's and IRM's indirect selling expenses as percentages even though Ivaco reported the figures as percentages and also failed to deduct amounts for credit adjustments. Fourth, Ivaco states the Department incorrectly calculated weighted-average U.S. prices by failing

to combine EP and CEP sales in the weighted-average calculation. Fifth, Ivaco argues the Department incorrectly calculated direct U.S. selling expenses by adding the cost of further manufacturing on Ivaco's CEP sales to direct U.S. selling expenses rather than deducting further manufacturing costs from the net U.S. price of the specific CEP transactions which incurred the cost. Sixth, Ivaco claims the Department added rather than subtracted the credit adjustment amount in the calculation of home market revenue for CEP profit.

Department Position

We disagree with Ivaco in part. The Department has properly calculated level of trade. We also disagree that EP and CEP sales should be combined in the weighted-average calculation. Section 777A(d)(1)(A)(i) of the Act directs the Department to compare weighted-average NVs to weighted-average EP or weighted-average CEP sales. See e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997). Because different statutory adjustments are made to determine the net price of EP and CEP sales, combining these prices to calculate a single weighted-average price would distort the margin calculation. We agree, however, that the margin calculations contain the other clerical errors identified above and have corrected the calculations accordingly for the final determination. In addition, we have added amounts for credit to the calculation of U.S. direct selling expenses.

Comment 10: Clerical Errors in Ivaco's CV Calculations

Ivaco asserts that the CV calculation contains the following clerical errors: (1) Direct and indirect selling expenses should be included in the calculation of net cost of production, (2) credit expenses should be excluded because they are imputed rather than actual expenses, (3) the CV calculation should be based upon selling expenses and profit for each LOT in the home market, (4) in calculating CV by LOT, the Department should correct the program to ensure that each U.S. sale will be matched to a constructed value at the same LOT, (5) variable credit expenses should be excluded from the CV calculations.

Department Position

We agree with Ivaco that we inadvertently excluded indirect and direct selling expenses from the calculation of net price cost of

production and included credit and variable credit expenses in the CV calculations. We have corrected the margin calculations accordingly for the final determination. However, we disagree that CV should be calculated based upon LOT. As explained in the preliminary determination, our methodology is not to calculate CV based upon LOT. Rather, we calculate CV and then use the sales from which we derived selling expenses and profit in CV to determine the LOT of CV. The CV calculation program is consistent with the Department's standard methodology; therefore, we have not made Ivaco's suggested changes concerning LOT to the CV calculations.

Comment 11: Clerical Errors in Ivaco's CEP Calculations

Ivaco contends that several clerical errors exist in the calculation of CEP and CEP profit. First, Ivaco asserts that after correcting the calculation of U.S. indirect selling expenses as discussed above, the Department should make appropriate corrections to the calculation of total selling expenses in the CEP profit calculation. Second, Ivaco claims that the calculation of U.S. direct selling expenses should exclude amounts for imputed expenses and expenses incurred in the country of manufacture. Third, inventory carrying costs incurred for U.S. sales was reported in Canadian currency, and therefore, should be converted into U.S. dollars. Fourth, the calculation of U.S. selling expenses should be corrected to reflect amounts only for indirect selling expenses. Fifth, the Department should revise the CEP selling expenses variable to include direct selling expenses for further manufacturing and indirect selling expenses incurred in the U.S., including imputed expenses. Sixth, the calculation of CEP net price should be corrected to reflect the changes made in direct and indirect selling expenses.

Petitioners did not comment on any of these alleged clerical errors.

Department Position

We agree with Ivaco and have modified the calculations for the final determination accordingly.

Comment 12: Clerical Errors in Ispat-Sidbec Sales Below Cost Test

Ispat-Sidbec alleges that the Department made a clerical error in the sales below cost test. Ispat-Sidbec claims that the Department calculated the net price for each home market sale by deducting all movement, selling, and packing expenses from the gross unit price. The Department then compared this net price to a COP composed of the

cost of manufacture, plus general and administrative expenses, net interest expense, plus selling expenses. Ispat-Sidbec claims that this results in an "apples-to-oranges" comparison, and that the Department should compare net price to a cost of production composed solely of total cost of manufacture, general and administrative expenses, and interest expenses. Ispat-Sidbec argues that the Department should change the margin calculation program accordingly for the final determination. Petitioners have no comment on this issue.

Department's Position

We agree with Ispat-Sidbec and have modified the calculations accordingly.

Comment 13: Exclusion of Secondary and Non-Prime Sales in Ispat-Sidbec Arm's Length Test

Ispat-Sidbec argues that the Department improperly excluded sales of secondary or non-prime merchandise from the arm's length test. Ispat-Sidbec contends that because the Department calculates dumping margins on sales of both prime and secondary merchandise, the Department's general practice is to include both types of merchandise in its arm's length test. To support its argument, respondent cites *Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 7066, 7069 (February 4, 1993), and *Certain Cold-Rolled Carbon Steel Flat Products from Germany*, 60 FR 65264, 65273 (December 19, 1995), in which an arm's length analysis was performed on all sales.

Petitioners agree with Ispat-Sidbec that the Department's consistent practice for steel cases is to perform the arm's length test on all sales, including prime and secondary (non-prime) merchandise. However, petitioners also note that the Department recognizes the potential for distortion if sales of non-prime merchandise are compared to sales of prime merchandise. Therefore, argues petitioners, the Department must separate the non-prime from the prime merchandise before performing the arm's length test.

Department's Position

We agree with respondent that the Department improperly excluded sales of non-prime merchandise from the arm's length test. We also agree with petitioners that sales of prime and non-prime merchandise must be separated before performing the arm's length test. As noted in *Certain Cold-Rolled Carbon Steel Flat Products from Germany*, in cases where sales of prime and secondary merchandise were reported

together in the same CONNUM, the Department treated them as separate CONNUMs for purposes of the arm's length test. For purposes of the final determination, the arm's length test has been conducted on all of Ispat-Sidbec's home market sales, separating prime from non-prime merchandise.

Comment 14: Ispat-Sidbec Model Match

Ispat-Sidbec argues that the model match hierarchy matched both non-AWS welding grades (GRDRANGH/U = '81') and products sold according to ASTM and CSA grades (GRDRANGH/U = '91') to the numerically closest ranges, instead of to the most similar match. Ispat-Sidbec argues that, for example, welding grades are most similar to each other, and AWS grades are most similar to non-AWS welding grades. Ispat-Sidbec proposes that the Department modify the model match hierarchy to produce the most similar matches.

Department's Position

At the home market verification, we examined several sales of products classified as GRDRANGH/U = '81' and verified the appropriateness of the grade range classification. We agree with respondent that such non-AWS welding grade products should be matched to other welding grade products in the absence of an identical match, and have modified the model match hierarchy accordingly for purposes of the final determination. However, with respect to products classified as GRDRANGH/U = '91' (products sold according to ASTM and CSA grades) we do not accept Ispat-Sidbec's separate classification of these products. In general, such products should fall within the AISI grade ranges determined by the Department. No such products were examined at verification, and the Department does not have enough information to determine which AISI grade range is most appropriate for these ASTM and CSA grade products. We also note that only a small number of home market sales were classified as GRDRANGH = '91,' and that no products classified as GRDRANGU = '91' were sold in the U.S. market. Therefore, we have not used products with GRDRANGH = '91' in the margin calculation for the final determination.

Comment 15: Classification of Silicon-Killed Steel with Titanium Additives ("Grade X")

Stelco argues that the Department erroneously classified Stelco's product coding for one product sold by Stelco (e.g., silicon-killed steel with titanium additives or "Grade X"). Stelco contends that this classification, which allegedly results in an inappropriate

product matching of dissimilar Grade X U.S. sales to dissimilar Grade X home market sales, is inconsistent with Department practice, court decisions, the underlying structure of the product matching hierarchy in this proceeding, and positions argued by petitioners at the outset of this investigation. Therefore, the Department should accept Stelco's revised product coding to ensure that Stelco's Grade X U.S. sales are matched only to Stelco's Grade X home market sales and accordingly revise the margin calculations of the final determination.

Stelco argues that Grade X steel warrants a separate deoxidation category other than those deoxidation categories, as defined in the Department's May 22, 1997 letter to Stelco, which revised the product coding system. Respondent maintains that such steel is fine-grained because titanium (an element not defined in any of the deoxidation codes in the above-mentioned letter) is a grain refiner. Classifying Grade X under deoxidation code of "2" for "silicon-killed" is inappropriate because silicon-killing is a deoxidant for coarse-grained steel rather than fine-grained steel. Stelco insists that merging coarse-grained steels with fine-grained steels is inconsistent with Department practice and courts decisions. Citing *NTN Bearing Corp. v. United States*, 747 F. Supp. 726 (CIT 1990), Stelco asserts that the principal objective of the Department's model match program is to obtain the most useful comparison possible. Stelco also argues that in practice the Department will consider a respondent's internal product code system in developing its product matching hierarchy as set forth in 19 CFR 351 (62 FR 27296, 27378 (May 19, 1997)).

Stelco contends that given the status of Grade X as a fine-grained steel, the Department should consider the most appropriate classification for Grade X steel. Stelco maintains that due to the physical, cost and price distinctions, this steel should not be classified under a deoxidation code of "2" for "silicon-killed." Stelco claims that important physical differences exist between coarse-grained, silicon-killed steel correctly classified as a deoxidation code of "2" and Grade X steel and that the most significant differences are the grain-refining process and the resulting grain size. Furthermore, it maintains that, as presented at verification, the current cost information for a standard coarse-grained, silicon-killed steel and a Grade X steel demonstrates a vast cost difference between the two products. It also maintains that a similar

examination of the Section D cost information for the same two products evidences disparities in the costs for the two products. Therefore, Stelco urges the Department to not reclassify Grade X steel under the deoxidation code of 2 for "silicon-killed."

Petitioners urge the Department to reject Stelco's request to reclassify Grade X steel. They argue that Stelco did not suggest that titanium had special properties that required a separate category during the product coding comment process at the outset of this investigation or for two months after the comment period, and that since that time, Stelco has presented no dispositive evidence to support its classification. Thus, petitioners maintain that Stelco's request to reclassify Grade X steel should be denied.

First, petitioners assert that Stelco's request to reclassify Grade X steel under a separate model match was untimely. They state that the Department conducted a thorough inquiry on model match issues, providing an opportunity for parties to argue extensively over whether and how to categorize different deoxidation and grain refinement practices. Since Stelco did not comment on the impact of titanium in the deoxidation process during this period, petitioners argue that the Department did not address this issue in its revised reporting instructions for product characteristics. As a result, the Department only created five deoxidation categories.

Second, petitioners insist that they have submitted reliable scientific evidence from multiple sources demonstrating that titanium is not a reliable grain refiner. They claim that they have shown that titanium grain refined is not a recognized industry product classification, and that purchasers generally do not specify titanium as a grain refiner. Petitioners refute respondent's claim that Grade X has fine-grain structure and that its customers requested the addition of titanium to produce fine-grain rods. Citing the Stelco Sales Verification Report, they argue that the first point is irrelevant, claiming that only specified physical characteristics matter. Given that Stelco provided the Department only "hand-picked" samples of Grade X steel, the existence of fine-grained steel is expected because titanium widely affects the grain structure. Therefore, petitioners reiterate that Stelco has failed to provide record evidence for its claim that titanium is a grain refiner. As such, they argue that the Department should classify Grade X steel as silicon-killed steel.

Department's Position

The Department agrees with petitioners that reclassification of Stelco's Grade X steel is not warranted in this case. First, the Department's May 22, 1997, letter to respondents which revised the reporting instructions for product characteristics for this investigation was "in response to interested party comments regarding modifications to the product characteristic reporting requirements." See May 22, 1997, letters to Ivaco, Sidbec and Stelco at 1-3. After careful review of the comments received from both petitioners and respondents, the Department "modified the product reporting instructions," including a field for deoxidation practices. *Id.* As a result, the Department derived the various deoxidation codes, as identified in the above-cited letter. Thus, all interested parties had an opportunity to review and comment on the Department's product characteristic reporting requirements.

Second, since the issue of titanium as a grain refiner was not addressed during the comment period and since the Department did not intend to account for every conceivable physical characteristic in the subject merchandise, the Department did not subdivide a separate category for silicon-killed with titanium additives. The Department bases the product matching criteria on commercially meaningful characteristics and on interested parties' comments, which permits the Department to draw reasonable distinctions between products for matching purposes, without attempting to account for every possible difference inherent in the merchandise. Through this process, the Department is able to match certain products as "identical," consistent with section 771(16)(A) of the Act, even though they contain minor differences. See e.g., *Final Determination of Sales at Less Than Fair Value; Gray Portland Cement and Clinker from Mexico*, 55 FR 29244, 29247-48 (July 18, 1990). Furthermore, the Department need not account for every conceivable physical characteristic of a product in its model matching hierarchy. As such, in creating the various deoxidation codes, which reflected parties' comments, the deoxidation code of "2" for "silicon-killed" was intended to include all silicon-killed steels other than silicon-killed vanadium or niobium grain-refined steels. Since silicon-killed steel with titanium additives is not included among the five specific deoxidation codes, the Department has reclassified Grade X steels as Code "2" for "silicon-

killed." See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod from Canada*, 62 FR 51573 (October 1, 1997).

Comment 16: Rejection of Stelco Sales Data Due to Numerous Verified Changes

Petitioners urge the Department to reject the changes made to Stelco's revised December 2, 1997, sales listing and to calculate U.S. price and NV based on the sales listing submitted prior to the above-cited submission. They assert that Stelco's changes, as found by the Department at verification, affected a number of inputs to U.S. price and NV, including rebates, freight taxes, inventory carrying costs, packing costs and inland freight. Because these changes were presented at verification, petitioners claim that neither they nor the Department had the opportunity to verify thoroughly these significant changes. Furthermore, they argue that even at verification, the Department found several inaccuracies in the revised data and that they find it difficult to ascertain whether Stelco has actually corrected all the errors identified at verification. As such, for its final determination, the Department should reject these changes and calculate U.S. price and NV based on the sales tapes submitted prior to Stelco's December 2, 1997, submission.

Stelco urges the Department to accept Stelco's verified information, insisting that petitioners are incorrect in alleging that Stelco's December 2, 1997, sales tapes contain last-minute revisions. Stelco states that respondents in an investigation are permitted by long-standing Department policy to present corrections to their response found when preparing for verification. In supporting its allegation, Stelco cites section 351.301(b)(1) of the Department's regulations. In addition, respondent asserts that it presented its list of corrections at the outset of verification, and that the corrections were minor. See *Stelco Sales Verification Report* at 1.

Department Position

We agree with Stelco that it is appropriate to use its revised sales listings for purposes of this final determination. The Department's practice is to permit respondents to submit minor corrections to their submitted sales data prior to verification for use in the final determination. See e.g., *Certain Cut-to-Lengths Carbon Steel Plate from the People's Republic of China*, 62 FR 61996 (November 20,

1997). At the outset of its verification, Stelco presented a list of corrections it found while preparing for verification. The Department's review of the corrections during the course of the verification indicates that they were caused by oversight or clerical error on the part of Stelco. See *Stelco's Sales Verification Report* at 1. In addition, as a result of corrections found at the beginning of verification, the Department instructed Stelco to revise its sales listings. In previous cases, the Department has accepted such corrections for the final determination. Therefore, the Department disagrees with petitioners' request to reject Stelco's December 2, 1997, sales tapes due to minor errors which allegedly affected a host of inputs to U.S. price and normal value and believes that Stelco's latest submission of sales data is the most appropriate version for the final margin calculations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of steel wire rod from Canada, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated duty margins by which the normal value exceeds the USP, as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weight-average margin percentage
Ispat-Sidbec Inc.	11.94
Ivaco, Inc.	11.47
Stelco, Inc.	0.91
All Others Rate	11.62

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that

such injury does exist, the Department will issue antidumping duty orders directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: February 13, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-4700 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Vermont; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97-098. Applicant: University of Vermont, Burlington, VT 05405. Instrument: Special Laboratory Glass. Manufacturer: Louwers Hapert Glasstechnics BV, The Netherlands. Intended Use: See notice at 63 FR 809, January 7, 1998.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated January 5, 1998, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98-4694 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**National Institute of Standards and Technology**

[Docket No. 980107004-8004-01]

Proposed Withdrawal of Nineteen Federal Information Processing Standards (FIPS) Publications

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The following Federal Information Processing Standards (FIPS) Publications are proposed for withdrawal from the FIPS series:

- FIPS 41, Computer Security Guidelines for Implementing the Privacy Act of 1974
- FIPS 69-1, FORTRAN (ANSI X3.9-1978/R1989)
- FIPS 100-1, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating (DCE) for Operation with Packet-Switched Data Networks (PSDN), or Between Two DTEs, by Dedicated Circuit (ANSI X3.100-1989)
- FIPS 120-1, Graphical Kernel System (GKS) (ANSI X3.124-1985/R1991; X3.124.1-1985/R1991; X3.124.2-1988/R1994; X3.124.3-1989; and ISO/IEC 8651-4:1991)
- FIPS 125-1, MUMPS (ANSI/MDC X11.1-1990)
- FIPS 128-2, Computer Graphics Metafile (CGM) (ANSI/ISO 8632.1-4:1992[1994]; 8632:1992/Amd.1:1994 & Amd.2:1995; MIL-D-28003A+Amd.1; and ATA Spec. 2100, Version 2.1)
- FIPS 138, Electrical Characteristics of Balanced Voltage Digital Interface Circuits
- FIPS 142, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits
- FIPS 143, General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit-Terminating Equipment (EIA-RS-449)
- FIPS 146-2, Profiles for Open Systems Internetworking Technologies (POSIT)
- FIPS 148, Procedures for Document Facsimile Transmission
- FIPS 153-1, Programmer's Hierarchical Interactive Graphics System (PHIGS) (ANSI/ISO 9592.1,2,3:1989; 9592.1a,2a,3a,4:1992; 9593.1:1990; 9593.3-1990; 9593.4:1991; and 9593.1/AM1,3/AM1,4/AM1:1991)
- FIPS 154, High Speed 25-Position Interface for Data Terminal Equipment and Data Circuit-

Terminating Equipment (EIA-530-1987)

- FIPS 160, C (ANSI/ISO 9899:1992)
- FIPS 177-1, Initial Graphics Exchange Specification (IGES) (ANSI/US PRO-100-1993, Version 5.2, LEP Application Protocol, IP-110-1994, and Engr. Dwg. (Class II) Subset (MIL-D-28000A), Dec. 1992 Version)
- FIPS 178, Video Teleconferencing Services at 56 to 1,920 kb/s (ITU-T Recommendations H.221-1993, H.230-1993, H.242-1993, H.261-1993, and H.320-1993)
- FIPS 179-1, Government Network Management Profile (GNMP)
- FIPS 183, Integration Definition for Function Modeling (IDEFO)
- FIPS 184, Integration Definition for Information Modeling (IDEF1X)

Many of these FIPS adopt voluntary industry standards for Federal government use, but the FIPS documents have not been updated to reference current or revised voluntary industry standards. Others of these FIPS provide advisory guidance to Federal agencies with no requirements for compulsory and binding use. Federal agencies and departments are directed by the National Technology Transfer and Advancement Act of 1995, Public Law 104-113, to use technical standards that are developed in voluntary consensus standards bodies. Consequently, there no longer is a need for FIPS that duplicate voluntary industry standards.

Prior to the submission of this proposed withdrawal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of industry, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may obtain copies of these standards and guidelines from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, telephone (703) 605-6000.

DATES: Comments on this proposed withdrawal of these FIPS must be received on or before May 26, 1998.

ADDRESSES: Written comments concerning the withdrawal should be sent to: Director, Information Technology Laboratory, ATTN: Proposed Withdrawal of 19 FIPS, Technology Building, Room A-216, National Institute of Standards and Technology, Gaithersburg, MD 20899. Electronic comments should be sent to: fips.comments@nist.gov

Comments received in response to this notice will be made part of the public record and will be made

available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT:

Ms. Shirley M. Radack, telephone (301) 975-2833, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, Public Law 104-106.

Dated: February 17, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98-4683 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-CN-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Proposed Collection; Comment Request**

TITLE: Certificate of Exemption Renewal.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 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 Steven Springer, National Marine Fisheries Service, Office of Enforcement, 8484 Georgia Ave., Suite 415, Silver Spring, Maryland, 20910, Telephone (301) 427-2300.

SUPPLEMENTARY INFORMATION:**I. Abstract**

This information is collected to (1) grant certain members of the public an exemption under the Endangered Species Act of 1973 to which they would not otherwise be entitled, and (2) to manage the program and provide for effective law enforcement. The exemption allows holders to engage in interstate or foreign commerce in otherwise prohibited endangered species parts as long as those parts were part of the holder's inventory prior to the effective date of the Act. Exemption holders must submit quarterly reports, usually just invoices of an sale or transfer of items

II. Method of Collection

Respondents will meet the requirements set forth in the regulation. No forms will be used.

III. Data

OMB Number: 0648-0078.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Response: .5 hrs for renewal requests, 1 hour for a quarterly report.

Estimated Total Annual Burden Hours: 41.

Estimated Total Annual Cost to Public: \$0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4583 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Agency Information Collection Activities: Proposed Collection; Comment Request**

Title: U.S. Fishermen Fishing in Russian Waters.

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 April 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 Bob Dickinson, Office of Sustainable Fisheries, International Fisheries Division, 1315 East West Highway, Silver Spring, Maryland 20910, (301) 713-2337.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Regulations at 50 CFR Part 300 Subpart J govern U.S. fishing in the Russian Federation Economic Zone, and implement provisions of the "Agreement between the Government of the United States of America and the Government of the Russian Federation on Mutual Fisheries Relations." Under the Agreement, Russian authorities may permit U.S. fishermen to fish for allocations of surplus stocks in the Russian Economic Zone, a zone extending up to 200 nautical miles off

the coast of the Russian Federation. Collection of information from permitted U.S. vessels is necessary to monitor their activities and whereabouts in Russian and U.S. waters and to ensure that permitted U.S. vessels are adhering to relevant Russian and U.S. fishery management regulations.

II. Method of Collection

Permit applications and copies of permits are mailed. Vessel abstract reports, and depart and return messages, are faxed to NOAA.

III. Data

OMB Number: 0648-0228.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit (commercial fishing companies).

Estimated Number of Respondents: 10 (multiple responses).

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 75.

Estimated Total Annual Cost to Public: 0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4587 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Subsequent Purchaser Reports; Proposed Collection; Comment Request**

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 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 Steven Springer, National Marine Fisheries Service, Office of Enforcement, 8484 Georgia Ave., Suite 415, Silver Spring, Maryland 20910, Telephone (301) 427-2300.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Under the Endangered Species Act (ESA) it is illegal to engage in interstate or foreign commerce of products comprised of endangered fish or wildlife. This information is collected to (1) grant certain members of the public an exemption under the ESA of 1973 to which they would not otherwise be entitled, and (2) to manage the program and provide for effective law enforcement.

II. Method of Collection

Respondents will meet the requirements set forth in the regulation. No forms will be used. Information is contained on receipts.

III. Data

OMB Number: 0648-0079.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 150.

Estimated Total Annual Cost to Public: \$0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4588 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Coastal Zone Management Program Administration Grants; Proposed Collection; Comment Request**

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 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 Joseph A. Uravitch,

Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713-3155 ext. 195.

SUPPLEMENTARY INFORMATION:**I. Abstract**

Coastal zone management grants provide funds to states and territories to implement Federally-approved Coastal Zone Management Programs and to develop assessment documents and multi-year strategies. NOAA is requesting OMB approval of related performance and annual report requirements, state requests for amendments or routine program changes in their approved coastal zone management programs, and of program management and assessment/strategy documents.

II. Method of Collection

These requirements are contained in 15 CFR 923 and in guidance sent to grant awardees.

III. Data

OMB Number: 0648-0119.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: State governments.

Estimated Number of Respondents:

34.

Estimated Time Per Response: 8-20 hours for performance reports, 480 hours for program management documents, 350 hours for assessment/strategy documents, and 8 hours for program amendments or changes.

Estimated Total Annual Burden Hours: 6,131.

Estimated Total Annual Cost to Public: \$0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4589 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Taking and Importing Marine Mammals: Deterrence Regulations and Guidelines; Proposed Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 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 Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226, telephone 301-713-2332.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act (MMPA) provides authority for individuals under the jurisdiction of the United States to deter marine mammals from: damaging private property, including fishing gear or catch, endangering public safety, and damaging public property. The MMPA requires the National Marine Fisheries Service (NMFS) to publish a list of guidelines for use in safely deterring marine mammals and to prohibit deterrence measures that have a significant adverse effect on marine mammals. A rule will set forth these guidelines and prohibitions, including requirements for reporting unintentional

marine mammal mortality, petitioning NMFS to prohibit deterrent devices that might seriously injure or kill a marine mammal, and for the authorization to use certain measures to non-lethally deter marine mammals listed under the Endangered Species Act.

II. Method of Collection

Respondents will meet the requirements set forth in the regulation. No forms will be used.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: (1) Any member of the public having an interaction with a marine mammal that for reasons of personal safety, results in the death of the marine mammal. (2) Any member of the public wishing to petition NMFS to have certain deterrence measures either prohibited from use because they may seriously injure or kill a marine mammal or authorized for proper use on marine mammals listed as either threatened or endangered under the Endangered Species Act.

Estimated Number of Respondents: 3 (1 mortality report and 2 petitions per year).

Estimated Time Per Response: 30 minutes per mortality report, 40 hours per petition.

Estimated Total Annual Burden Hours: 81.

Estimated Total Annual Cost to Public: \$0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4590 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Billfish Angler Survey; Proposed Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 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 Dave Holts, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038-0271; (619) 546-7186.

SUPPLEMENTARY INFORMATION:

I. Abstract

The survey monitors volunteer angler fishing effort in the Pacific area. The data collected consists of catch and catch locations, how the fish are caught, data on vessel characteristics, and environmental conditions during catch. The data is used by fishery managers and is reported annually in the Billfish Newsletter.

II. Method of Collection

Survey cards are sent out with the Billfish Newsletter published in May of each year. Anglers are requested to fill out the NOAA 88-10 form by hand and return it to the Southwest Fisheries Science Center.

III. Data

OMB Number: 0648-0020.

Form Number: NOAA 88-10.

Type of Review: Regular Submission.

Affected Public: Individuals (billfish anglers).

Estimated Number of Respondents: 750.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 62.5.

Estimated Total Annual Cost to Public: 0 (no capital expenditures are required).

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: February 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98-4591 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020998C]

Federal Investment Task Force; Public Meeting

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

ACTION: Notice of Public Meeting.

SUMMARY: The Sustainable Fisheries Act (SFA) requires the Secretary of Commerce (Secretary) to establish a task force to study the role of the Federal Government in subsidizing fleet capacity and influencing capital investment in fisheries. The Federal Investment Task Force will hold its second meeting on March 5-7, 1998, in Tampa, FL.

DATES: The meeting of the task force will be held March 5-7, 1998 See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Ramada Inn and Conference Center, 5303 W. Kennedy Boulevard, Tampa, Florida 33609; telephone (813) 289-1950.

FOR FURTHER INFORMATION CONTACT: Robert Beal, Atlantic States Marine Fisheries Commission, (202) 289-6400; fax:(202) 289-6051; email: rbeal@asmfc.org; or Matteo Milazzo, (301) 713-2276

SUPPLEMENTARY INFORMATION:

Meeting Dates

March 5, 1998, 1:00 p.m. to 5:00 p.m.

The Task Force will hear a presentation and have a discussion on the influence of U.S. Fishery policy on capacity and capitalization of fishing fleets. The Task Force will also review the Federal programs that were discussed at the previous meeting.

March 5, 1998, 7:00 p.m. to 9:00 p.m.

The Task Force will hear public input regarding the Federal Investment Study. The public is encouraged to comment on the general scope and concept of the study, as well as the effect of Federal programs on the capacity and capitalization of fishing fleets.

March 6, 1998, 8:30 a.m. to 5:00 p.m.

The Task Force will have an open discussion on the effects of various Federal programs on capacity and capitalization of fishing fleets. The Task Force will also discuss the follow-up work that was to be completed following the first meeting.

March 7, 1998, 8:30 a.m. to 5:00 p.m.

The Task Force will hear a presentation and have a discussion on the influence of Federal tax policy on capacity and capitalization of fishing fleets. The Task Force will also discuss the influence of other Federal agencies and policies on fishing capacity and fleet capitalization.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Bob Beal at (202) 289-6400 at least 5 days prior to the meeting date.

Dated: February 18, 1998.

Richard W. Surdi,

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

[FR Doc. 98-4535 Filed 2-18-98; 4:46 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120996A]

Magnuson Act Provisions; Essential Fish Habitat; Public Meeting

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

ACTION: Notice of Meeting.

SUMMARY: The Alaska Region of the NMFS will hold an essential fish habitat (EFH) core team meeting to discuss the following items: strategic investment framework, FY 98 spending plan, habitat criteria paper and habitat areas of particular concern, EFH habitat assessment reports, GIS maps for survey and observer data, EFH technical team recommendations, EFH research needs, EFH proposed conservation and enhancement measures, fishing and non-fishing threats, prey species, public comments on EFH habitat assessments. There will also be an evening meeting/workshop to allow for more public involvement and public comment.

DATES: The Alaska Region core EFH team will meet Monday, March 2 through March 5 or 6, 1998, in Juneau, Alaska. The public is invited to participate from 11 a.m., Monday, March 2 through noon on Wednesday, March 4, 1998. From Wednesday afternoon through Friday the core team meeting will be limited to National Marine Fisheries Service employees only. There will be an evening public workshop on Tuesday, March 3, 1998, from 7 to 9 p.m.

ADDRESSES: The EFH core team will meet in Juneau, Alaska, at the Federal Building, 709 West 9th, room 445. The evening workshop will be March 3, 1998, from 7 to 9 p.m. at the Centennial Hall Convention Center, Egan Room, 101 Egan Drive in Juneau, Alaska.

Questions should be addressed to Protected Resources Management Division, ATTN: Cindy Hartmann, 709 W. 9th, Suite 461, P.O. Box 21668, Juneau, AK 99802-1668; telephone: (907) 586-7585.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, NMFS, (907) 586-7585, e-mail:

Cindy.Hartmann@noaa.gov

SUPPLEMENTARY INFORMATION:

Background

The NMFS Alaska Region core EFH team was formally established in April 1997 to implement the EFH provisions

of the Magnuson-Stevens Fishery Conservation and Management Act. EFH provisions include the description and identification of essential fish habitat and threats to that habitat and coordination and consultation on actions that may adversely affect EFH. From 11 a.m., Monday, March 2 through noon, Wednesday, March 4, the EFH core team will review and discuss the available information and be open to public comments. From 1 p.m., Wednesday, March 4 through the end of the meeting (Thursday or Friday) only NMFS employees will continue to meet to review the best available scientific information and draft NMFS EFH recommendation(s). This meeting is open to the public only from 11 a.m., Monday, March 2 to noon Wednesday, March 4, 1998.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cindy Hartmann, (907) 586-7235, at least 5 working days prior to the meeting date.

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

Dated: February, 12, 1998.

James P Burgess,

*Director, Office of Habitat Conservation
National Marine Fisheries Service.*

[FR Doc. 98-4682 Filed 2-19-98; 4:54 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021398B]

Magnuson Act Provisions; Essential Fish Habitat; Public Meeting

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

ACTION: Notice of Meeting.

SUMMARY: NMFS is convening a meeting of the Pacific coast groundfish essential fish habitat (EFH) technical team to review EFH descriptions for groundfish and adverse affects on groundfish EFH. The meeting is open to the public.

DATES: The meeting will be held March 2, 1998, from 7:00 pm to 10:00 pm.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council offices, 2130 SW Fifth Ave., Suite 224, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, 206-526-6120.

SUPPLEMENTARY INFORMATION: NMFS is in the process of developing recommendations on EFH for Pacific coast groundfish in accordance with recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act. EFH recommendations to be presented to the Pacific Fishery Management Council for an amendment to the Pacific Coast groundfish fishery management plan (FMP) include a description of EFH for groundfish species managed by the FMP; a description of adverse effects to EFH including fishing and non-fishing threats; and a description of measures to ensure the conservation and enhancement of EFH.

NMFS has formed a technical team consisting of individuals from the fishing industry, environmental, state, tribal, and Federal interests and agencies to provide technical input and advice on the development of the NMFS recommendations. The first meeting of the technical team was held on January 30, 1998. The technical team will meet a second time on March 2 to review draft EFH documents as they are prepared. The meetings will be open to the public and the public will have an opportunity to comment. EFH documents will be available at the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Yvonne deReynier (206-526-6120) at least 5 working days prior to the meeting date.

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

Dated: February 17, 1998.

James P. Burgess,

*Director, Office of Habitat Conservation,
National Marine Fisheries Service.*

[FR Doc. 98-4533 Filed 2-18-98; 4:46 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021398D]

Endangered Species; Permits

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

ACTION: Notice of receipt of an application for modification 4 to enhancement permit 895 and notice of public hearings.

SUMMARY: Notice is hereby given that the U.S. Army Corps of Engineers at Walla Walla, WA (Corps) has applied in due form for a modification to Permit 895 that would provide authorization for takes of Endangered Species Act (ESA) listed steelhead for the purpose of enhancement. Notice is also hereby given that NMFS will conduct public hearings on the Corps' request for a modification to Permit 895 and the request from the Fish Passage Center at Portland, OR (FPC) for modification 5 to scientific research permit 822, that authorizes takes of ESA-listed species associated with the Smolt Monitoring Program. Information received at the hearings will assist NMFS in the preparation of an ESA supplemental Section 7 biological opinion.

DATES: Public hearings are scheduled for March 10, 1998; March 11, 1998; March 12, 1998; and March 17, 1998 from 6:00 p.m. - 9:00 p.m., or until all comments have been heard. The comment period for the permit modification application ends on March 27, 1998. Time is provided for concerned parties to respond to the testimony presented at the public hearings.

ADDRESSES: Public hearings will be held at the following locations:

March 10 - Natural Resource Center, 1387 S. Vinnell Way, Boise, ID;

March 11 - Lewiston Community Center, 1424 Main Street, Lewiston, ID;

March 12 - Columbia Basin Community College, 2600 N. 20th Avenue, Pasco, WA, and;

March 17 - Federal Complex Auditorium, 911 NE. 11th Avenue, Portland, OR.

The permit modification application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226 (301-713-1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232-4169 (503-230-5400).

Written comments should be submitted to the Chief, Protected Resources Division in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Robert Koch, Protected Resources Division (503-230-5424).

Special Accommodations

The hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Lisa Hensler at (503) 230-5414 at least five days prior to the date of the respective hearing.

SUPPLEMENTARY INFORMATION: The public hearings are being presented by NMFS as a forum for concerned parties to provide comments on the Corps' request for modification 4 to permit 895 and FPC's request for modification 5 to scientific research permit 822. A future notice is expected to be issued on the receipt of an application for modification 5 to FPC's permit 822. Information received at the hearings will assist NMFS in the preparation of the supplemental biological opinion.

The Corps requests a modification to Permit 895 under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217-227).

Permit 895 authorizes the Corps annual direct takes of juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*); juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with the Corps' juvenile fish transportation program at four hydroelectric projects on the Snake and Columbia Rivers in the Pacific Northwest (Lower Granite, Little Goose, Lower Monumental, and McNary Dams). Permit 895 also authorizes the Corps annual incidental takes of ESA-listed adult fish associated with fallbacks through the juvenile fish bypass systems at the four dams. The purpose of the juvenile fish transportation program is to enhance the survival of migrating anadromous salmonids that would otherwise be subjected to adverse environmental conditions at the dams and reservoirs on the rivers.

For modification 4 to the permit, the Corps requests: (1) Annual direct takes of juvenile, endangered, naturally-produced and artificially-propagated, upper Columbia River steelhead (*Oncorhynchus mykiss*) and juvenile, threatened, Snake River steelhead (*Oncorhynchus mykiss*) associated with the transportation program; and (2) annual incidental takes of ESA-listed adult steelhead associated with fallbacks through juvenile fish bypass systems. ESA-listed steelhead indirect and incidental mortalities associated with the transportation program are requested. Also for modification 4, the Corps requests an extension of the expiration date of permit 895 to December 31, 1999. Permit 895 is currently due to expire on December 31, 1998. The Corps is conducting a

feasibility study to evaluate several alternatives to juvenile fish transport including: Removing parts of dams to restore natural river conditions, new bypass alternatives including surface collector systems, the role of the juvenile fish transportation program in long-term recovery efforts, and improving existing bypass systems. The study is scheduled to be completed by late 1999. An extension of permit 895 through December 31, 1999 will allow the duration of the permit to coincide with the completion of the feasibility study.

To date, protective regulations for threatened Snake River steelhead under section 4(d) of the ESA have not been promulgated by NMFS. This notice of receipt of an application requesting a take of this species is issued as a precaution in the event that NMFS issues protective regulations that prohibit takes of Snake River steelhead. The initiation of a public comment period on the application, including its proposed take of Snake River steelhead, does not presuppose the contents of the eventual protective regulations.

NMFS is preparing a supplemental biological opinion to the March 2, 1995 opinion that will analyze the impacts to ESA-listed steelhead due to the continuation of these activities. On March 2, 1995, NMFS issued a biological opinion that addresses impacts to ESA-listed Snake River salmon due to the operation of the Federal Columbia River Power System. That opinion also addresses NMFS' issuance of ESA section 10 permits that authorize takes of ESA-listed species associated with the Corps' juvenile fish transportation program and FPC's Smolt Monitoring Program. Relevant scientific and commercial information received at the hearings will also assist NMFS in the preparation of this supplemental biological opinion on the project.

Anyone wishing to make a presentation at any of the public hearings should register upon arrival and be prepared to provide a written copy of their testimony at the time of presentation. Depending on the number of persons wishing to speak at each respective hearing, a time limit may be imposed. All statements and opinions summarized in this notice are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: February 18, 1998.

Nancy I. Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98-4579 Filed 2-18-98; 4:46 pm]

BILLING CODE 3510-22-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Honduras

February 18, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 352/652 is being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 68261, published on December 31, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 18, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Honduras and exported during the period which began on January 1, 1998 and extends through March 26, 1998.

Effective on February 24, 1998, you are directed to increase the limit for Categories

352/652 to 2,898,411 dozen¹ of which not more than 1,941,519 dozen shall be in Categories 352-K/652-K², as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The guaranteed access level for Categories 352/652 remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-4625 Filed 2-23-98; 8:45 am]

BILLING CODE 3510-DR-F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Monday, March 2, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Upholstered Furniture

The Commission will consider options for Commission action to address the risk of fires caused by small open flame ignition of upholstered furniture.

2. Minoxidil

The staff will brief the Commission on a proposed rule requiring child-resistant packaging under the Poison Prevention Packaging Act for preparations containing more than 14 mg of minoxidil.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

¹ The limit has not been adjusted to account for any imports exported after December 31, 1997.

² Category 352-K: only HTS numbers 6107.11.0010, 6107.11.0020, 6108.19.9010, 6108.21.0010, 6108.21.0020, 6108.91.0005, 6108.91.0015, 6108.91.0025, 6109.10.0005, 6109.10.0007, 6109.10.0009, 6109.10.0037; Category 652-K: only HTS numbers 6107.12.0010, 6107.12.0020, 6108.11.0010, 6108.11.0020, 6108.22.9020, 6108.22.9030, 6108.22.9020, 6108.22.9030, 6108.92.0005, 6108.92.0015, 6108.92.0025, 6109.90.1047 and 6109.90.1075.

Dated: February 19, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98-4701 Filed 2-19-98; 2:19 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, March 4, 1998, 10:00 a.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various matters.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: February 19, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98-4702 Filed 2-19-98; 2:19 pm]

BILLING CODE 6355-01-M

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 and OMB Number: Modeling the Individual Enlistment Decision; OMB Number 0702-[to be determined].

Type of Request: New collection.

Number of Respondents: 4,000.

Responses Per Respondent: 1.

Annual Responses: 4,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 2,000.

Needs and Uses: The career decision survey captures the attitudes of 16-21 year old youth toward service, as well as other available career options. It also

addresses qualification for service, primarily in terms of aptitude, and their availability. This administration will be used to identify the items that best predict enlistment propensity, and to segment the population by quality and availability factors. The data collected will be used by analysts within the Army Research Institute and its prime contractor, HumRRO, to investigate the viability of alternative means of indirectly assessing cognitive ability and enlistment propensity. If the collection were not conducted, the Army would not have the information of improved relevance and validity needed to fulfill and improve upon its recruiting mission.

Affected Public: Individuals or households.

Frequency: One-time.

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: February 18, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98-4544 Filed 2-23-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98-22]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98-22,

with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: February 18, 1998.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

BILLING CODE 5000-04-M



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

11 FEB 1998

In reply refer to:

I-57986/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-22, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Italy for defense articles and services estimated to cost \$110 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, reading "Diehl McKalip".

H. Diehl McKalip
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 98-22

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

- (i) Prospective Purchaser: Italy
- (ii) Total Estimated Value:
- | | |
|--------------------------|----------------------|
| Major Defense Equipment* | \$ 85 million |
| Other | \$ <u>25 million</u> |
| TOTAL | \$ 110 million |
- (iii) Description of Articles or Services Offered:
Seven hundred thirty-four STINGER Block 1 International missiles including 504 complete missile rounds without gripstocks, 194 partial weapon rounds without gripstocks, and 36 lot acceptance missiles; 194 gripstock control group guided missile launchers; support equipment; training devices; spare and repair parts; publications and technical data; support equipment; personnel training and training equipment; U.S. Government and contractor engineering and logistics personnel services; a Quality Assurance Team; and other related elements of logistics support.
- (iv) Military Department: Army (XSO)
- (v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None
- (vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.
- (vii) Date Report Delivered to Congress: 11 FEB 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Italy - STINGER Block 1 International Missiles

The Government of Italy has requested a possible sale of 734 STINGER Block 1 International missiles including 504 complete missile rounds without gripstocks, 194 partial weapon rounds without gripstocks, and 36 lot acceptance missiles; 194 gripstock control group guided missile launchers; support equipment; training devices; spare and repair parts; publications and technical data; support equipment; personnel training and training equipment; U.S. Government and contractor engineering and logistics personnel services; a Quality Assurance Team; and other related elements of logistics support. The estimated cost is \$110 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Italy while enhancing weapon system standardization and interoperability.

Italy will use the STINGER missiles to upgrade its air defense capability. Italy, which already has STINGER missiles in its inventory, will have no difficulty absorbing these missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Hughes Aircraft Company, Tucson, Arizona. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will require a Quality Assurance Team for two weeks in-country. Two contractor representatives representing varying technical skills and disciplines will be required to provide in-country support for six years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-22

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The STINGER Block 1 International missile system, gripstock, hardware, software and documentation contain sensitive technology and are classified Confidential. The guidance section of the missile and tracking head trainer contain highly sensitive technology and are classified Confidential.

2. Missile system hardware and fire unit components contain sensitive/critical technologies. STINGER critical technology is primarily in the area of design and production know-how and not end-items. This sensitive/critical technology is inherent in the hybrid microcircuit assemblies; microprocessors; magnetic and amorphous metals; purification; firmware; printed circuit boards; laser range finder; dual detector assembly; detector filters; automatic text and associated computer software; optical coatings; ultraviolet sensors; semi-conductor detectors; infrared band sensors; compounding and handling of electronic, electro-optic, and optical materials; equipment operating instructions; primary and reserve battery; energetic materials formulation technology; energetic materials fabrication and loading technology; warhead components seeker assembly and the Identification Friend or Foe (IFF) system with Mode 3 capabilities.

3. Information on vulnerability to electronic countermeasures and counter-countermeasures, system performance capabilities and effectiveness, and test data are classified up to Secret.

4. Loss of this hardware and/or data could permit development of information leading to the exploitation of countermeasures. Therefore, if a technologically capable adversary were to obtain these devices, the missile system could be compromised through reverse engineering techniques which could defeat the weapon systems effectiveness.

5. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[OMB Control No. 900-0138]

**Proposed Collection; Comment
Request Entitled Contract Financing**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding a revision to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a revision to a currently approved information collection requirement concerning Contract Financing. The clearance currently expires on May 31, 1998.

DATES: Comments may be submitted on or before April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry Olson, Federal Acquisition Policy Division, GSA (202) 501-3221.

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. 9000-0138, Contract Financing, in all correspondence.

SUPPLEMENTARY INFORMATION:**A. Purpose**

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, provided authorities that streamlined the acquisition process and minimize burdensome government-unique requirements. Sections 2001 and 2051 of the Federal Acquisition Streamlining Act of 1994 substantially changed the statutory authorities for Government financing of contracts. Sections 2001(f) and 2051(e) provide specific authority for Government financing of purchases of commercial items, and sections 2001(b) and 2051(b) substantially revised the authority for Government

financing of purchases of non-commercial items.

Sections 2001(f) and 2051(e) provide specific authority for Government financing of purchases of commercial items. These paragraphs authorize the Government to provide contract financing with certain limitations.

Sections 2001(b) and 2051(b) also amended the authority for Government financing of non-commercial purchases by authorizing financing on the basis of certain classes of measures of performance.

To implement these changes, DOD, NASA, and GSA amended the Federal Acquisition Regulation by revising Subparts 32.0, 32.1, and 32.5; by adding new Subparts 32.2 and 32.10; and by adding new clauses to 52.232.

The coverage enables the Government to provide financing to assist in the performance of contracts for commercial items and provide financing for non-commercial items based on contractor performance.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 2 hours per request for commercial financing and 2 hours per request for performance-based financing, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden for Commercial Financing is estimated as follows: Respondents, 1,000; responses per respondent, 5; total annual responses, 5,000; preparation hours per response, 2; and total response burden hours, 10,000.

The annual reporting burden for Performance-Based Financing is estimated as follows: Respondents, 500; responses per respondent, 12; total annual responses, 6,000; preparation hours per response, 2; and total response burden hours, 12,000.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0138, Contract Financing, in all correspondence.

Dated: February 19, 1998.

Sharon A. Kiser,
FAR Secretariat.

[FR Doc. 98-4622 Filed 2-23-98; 8:45 am]

BILLING CODE 6820-34-P

DEPARTMENT OF DEFENSE**Office of the Secretary****Strategic Environmental Research and
Development Program, Scientific
Advisory Board Action: Notice**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee meeting:

Date of Meeting: March 31, 1998 from 0830 to 1730 and April 1, 1998 from 0800 to 1400.

Place: Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, Arlington, VA.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of \$1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Levine, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696-2124.

Dated: February 19, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 98-4631 Filed 2-23-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE**Department of the Army****Availability of U.S. Patents for Non-
Exclusive, Exclusive, or Partially-
Exclusive Licensing**

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

This patent covers a wide variety of technical arts including: A Laminated ceramic Ferroelectric material having a graded dielectric constant.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99-502) and Section 207 of Title 35, United States Code, the Department of the

Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patents listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by these patents.

Title: Electronically Graded Multilayer Ferroelectric Composites.
Inventors: Louise C. Sengupta, Eric Ngo, Michelina E. O'Day, Steven Stowell, Robert Lancto, Somnath Sengupta and Thomas V. Hynes.
Patent Number: 5,693,429.
Issued Date: December 2, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Vaught, Technology Transfer Office, AMSRL-CS-TT, U.S. Army Research Laboratory, Adelphi, Maryland 20783-1197, tel: (301) 394-2952; fax: (301) 394-5815, e-mail: nvaught@arl.mil.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98-4672 Filed 2-23-98; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Prepare a Draft Programmatic Environmental Impact Statement (PEIS) for the Dredged Material Management Plan (DMMP) for the Port of New York and New Jersey

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is the evaluation of the dredged material management alternative-types through the promulgation of a draft PEIS for the Port of New York/New Jersey. The purpose of this PEIS is to use a tiering approach that will address the existing environment and impact of alternative types on a generic level. This approach is being undertaken to continue the process of scoping with the public, prior to the promulgation of individual NEPA review associated with specific sites and their associated alternatives. The PEIS will allow a step by step decision making approach to be used. This will allow highlighting of key issues to aid the decision-making process.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Kurtz, phone (212) 264-2230, Corps of Engineers, New York District, 26 Federal Plaza, New York, NY 10278-0090.

SUPPLEMENTARY INFORMATION: The proposed action is the promulgation of

a draft PEIS to address the existing environment, and the kinds of impacts to be expected for the proposed range of alternative types for the disposal of dredged material associated with sediment removal in Federal and non-Federal channels of the Port of New York/New Jersey. The authority for the draft PEIS is under the existing Operations and Maintenance authority of the New York Harbor Navigation Project in accordance with EC 1165-2-200 (National Harbor Program: Dredged Material Management Plans).

Generic impact analysis will be conducted for the following alternative types: no action alternative, aquatic remediation-category one material, containment islands, nearshore containment, confined aquatic disposal such as existing and new borrow pits, sub-channel pits, land remediation-treated/stabilized material decontamination technologies, beneficial uses such as wetland creation, and contract management.

Scoping has been ongoing and has included eight meetings in a poster session format to inform the public of the process used to create the initial array of options from the alternative types available. The sessions were held from February through April 1997, in New York City, Kingston, and northeast New Jersey.

A draft PEIS is scheduled for circulation at the end of June 1998. A revised outline of the PEIS is scheduled to be sent out early in 1998 after the final revisions have been completed. Public meetings are planned for summer 1998, after the circulation of the draft PEIS. The draft PEIS will provide the next tier of the examination of impacts of the various alternative types from which the options for disposal of dredged material will be drawn.

The second tier of the process is the promulgation of individual NEPA documents for the options chosen by decision-makers. Scoping will continue throughout the process.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98-4671 Filed 2-23-98; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the East Waterway Channel Deepening Project, Seattle Harbor, Seattle, Washington

AGENCY: U.S. Army Corps of Engineers, Seattle District, DoD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers has been directed by Section 356 of the Water Resources Development Act (WRDA) of 1996 to (1) study the feasibility of deepening of a 750-foot-wide segment of existing federal channel in the East Waterway (Duwamish River) from Elliott Bay to Terminal 25 to a depth of up to 51 feet, and (2) if feasible, to implement deepening as routine maintenance. Section 356 of WRDA 96 further directs the Corps to coordinate with the Port of Seattle regarding use of Slip 27 as a nearshore confined dredged material disposal site. Plans call for the dredging and disposal of approximately 850,000 cubic yards of sediment from an approximately 112 acre area in East Waterway. Of this total, approximately 253,000 cubic yards are known to be contaminated to the extent that they would not qualify for disposal at the Elliott Bay Puget Sound Dredge Disposal Analysis (PSDDA) open water site. Based on sediment sampling conducted by the Port of Seattle, an additional 200,000 cubic yards may be similarly contaminated. Dredged material suitable for openwater disposal will either be placed at the PSDDA site in Elliott Bay, or at a beneficial use site, should such a need be identified.

A range of alternatives will be examined for placement of the contaminated dredged material, including: (1) a nearshore confined facility, (2) an offshore contained aquatic disposal (CAD) facility, (3) an upland confined disposal facility, and (4) disposal in a solid waste landfill. Key environmental issues in the DEIS will include: (1) impacts on an important juvenile salmon migration and feeding route; (2) potential loss of 12 acres of productive benthic habitat at Slip 27 or Terminal 90/91; (3) impacts on kelp beds and shorebird/waterfowl habitat; (4) dredging and disposal of up to 450,000 cubic yards of contaminated sediments with short-term adverse impacts in the water column at the dredging and disposal site; (4) beneficial impacts in that the dredging would

remove contaminated sediments from the waterway, and (5) Native American concerns, related to impacts on Tribal fishing access and operations in a usual and accustomed fishing area, and on salmon habitat. In addition, it is anticipated that Chinook salmon will be proposed for listing as threatened in Puget Sound in early 1998.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the scoping process or preparation of the DEIS may be directed to Dr. Stephen Martin, Technical Services Branch, U.S. Army Corps of Engineers, P.O. Box 3755, 4735 East Marginal Way S., Seattle, Washington, 98134-3755, (206) 764-3631.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The East Waterway, located in Puget Sound's Elliott Bay at Seattle, Washington, is part of the federally authorized East, West and Duwamish Waterways navigation channel. The East Waterway is approximately 5,800 feet long and has an authorized width of 750 feet and depth of 39 feet Mean Lower Low Water. The waterway is deeper than the federally authorized depth throughout most of its reach and is not currently maintained by the federal government. The East Waterway provides access to the Port of Seattle's container terminals 18, 25, and 30. The container fleet is rapidly changing with ships becoming larger and having greater capacity. The most recent additions to the post-Panamax fleet are ships which are in excess of 900 feet long, 130 feet wide, have a design operating draft of 46 feet, and a capacity in excess of 5,000 twenty foot equivalent units. As a result, the Port of Seattle is concerned that current and potential tenants may elect not to use the Port's facilities due to depth limitations in East Waterway. The Port has stated that a deeper channel, specifically the area that allows access to berths 1 through 5 of Terminal 18, needs to be constructed by calendar year 2001. The deep water access to berths 1 through 5 in the East Waterway requires dredging in the federal channel.

As directed by Section 356 of the Water Resources Development Act of 1996, the Corps of Engineers is conducting an Evaluation Study with the following project features: dredging in the East Waterway (Seattle Harbor) to a depth of up to 51 feet of the 750-foot wide segment of the federal channel, construction of a disposal site for dredged material that is unsuitable for open water disposal at the Elliott Bay PSDDA disposal site, and construction

of all mitigation features. If this is determined to be feasible, the channel would be deepened as part of the Federal project maintenance. The Port of Seattle would provide the dredged material disposal site(s). Major project features are as follows: (1) channel improvement dredging by the Corps to a depth of up to 51 feet plus 1 foot allowable overdepth of a 750-foot-wide segment of existing federal channel of the Duwamish River East Waterway; (2) construction of a disposal site(s) for dredge materials not acceptable for disposal at Elliott Bay PSDDA disposal site; (3) construction of mitigation features required for the project, and any required monitoring of mitigation improvements; (4) dredging and disposal of about 850,000 cubic yards of sediment from East Waterway. Of this total, approximately 253,000 cubic yards are known to be contaminated to the extent that they would not qualify for disposal at the Elliott Bay PSDDA open water site; and (5) total dredging acreage for the project is approximately 112 acres.

2. Alternatives

In addition to the "No Action" alternative, the draft EIS will evaluate a suite of commonly used disposal alternatives for the placement of dredged material that will not qualify for disposal at the PSDDA open water site. Included in the evaluation will be a comprehensive discussion of the environmental impacts of each alternative. The final EIS will identify the environmentally preferred disposal alternative. Disposal alternatives to be evaluated will include: (1) construction and operation of a Nearshore Confined Disposal Facility including Slip 27 in the East Waterway, and Terminal 91 in Elliott Bay; (2) construction and operation of an Upland Confined Disposal Facility; (3) construction and operation of a deep water Contained Aquatic Disposal Facility; (4) disposal in a Solid Waste Landfill; (5) a combination of the above alternatives; and (6) alternative fill designs at the proposed fill location. Dredging alternatives to be evaluated include established mechanical and hydraulic methods.

3. Scoping and Public Involvement

Public involvement will be sought during the scoping and conduct of the study in accordance with NEPA and SEPA procedures. A public meeting will be held during public review of the draft EIS. Further meetings will be scheduled as needed. A public scoping process will be initiated to clarify issues of major concern, identify studies that

might be needed in order to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. This Notice of Intent formally commences the joint scoping process under NEPA. As part of the scoping process, all affected Federal, state, and local agencies, Indian Tribes, and other interested private organizations, including environmental interest groups, are invited to comment on the scope of the EIS. Comments are requested concerning project alternatives, mitigation measures, probable significant environmental impacts, and permits or other approvals that may be required. To date, the following areas have been identified to be analyzed in depth in the draft EIS: (1) extent and degree of sediment contamination in East Waterway; (2) dredging and disposal impacts on water quality; (3) impacts on juvenile salmon, as East Waterway is a major migration and feeding route for juvenile salmon, and is an area that they use for saltwater physiological adaptation; the project would result in the loss of several acres of intertidal and shallow subtidal fisheries habitat; (4) impacts on benthic organisms and their habitat at both nearshore confined disposal and contained aquatic disposal sites; e.g. with the construction of a nearshore confined fill area, there would be a loss of about 12 acres of productive benthic habitat that contributes to the aquatic food web of Elliott Bay; (5) other estuarine resources, as with construction of a nearshore confined fill area, there would be losses of other estuarine resources, including shorebirds and waterfowl habitat and kelp beds; (6) Native American concerns including dredging and disposal of contaminated sediments, increased shipping, and nearshore fills and their impacts on Tribal fishing access and operations, and on salmon habitat; also, concerns over cumulative impacts of recent shoreline developments in Elliott Bay on adjudicated treaty fishing rights; (7) beneficial impacts, in that dredging would remove up to 450,000 cubic yards of contaminated sediments over an extent of about 112 acres of East Waterway, thereby removing a substantive source of contaminants that affect the Elliott Bay food web; and (8) threatened and endangered Species, as the DEIS will evaluate the impact of the dredging/disposal project on bald eagles that are known to nest within two miles of the project site; it is likely that Chinook salmon will be proposed for listing as threatened in Elliott Bay in early 1998 and may be listed as threatened sometime during 1998. The

environmental review process will be comprehensive and will integrate and satisfy the requirements of NEPA (federal) and SEPA (Washington State), and other relevant Federal, state, and local environmental laws.

4. Scoping Meeting

A notice of the scoping meeting will be mailed to all involved agencies and individuals known to have an interest in this project. A scoping workshop will be held on March 5, 1998, at the Port of Seattle's Commission Chambers, 2711 Alaskan Way (Pier 69) from 4:00 to 6:00 PM. Verbal or written comments will be accepted at the scoping meeting, or written comments may be sent to Dr. Stephen Martin at the above address on or before March 20, 1998.

5. Other Environmental Review, Coordination, and Permit Requirements

Other environmental review, coordination, and permit requirements include preparation of a Section 404 (b)(1) evaluation by the Corps of Engineers; and consultation among the Corps, the U.S. Fish and Wildlife Service, and the State of Washington per Section 7 of the Endangered Species Act. Coordination will also be initiated with the U.S. Fish and Wildlife Service to meet the requirements of the Fish and Wildlife Coordination Act.

6. Availability of Draft EIS

The draft EIS is scheduled for release in March 1999.

Dated: February 12, 1998.

James M. Rigsby,

Colonel, Corps of Engineers, District Engineer.
[FR Doc. 98-4673 Filed 2-23-98; 8:45 am]

BILLING CODE 3710-ER-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Secretary of Education requests comments on the Free Application for Federal Student Aid (FAFSA) that the Secretary proposes to use for the 1999-2000 award year. The FAFSA is completed by students and their families and the information submitted on the form is used to determine the students' eligibility and financial need for the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, (Title IV, HEA Programs).

DATES: Interested persons are invited to submit comments on or before March 26, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202-4651. In addition, interested persons can access this document at the following website: "http://www.ed.gov/offices/OPE/Professionals." Once at this website, the reader should go to the "What's New" area to locate the 1999-2000 FAFSA.

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 483 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary, "in cooperation with agencies and organizations involved in providing student financial assistance," to "produce, distribute and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student under" the Title IV, HEA Programs. This form is the FAFSA. In addition, section 483 authorizes the Secretary to include on the FAFSA up to eight non-financial data items that would assist States in awarding State student financial assistance.

In a notice published in the **Federal Register** of March 18, 1997, the Secretary noted that the Department of Education was reengineering the FAFSA and looking anew at all the questions on the form. The Secretary asked for comment on questions that applicants were not required to answer in order to have their eligibility and need for Title IV, HEA Programs determined. The Secretary also requested comment with regard to which of the questions were integral to State student aid programs.

In addition to requesting comments in that notice, in May and June of 1997, the Secretary convened public meetings in New York, St. Louis, San Diego, and Washington, D.C. for the purpose of receiving comments on early drafts of the reengineering FAFSA. Further, at

the invitation of the National Association of Student Financial Aid Officers (NASFAA), in July the Department conducted a forum on a later draft of the reengineered FAFSA at NASFAA's annual convention in Philadelphia.

The Secretary revised the FAFSA that was disseminated for comment based upon the suggestions made by the commenters in the Spring and Summer of 1997, and in the **Federal Register** of November 24, 1997, 62 FR 62568-61570, the Secretary published a notice requesting additional comment on this latest revised FAFSA. In that notice, the Secretary described the changes in the FAFSA from the previous disseminated version.

As a result of the November 24, 1997 **Federal Register** notice, the Department received comments and suggestions from over 80 commenters. These comments and suggestions related to the following substantive areas.

- Student's "permanent" telephone number. Many comments objected to the deletion of this item from the form. Many institutions indicated that they used the student's telephone number in ways helpful to students. Other institutions indicated that the number was useful in keeping track of borrowers under the Federal Family Education Loan (FFEL) and Federal Direct Loan Programs. Although very little is "permanent" about a student's telephone number, the Secretary has agreed to add this item back on the form for the reasons stated by the commenters.

- Untaxed income and benefits. Many commenters objected to the deletion of specific questions about untaxed income. The commenters felt that the accuracy of information would suffer if the form just requested the total of such income. In particular, commenters objected to the elimination of the item for earned income credit. We again request earned income credit on the FAFSA. Space would not allow the addition of other items.

- The inclusion of additional questions on the form would have required the form to expand beyond the current four pages. The Secretary believed that it was important to keep the actual FAFSA application to four pages in order to minimize any changes to the automated processing system which will begin to process these new forms in January of 1999, and to meet the requirements of scanning technology. The Secretary also believed that expansion of the form would have been inconsistent with goals of simplifying and clarifying the current form. As a result, it was not possible to

include on the form all the questions relating to nontaxable income that the commenters thought should be specifically included.

The Secretary is publishing this additional request for comment under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under the procedure for obtaining approval from OMB, ED must first obtain public comment on the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**.

To accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 18, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Free Application for Federal Student Aid (FAFSA).

Frequency: Annually.

Affected Public: Individuals and families.

Annual Reporting and Recordkeeping Hour Burden: Responses: 9,998,997; Burden Hours: 6,274,770.

Abstract: The FAFSA collects identifying and financial information about a student and his or her family if the student applies for Title IV, Higher Education Act (HEA) Program funds. This information is used to calculate the student's expected family contribution, which is used to determine a student's financial need. The information is also used to determine the student's eligibility for grants and loans under the Title IV, HEA Programs. It is further used for determining a student's eligibility and need for State and institutional financial aid programs.

[FR Doc. 98-4615 Filed 2-23-98; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 27, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 18, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New

Title: Follow-up Study of State Implementation of Federal Elementary and Secondary Education Programs

Frequency: One time

Affected Public: State, local or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour

Burden: Responses: 459; Burden Hours: 459

Abstract: The Department of Education is charged with evaluating Title I of the Elementary and Secondary Education Act and other elementary and secondary education legislation enacted by the 103d Congress. These surveys will collect information on the operations and effects at the state level of legislative provisions and federal assistance, in the context of state education reform efforts. Findings will be used in reporting to Congress and improving information dissemination. Respondents are managers in nine programs in all 50 state education agencies.

[FR Doc. 98-4616 Filed 2-23-98; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 26, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-8196.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 18, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension

Title: Performance Report for the Training Program for Federal TRIO Programs

Frequency: Annually
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't; SEAs or LEAs

Annual Reporting and Recordkeeping Hour Burden: Responses: 16 Burden Hours: 60

Abstract: Data assures that grantees have conducted the project for which funded, signals problems of implementation, and indicates extent and quality of performance. The Department uses reports in evaluating project for continuation, assessing technical assistance needs, determining future funding levels and in assigning scores to projects in competition for new grants.

Office of Postsecondary Education

Type of Review: Extension

Title: Application for Grants Under the Centers for International Business Education Program

Frequency: Every 3 to 4 years

Affected Public: Not-for-profit institutions

Annual Reporting and Recordkeeping Hour Burden: Responses: 30 Burden Hours: 560

Abstract: Centers for International Business Education: Collect program and budget information to make grants to institutions of higher education.

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. 98-4617 Filed 2-23-98; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

(CFDA No.: 84.264A)

Rehabilitation Continuing Education Programs; Notice inviting applications for new awards for fiscal year (FY) 1998

Purpose of Program: To support cooperative agreements for training centers that serve either a Federal region or another geographic area and provide a broad, integrated sequence of training activities throughout a multi-State geographical area that focus on meeting recurrent and common training needs of employed rehabilitation personnel.

Eligible Applicants: State and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Supplementary Information: On September 22, 1997, the Secretary

published in the **Federal Register** a notice inviting applications for Rehabilitation Continuing Education Programs. The two applications submitted from Region VII, and the one application submitted from Region X, were found unacceptable. The Secretary believes that by reannouncing the competition in Region VII and Region X, acceptable applications will be submitted.

Deadline for Transmittal of Applications: April 10, 1998.

Deadline for Intergovernmental Review: June 9, 1998.

Applications Available: February 24, 1998.

Available Funds: \$685,620.

Estimated Range of Awards: \$318,612-\$348,500.

Maximum Awards by Rehabilitation Services Administration (RSA)

Region: In no case does the Secretary make an initial award greater than the amount listed for each of the following RSA regions for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this amount.

Maximum Level of Awards by RSA Region:

Region VII—\$348,500

Region X—\$337,120

Note: Applicants should apply for level funding for each project year. Also, applicants are subject to a four percent cost-share requirement on awards.

Estimated Number of Awards: 2.

Note: Applications are invited for the provision of training for Department of Education Regions VII and X only. The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, and 86; and (b) The regulations for this program in 34 CFR Parts 385 and 389.

Note: The regulations in 34 CFR Part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Specifically note that under section 21(b)(6) of the Rehabilitation Act, as amended, applicants are required to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600

Independence Avenue, S.W., room 3317 Switzer Building, Washington, D.C. 20202-2550. Telephone: (202) 205-8351. The preferred method for requesting applications is to FAX your request to (202) 205-8717. 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.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Information Contact: Mary C. Lynch, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3322 Switzer Building, Washington, D.C. 20202-2649. Telephone: (202) 205-8291.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document: Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 774.

Dated: February 18, 1998.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98-4578 Filed 2-23-98; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Meeting cancellation notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the cancellation of the open Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site Advisory Committee meeting, which was scheduled to be held on Wednesday, March 4, 1998, from 5:30 p.m.–9:00 p.m., at the U.S. Department of Energy Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada. This meeting was announced in the **Federal Register** on Tuesday, February 10, 1998 (63 FR 6736).

Issued at Washington, DC on February 18, 1998.

Althea T. Vanzego,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 98-4641 Filed 2-23-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board.

DATES AND TIMES: Wednesday, March 4, 1998, 9:00 am–4:30 pm.

ADDRESSES: The Georgetown University Conference Center, Salon H, 3800 Reservoir Road, NW, Washington D.C. 20057.

FOR FURTHER INFORMATION CONTACT:

Richard C. Burrow, Secretary of Energy Advisory Board (AB-1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-1709 or (202) 586-6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee

Act, section 624(b) of the Department of Energy Organization Act (Pub. L. 95-91). The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. The Board and its Task Force Subcommittees provide timely, balanced, and authoritative advice to the Secretary on the Department's management reforms, research, development, and technology activities, energy and national security responsibilities, environmental cleanup activities, and economic issues relating to energy.

Tentative Agenda

Wednesday, March 4, 1998

9:00 am–9:15 am

Welcome & Opening Remarks—
Chairman Walter Massey

9:15 am–11:30 am

Departmental Briefings

11:30 am–12:30 pm

Lunch

12:30 pm–1:00 pm

Secretary of Energy Remarks—
Secretary Federico Peña

1:00 pm–4:00 pm

SEAB Subcommittee Reports

4:00 pm–4:30 pm

Public Comment Period

4:30 pm

Closing Remarks

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the meeting in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington D.C., the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB-1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 am and 4:00 pm, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may

also be found at the Board's web site, located at <http://www.hr.doe.gov/seab>.

Issued at Washington, DC, on February 18, 1998.

Althea T. Vanzego,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 98-4642 Filed 2-23-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2534]

Bangor Hydro-Electric Company; Notice of Site Visit to Project Area

February 18, 1998.

On February 27, 1998, the Federal Energy Regulatory Commission staff has scheduled a site visit to the Milford Project (Project No. 2534), located on the Penobscot River and Stillwater Branch of the Penobscot River in the Towns of Milford and Old Town in Penobscot County, Maine. The Milford Project consists of two dams: Milford dam and powerhouse located on the main stem of the Penobscot River about 1.6 miles upstream from the Great Works Project (Project No. 2312) and Gilman Falls dam about 3 miles upstream of the Stillwater Project on the Stillwater Branch of the Penobscot River. The project impoundment extends upstream from Milford and Gilman Falls dams for about 3 miles and is about 235 acres. The site visit is scheduled for 2:00 p.m.

If you have any questions concerning this matter, please contact Ms. Patti Leppert-Slack at (202) 219-2767.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4602 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-113-000]

Colorado Interstate Gas Company; Notice of Technical Conference

February 18, 1998.

The filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Tuesday, March 10, 1998, at 10:00 a.m., in a room to be designated at the offices of the

Federal Energy Regulatory Commission, 888 First Street, NE, Washington D.C. 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4604 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1127-000]

El Segundo Power, LLC; Notice of Issuance of Order

February 18, 1998.

El Segundo Power, LLC (El Segundo) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, El Segundo requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by El Segundo. On February 12, 1998, the Commission issued an Order Accepting For Filing Proposed Tariff For Market-Based Power Sales And Reassignment Of Transmission Capacity And Granting Waiver Of Notice (Order), in the above-docketed proceeding.

The Commission's February 12, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days after the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by El Segundo 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.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, El Segundo is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of El Segundo, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of El Segundo's issuance of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 16, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4597 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98-8-000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 18, 1998.

Take notice that on February 12, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective March 15, 1998.

Second Revised Sheet No. 1403

Third Revised Sheet No. 1404

Koch is submitting the above-listed tariff sheets to add language as requested by the Commission in Docket No. CP97-337-000, which authorized the sale of Koch's Cabeza Creek Facilities to Delhi Gas Pipeline Corporation (Delhi). In this docket, the Commission requested that should Koch and Delhi become affiliated in the future, Koch add tariff language to prevent affiliate abuse.

Koch also states that it has served copies of this filing upon its customers, interested state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining 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. 98-4600 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ97-2-002]

Omaha Public Power District; Notice of Filing

February 18, 1998.

Take notice that on January 3, 1997, Omaha Public Power District (Omaha) submitted written procedures implementing the standards of conduct under Part 37 of the Commission's regulations, 18 CFR Part 37.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before March 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. 98-4601 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97-4829-000, ER97-4830-000, ER97-3189-007 and EL98-25-000]

PP&L, Inc.; Notice of Initiation of Proceeding and Refund Effective Date

February 18, 1998.

Take notice that on February 17, 1998, the Commission issued an order in the above-indicated dockets initiating a

proceeding in Docket No. EL98-25-000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL98-25-000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4687 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1149-000]

Southern Energy Retail Trading and Marketing, Inc.; Notice of Issuance of Order

February 18, 1998.

Southern Energy Retail Trading and Marketing, Inc. (Southern Energy) filed an application to engage in the wholesale sale of electric capacity and energy at market-based rates, and for certain waivers and authorizations. In particular, Southern Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Southern Energy. On February 13, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's February 13, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days after the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Southern Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Southern Energy is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Southern Energy, compatible with the

public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Southern Energy's issuances of securities or assumptions of liabilities.* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 16, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4598 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98-8-29-000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 18, 1998.

Take notice that on February 12, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached to the filing.

Transco states that the purpose of the instant filing is to track rate changes attributable to (1) storage service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule GSS, the costs of which are included in the rates and charges payable under Transco's Rate Schedule GSS and LSS and (2) transportation service purchased from CNG under its Rate Schedule X-74, the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT-NT. This tracking filing is being made pursuant to Section 3 of Transco's Rate Schedule GSS and Section 4 of Transco's Rate Schedules LSS and FT-NT.

Transco states that included in Appendices B and C attached to the filing are explanations of the rate changes and details regarding the computation of the revised Rate Schedule GSS, LSS and FT-NT rates.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4605 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-105-002]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

February 18, 1998.

Take notice that on February 11, 1998, Williams Gas Pipelines Central, Inc., formerly Williams Natural Gas Company (Williams), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of February 1, 1998:

Substitute Third Revised Sheet Nos. 8E and 8F

Williams states that it made a filing in Docket Nos. RP98-105, et al., on December 31, 1997 to submit its first quarter 1998 report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds. The instant filing is being made to revise Schedule 4 of the original filing to reflect revision of certain customers' January MDTQ's which were not finalized until after January 1, 1998. All other aspects of Williams' January 1 filing are unchanged.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 98-4603 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98-18-000]

Williston Basin Interstate Pipeline Company; Notice of Filing

February 18, 1998.

Take notice that on February 13, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective February 13, 1998:

Twelfth Revised Sheet No. 777
Twenty-second Revised Sheet No. 831
Twenty-third Revised Sheet No. 832
Twenty-third Revised Sheet No. 833

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Receipt/Delivery Point List.

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 NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the 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 in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4599 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1760-000, et al.]

GEN-SYS Energy, et al.; Electric Rate and Corporate Regulation Filings

February 17, 1998.

Take notice that the following filings have been made with the Commission:

1. GEN-SYS Energy

[Docket No. ER98-1760-000]

Take notice that on February 4, 1998, GEN-SYS Energy (GSE), tendered for filing a market summary activity for the quarter ending December 31, 1997. GSE began its power market activity concurrent with its membership approval in the Mid-Continent Area Power Pool (MAPP), effective November 1, 1997.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Dartmouth Power Associates Limited Partnership

[Docket No. ER98-1761-000]

Take notice that on February 4, 1998, Dartmouth Power Associates Limited Partnership (Dartmouth), tendered for filing a Transaction Report for quarter ending December 31, 1997.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Southern California Edison Company

[Docket No. ER98-1768-000]

Take notice that on February 9, 1998, Southern California Edison Company (Edison), tendered for filing Amendment III (Amendment) to the Operating Procedures for the Power Contract, with the Department of Water Resources of the State of California (CDWR). The Amendment defines how Devil Canyon will be operated, and addresses how capacity and energy will be scheduled and accounted for between Edison and CDWR to ensure

that Edison receives its benefits accorded pursuant to Section 10 of the Power Contract.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Company

[Docket No. ER98-1771-000]

Take notice that on February 9, 1998, Southern California Edison Company (Edison), tendered for filing Amendment No. 5 to the Power Contract dated October 11, 1979 (Amendment No. 5), and Amendment No. 1 to the Devil Canyon Additional Facilities and Firm Transmission Service Agreement (Amendment No. 1), with the Department of Water Resources of the State of California (CDWR). Amendment No. 5 and Amendment No. 1 provide for an additional 65 MW of firm transmission service from Devil Canyon to Vincent Substation to deliver CDWR's increased share of Devil Canyon.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98-1772-000]

Take notice that on February 9, 1998, Northern States Power Company (Minnesota), and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and American Electric Power Service Corporation, by and on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company and Ohio Power Company (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on January 11, 1998.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Company

[Docket No. ER98-1774-000]

Take notice that on February 9, 1998, Carolina Power & Light Company (Carolina), tendered for filing an executed Service Agreement between Carolina and the following Eligible Entity: DTE Energy Trading, Inc. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Carolina Power & Light Company

[Docket No. ER98-1775-000]

Take notice that on February 9, 1998, 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: NAEC, Inc.; and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with NAEC, Inc. 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: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Western Resources, Inc.

[Docket No. ER98-1776-000]

Take notice that on February 9, 1998, Western Resources, Inc., tendered for filing a change to its FERC Electric Tariff, First Revised Volume No. 5. Western Resources states that the change is to deny non-firm and short term firm transmission service under Western Resources' tariff when such service is available through the Southwest Power Pool, Inc., regional transmission service tariff.

Copies of the filing were served upon Western Resources' open access transmission customers and the Kansas Corporation Commission.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of his notice.

9. Central Louisiana Electric Company, Inc.

[Docket No. ER98-1777-000]

Take notice that on February 9, 1998, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing an umbrella service agreement under which CLECO will make market based power sales under its MR-1 tariff with American Electric Power Service Corporation.

CLECO states that a copy of the filing has been served on American Electric Power Service Corporation.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas City Power & Light Co.

[Docket No. ER98-1778-000]

Take notice that on February 9, 1998, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated February 5, 1998, between KCPL and Chillicothe Municipal Utilities. KCPL proposes an effective date of February 5, 1998, and requests waiver of the Commission's notice requirement. This Agreement provides for Non-Firm Power Sales Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are pursuant to KCPL's compliance filing in Docket No. ER94-1045.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Citizens Utilities Company

[Docket No. ER98-1779-000]

Take notice that on February 6, 1998, Citizens Utilities Company, tendered for filing on behalf of itself and Cinergy Capital & Trading, Inc., Constellation Power Source, Inc., NP Energy, Inc., and Williams Energy Services Company, Service Agreements for Non-Firm Point-to-Point Transmission Service under Citizens' Open Access Transmission Tariff.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Company Services, Inc.

[Docket No. ER98-1780-000]

Take notice that on February 9, 1998, Southern Company Services, Inc. (SCS), acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company) (collectively referred to as the Southern Company System), submitted a filing to revise the Western Systems Power Pool (WSPP),

Agreement to reflect the addition of the Southern Company System. The Southern Company System requests an effective date of September 26, 1997. The filing will allow the Southern Company System to participate in coordination transactions under the WSPP Agreement.

Comment date: March 2, 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. 98-4688 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98-52-000, et al.]

Jersey Central Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

February 18, 1998.

Take notice that the following filings have been made with the Commission:

1. Jersey Central Power & Light Company

[Docket No. DR98-52-000]

Take notice that on February 6, 1998, Jersey Central Power & Light Company, filed a request for approval of changes in nuclear depreciation rates, for accounting purposes only, pursuant to Section 302 of the Federal Power Act. These changes will be retroactively implemented by the Company on January 1, 1998.

Comment date: March 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Coastal Gusu Heat & Power Ltd.

[Docket No. EG98-40-000]

On February 9, 1998, Coastal Gusu Heat & Power, Ltd. (Applicant), West Wind Building, P.O. Box 1111, Grand Cayman, Cayman Islands, B.W.I., filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, a Cayman Islands Corporation, intends to have an ownership interest in certain power generating facilities in China. These facilities will consist of a 30 MW heat recovery cogeneration power plant located in Suzhou City, Jiangsu Province, China, including two heat recovery steam generators, two 15 MW steam turbine generators, two auxiliary oil-fired boilers, a thermal pipeline and related facilities.

Comment date: March 13, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Sithe Medway LLC

[Docket No. EG98-42-000]

On February 11, 1998, Sithe Medway LLC, 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Sithe Medway), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Sithe Medway will own an electric generating facility with a capacity of approximately 126 MW located in Medway, Massachusetts.

Comment date: March 13, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Sithe New Boston LLC

[Docket No. EG98-44-000]

On February 11, 1998, Sithe New Boston LLC, 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Sithe New Boston), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Sithe New Boston will own an electric generating facility with a capacity of approximately 778 MW located in Boston, Massachusetts.

Comment date: March 11, 1998, in accordance with Standard Paragraph E

at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Sithe Edgar LLC

[Docket No. EG98-45-000]

On February 11, 1998, Sithe Edgar LLC, 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Sithe Edgar), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Sithe Edgar will own an electric generating facility with a capacity of approximately 21 MW located in Weymouth, Massachusetts.

Comment date: March 11, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Portland General Electric Company

[Docket No. ER96-333-002]

Take notice that on December 17, 1997, Portland General Electric Company tendered for filing its refund report in the above-referenced docket.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Indiana Michigan Power Company

[Docket No. ER98-443-000]

Take notice that on January 27, 1997, Indiana Michigan Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER98-1781-000]

Take notice that on February 6, 1998, Cinergy Services, Inc., (Cinergy), tendered for filing an amended service agreement under Cinergy's Power Sales Standard Tariff (the Tariff), entered into between Cinergy and Nordic Electric, LLC.

Copies of the filing were served upon the customer, parties of record in Docket No. ER96-2506-000 and the Michigan Public Service Commission.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Montaup Electric Company

[Docket No. ER98-1782-000]

Take notice that on February 9, 1998, Montaup Electric Company (Montaup), filed 1) executed unit sales service

agreements under Montaup's FERC Electric Tariff, Original Volume No. III; and 2) executed service agreements for the sale of system capacity and associated energy under Montaup's FERC Electric Tariff, Original Volume No. IV. The service agreements under both tariffs are between Montaup and following companies (Buyers):

1. NP Energy Inc. (NPE).
2. PacifiCorp Power Marketing, Inc. (PacifiCorp).
3. Unifil Power Corp. (UPC).
4. Fitchburg Gas and Electric Light Company (FGE).

Montaup requests a waiver of the sixty-day notice requirement so that the service agreements may become effective as of February 9, 1998. No transactions have occurred under any of the agreements.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER98-1783-000]

Take notice that on February 9, 1998, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and one service agreement for one new customer, Columbia Power Marketing.

CILCO requested an effective date of February 3, 1998.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Central Hudson Gas and Electric Corporation

[Docket No. ER98-1784-000]

Take notice that on February 9, 1998, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to 35.12 of the Federal Energy Regulatory Commission's (Commission), Regulations in 18 CFR a Service Agreement between CHG&E and Northeast Energy Services, Inc. The terms and conditions of service under this agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97-890-000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Central Hudson Gas and Electric Corporation

[Docket No. ER98-1785-000]

Take notice that on February 9, 1998, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Strategic Energy LTD. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff), accepted by the Commission in Docket No. ER97-890-000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Central Vermont Public Service Corporation

[Docket No. ER98-1786-000]

Take notice that on February 9, 1998, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Williams Energy Services Company under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on February 10, 1998.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Energy Corporation

[Docket No. ER98-1787-000]

Take notice that on February 9, 1998, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a modification to 1.22 of Duke's Open Access Transmission Tariff, FERC Electric Tariff Original Volume No. 4.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER98-1788-000]

Take notice that on February 9, 1998, Niagara Mohawk Power Corporation

(NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and the New York Power Authority to serve 1.0 MW of New York Power Authority power to Encore Paper. This Transmission Service Agreement specifies that the New York Power Authority 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 the New York Power Authority to enter into separately scheduled transactions under which NMPC will provide transmission service for the New York Power Authority as the parties may mutually agree.

NMPC requests an effective date of February 15, 1998. 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 the New York Power Authority.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER98-1789-000]

Take notice that on February 9, 1998, PECO Energy Company (PECO), filed a Service Agreement dated February 2, 1998, with Northern States Power Company (NSP), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds NSP as a customer under the Tariff.

PECO requests an effective date of February 2, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to NSP and to the Pennsylvania Public Utility Commission.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Competisys LLC

[Docket No. ER98-1790-000]

Take notice that on February 9, 1998, Competisys LLC (Competisys), petitioned the Commission for acceptance of Competisys 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.

Competisys intends to engage in wholesale electric power and energy purchases and sales as a marketer. Competisys is not in the business of

generating or transmitting electric power. Competisys is a utility services firm that provides utilities and substantial users of utility systems professional services that allow effective access to competitive market sources of energy and related services.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Virginia Electric and Power Company

[Docket No. ER98-1791-000]

Take notice that on February 9, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with DTE 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 non-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 DTE Energy Trading, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER98-1792-000]

Take notice that on February 9, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with DTE 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 DTE Energy Trading, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: March 4, 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. 98-4689 Filed 2-23-98; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

February 18, 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: FEBRUARY 25, 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, 693RD MEETING—FEBRUARY 25, 1998, REGULAR MEETING (10:00 A.M.)

CAH-1.

OMITTED

CAH-2.

DOCKET# P-2323, 021, NEW ENGLAND POWER COMPANY

CAH-3.

OMITTED

CAH-4.

OMITTED

CAH-5.

DOCKET# P-2194, 001, CENTRAL MAINE POWER COMPANY
OTHER#S P-2530, 014, CENTRAL MAINE POWER COMPANY
P-2531, 020, CENTRAL MAINE POWER COMPANY

CAH-6.

DOCKET# P-2527, 002, CENTRAL MAINE POWER COMPANY

CAH-7.

DOCKET# P-2529, 005, CENTRAL MAINE POWER COMPANY

CAH-8.

OMITTED

CONSENT AGENDA—ELECTRIC

CAE-1.

DOCKET# ER98-6, 000, NEW ENGLAND POWER COMPANY, NARRAGANSETT ELECTRIC COMPANY, ALLENERGY MARKETING COMPANY, L.L.C. AND USGEN NEW ENGLAND, INC.
OTHER#S EC98-1, 000, NEW ENGLAND POWER COMPANY, NARRAGANSETT ELECTRIC COMPANY, ALLENERGY MARKETING COMPANY, L.L.C. AND USGEN NEW ENGLAND, INC.

CAE-2.

DOCKET# ER98-990, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
OTHER#S ER98-991, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-992, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-994, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-995, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-996, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-997, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-998, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-999, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1000, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1001, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1002, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1003, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1004, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER98-1005, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

- ER98-1006, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1007, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1008, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1009, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1010, 000, CALIFORNIA
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- ER98-1011, 000, CALIFORNIA
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- ER98-1012, 000, CALIFORNIA
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- ER98-1013, 000, CALIFORNIA
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- ER98-1014, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1015, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1016, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1017, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1018, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1020, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1021, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1028, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1029, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1030, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1032, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1057, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1058, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1261, 000, SOUTHERN
CALIFORNIA EDISON COMPANY
- ER98-1309, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1310, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1311, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- ER98-1313, 000, CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION
- CAE-3.
DOCKET# ER98-1267, 000, NEW YORK
STATE ELECTRIC & GAS
CORPORATION
- CAE-4.
DOCKET# ER98-1278, 000, WKE
STATION TWO INC.
OTHER#S ER98-1279, 000, WESTERN
KENTUCKY ENERGY CORPORATION
- CAE-5.
OMITTED
- CAE-6.
DOCKET# OA96-198, 002, CAROLINA
POWER & LIGHT COMPANY
OTHER#S OA96-74, 002, NEW ENGLAND
POWER COMPANY
OA96-138, 003, CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.
OA96-158, 001, ENTERGY SERVICES,
INC.
OA96-204, 002, CLEVELAND ELECTRIC
ILLUMINATING COMPANY AND
TOLEDO EDISON COMPANY
- CAE-7.
DOCKET# ER97-3057, 002, FLORIDA
POWER CORPORATION
- CAE-8.
DOCKET# OA96-177, 001,
JACKSONVILLE ELECTRIC
AUTHORITY
- CAE-9.
DOCKET# ER96-2438, 001, NEW YORK
STATE ELECTRIC & GAS
CORPORATION
OTHER#S OA96-195, 004, NEW YORK
STATE ELECTRIC & GAS
CORPORATION
- CAE-10.
DOCKET# EC97-19, 001, LONG ISLAND
LIGHTING COMPANY
- CAE-11.
DOCKET# EL97-59, 000, OKLAHOMA
MUNICIPAL POWER AUTHORITY V.
PUBLIC SERVICE COMPANY OF
OKLAHOMA AND CENTRAL AND
SOUTH WEST SERVICES INC.
- CAE-12.
DOCKET# EL97-31, 000, ENTERGY
SERVICES, INC.
- CAE-13.
DOCKET# OA97-105, 000, CAROLINA
POWER & LIGHT COMPANY
OTHER#S OA97-184, 000, THE DETROIT
EDISON COMPANY
OA97-280, 000, KANSAS CITY POWER &
LIGHT COMPANY
OA97-287, 000, CENTRAL POWER AND
LIGHT COMPANY, PUBLIC SERVICE
COMPANY OF OKLAHOMA,
SOUTHWESTERN ELECTRIC POWER
COMPANY AND WEST TEXAS
UTILITIES COMPANY
OA97-318, 000, WISCONSIN POWER &
LIGHT COMPANY
OA97-407, 000, DUQUESNE LIGHT
COMPANY
OA97-421, 000, INTERSTATE POWER
COMPANY
OA97-432, 000, CENTRAL LOUISIANA
ELECTRIC COMPANY, INC.
OA97-433, 000, PUBLIC SERVICE
COMPANY OF NEW MEXICO
OA97-446, 000, UTILICORP UNITED, INC.
- OA97-458, 000, ENTERGY SERVICES,
INC., ENTERGY ARKANSAS, INC.,
ENTERGY GULF STATES, INC. AND
ENTERGY LOUISIANA, INC. ET AL.
OA97-464, 000, SIERRA PACIFIC POWER
COMPANY
OA97-512, 000, TEXAS-NEW MEXICO
POWER COMPANY
OA97-520, 000, CITIZENS UTILITIES
COMPANY
OA97-610, 000, CITIZENS UTILITIES
COMPANY
OA97-720, 000, PUBLIC SERVICE
COMPANY OF NEW MEXICO
- CONSENT AGENDA—GAS AND OIL**
- CAG-1.
DOCKET# GT98-13, 000, TENNESSEE
GAS PIPELINE COMPANY
- CAG-2.
DOCKET# RP98-91, 001, CNG
TRANSMISSION CORPORATION
OTHER#S RP97-406, 005, CNG
TRANSMISSION CORPORATION
RP97-406, 009, CNG TRANSMISSION
CORPORATION
RP98-91, 002, CNG TRANSMISSION
CORPORATION
RP98-103, 001, CNG TRANSMISSION
CORPORATION
- CAG-3.
DOCKET# RP98-99, 000, TENNESSEE
GAS PIPELINE COMPANY
- CAG-4.
DOCKET# RP98-122, 000, NORAM GAS
TRANSMISSION COMPANY
- CAG-5.
DOCKET# RP96-367, 008, NORTHWEST
PIPELINE CORPORATION
- CAG-6.
DOCKET# RP97-287, 012, EL PASO
NATURAL GAS COMPANY
- CAG-7.
DOCKET# RP98-85, 000, NORAM GAS
TRANSMISSION COMPANY
- CAG-8.
DOCKET# RP98-117, 000, K N
INTERSTATE GAS TRANSMISSION
COMPANY
OTHER#S RP98-90, 001, K N
INTERSTATE GAS TRANSMISSION
COMPANY
- CAG-9.
DOCKET# RP98-121, 000, PANHANDLE
EASTERN PIPE LINE COMPANY
- CAG-10.
DOCKET# RP98-127, 000, NORTHERN
NATURAL GAS COMPANY
- CAG-11.
DOCKET# CP88-391, 021,
TRANSCONTINENTAL GAS PIPE LINE
CORPORATION
OTHER#S CP88-391, 022,
TRANSCONTINENTAL GAS PIPE LINE
CORPORATION
RP93-162, 006, TRANSCONTINENTAL
GAS PIPE LINE CORPORATION
RP93-162, 007, TRANSCONTINENTAL
GAS PIPE LINE CORPORATION
- CAG-12.
DOCKET# RP97-392, 000, NATIONAL
FUEL GAS SUPPLY CORPORATION
OTHER#S RP97-392, 001, NATIONAL
FUEL GAS SUPPLY CORPORATION
- CAG-13.
DOCKET# RP93-206, 017, NORTHERN
NATURAL GAS COMPANY

OTHER#S RP96-347, 008, NORTHERN NATURAL GAS COMPANY
 RP96-347, 010, NORTHERN NATURAL GAS COMPANY
 CAG-14.
 DOCKET# RP97-258, 005, WILLIAMS NATURAL GAS COMPANY
 OTHER#S RP97-454, 001, WILLIAMS NATURAL GAS COMPANY
 CAG-15.
 OMITTED
 CAG-16.
 OMITTED
 CAG-17.
 DOCKET# RP96-190, 008, COLORADO INTERSTATE GAS COMPANY
 CAG-18.
 DOCKET# RP95-167, 007, INDICATED SHIPPERS V. SEA ROBIN PIPELINE COMPANY
 CAG-19.
 DOCKET# RP97-346, 014, EQUITRANS, INC.
 OTHER#S RP93-187, 015, EQUITRANS, INC.
 RP98-123, 000, EQUITRANS, L.P.
 RP98-123, 001, EQUITRANS, L.P.
 RP98-123, 002, EQUITRANS, L.P.
 TM97-3-24, 004, EQUITRANS, INC.
 CAG-20.
 OMITTED
 CAG-21.
 OMITTED
 CAG-22.
 DOCKET# RP98-55, 001,
 TRANSWESTERN PIPELINE COMPANY
 OTHER#S RP98-55, 002,
 TRANSWESTERN PIPELINE COMPANY
 CAG-23.
 DOCKET# RP97-126, 004, IROQUOIS GAS TRANSMISSION SYSTEM, L.P.
 CAG-24.
 DOCKET# RP97-291, 003, PANHANDLE EASTERN PIPE LINE COMPANY
 OTHER#S RP97-291, 005, PANHANDLE EASTERN PIPE LINE COMPANY
 CAG-25.
 DOCKET# RP96-345, 002, TENNESSEE GAS PIPELINE COMPANY
 CAG-26.
 DOCKET# IN97-1, 000, QUESTAR PIPELINE COMPANY
 CAG-27.
 DOCKET# RP97-320, 000, JOINT PARTIES V. NORTHWEST PIPELINE CORPORATION
 CAG-28.
 DOCKET# RP98-39, 002, NORTHERN NATURAL GAS COMPANY
 OTHER#S RP98-38, 001, NATURAL GAS PIPELINE COMPANY OF AMERICA
 RP98-40, 002, PANHANDLE EASTERN PIPE LINE COMPANY
 RP98-42, 001, ANR PIPELINE COMPANY
 RP98-43, 001, ANADARKO GATHERING COMPANY
 RP98-44, 001, EL PASO NATURAL GAS COMPANY
 RP98-52, 002, WILLIAMS NATURAL GAS COMPANY
 RP98-53, 002, KN INTERSTATE GAS TRANSMISSION COMPANY
 RP98-54, 002, COLORADO INTERSTATE GAS COMPANY
 CAG-29.

DOCKET# GP97-7, 000, PLAINS PETROLEUM COMPANY AND PLAINS PETROLEUM OPERATING COMPANY
 CAG-30.
 DOCKET# GP91-8, 008, JACK J. GRYNBERG, ET AL. V. ROCKY MOUNTAIN NATURAL GAS COMPANY, A DIVISION OF K N ENERGY, INC.
 OTHER#S GP91-10, 008, ROCKY MOUNTAIN NATURAL GAS COMPANY V. JACK J. GRYNBERG, ET AL.
 CAG-31.
 DOCKET# GP97-1, 002, ROCKY MOUNTAIN NATURAL GAS COMPANY
 CAG-32.
 DOCKET# CP96-342, 001, NORAM GAS TRANSMISSION COMPANY
 CAG-33.
 DOCKET# CP97-26, 001, TRUNKLINE LNG COMPANY
 CAG-34.
 DOCKET# CP97-156, 001, HOPKINTON LNG CORP.
 CAG-35.
 DOCKET# CP98-74, 000, ANR PIPELINE COMPANY V. TRANSCONTINENTAL GAS PIPE LINE CORPORATION
 CAG-36.
 DOCKET# CP97-350, 000, COPANO FIELD SERVICES/COPANO BAY, L.P.
 OTHER#S CP97-362, 000, FLORIDA GAS TRANSMISSION COMPANY
 CP97-362, 001, FLORIDA GAS TRANSMISSION COMPANY
 CAG-37.
 DOCKET# CP97-279, 002, WARREN TRANSPORTATION, INC.
 OTHER#S CP97-280, 001, WARREN TRANSPORTATION, INC.
 CP97-281, 001, WARREN TRANSPORTATION, INC.
 CAG-38.
 DOCKET# CP98-150, 000, MILLENNIUM PIPELINE COMPANY, L.P.
 OTHER#S CP98-154, 000, MILLENNIUM PIPELINE COMPANY, L.P.
 CP98-155, 000, MILLENNIUM PIPELINE COMPANY, L.P.
 CP98-156, 000, MILLENNIUM PIPELINE COMPANY, L.P.

HYDRO AGENDA

H-1.
 RESERVED

ELECTRIC AGENDA

E-1.
 RESERVED

OIL AND GAS AGENDA

I.
 PIPELINE RATE MATTERS
 PR-1.
 RESERVED

II.
 PIPELINE CERTIFICATE MATTERS
 PC-1.
 RESERVED

David P. Boergers,

Acting Secretary.

[FR Doc. 98-4686 Filed 2-19-98; 2:38 pm]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5970-3]

California State Motor Vehicles Pollution Control Standards; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and public comment period.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has promulgated regulations related to onboard refueling vapor recovery (ORVR) standards and testing procedures, and amendments to the California evaporative emission test procedures. By letter dated, July 22, 1997, California requested EPA to grant a waiver of Federal preemption for the ORVR regulations and to confirm that the evaporative emission test procedure amendments fall within the scope of a currently pending section 209(b) waiver request, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b). This notice announces that EPA has tentatively scheduled a public hearing for March 18, 1998, to consider CARB's request and to hear comments from the general public concerning CARB's request.

DATES: EPA has tentatively scheduled a public hearing for March 18, 1998 beginning at 1:00 p.m. Any person who wishes to testify on the record at the hearing must notify EPA by March 9, 1998 that it wishes to present oral testimony regarding CARB's requests. If EPA receives one or more requests to testify on the pending request, a hearing will be held. If no one notifies EPA that they wish to testify, no hearing will be held. By March 11, 1998 any person who plans to attend the hearing should call Mr. David Dickinson of EPA's Vehicle Programs and Compliance Division at (202) 564-9256 to determine if a hearing will be held. Regardless of whether or not a hearing is held, any party may submit written comments regarding CARB's request and will be accepted through April 16, 1998.

ADDRESSES: If EPA receives a request for a public hearing, EPA will hold the public hearing announced in this notice in the first floor conference room at 501 3rd Street, NW., Washington, D.C. Parties wishing to present oral testimony at the public hearing should provide written notice to Mr. Dickinson, Group Manager, Vehicles Programs and Compliance Division, 401 M St., S.W. (6405J), Washington, DC 20460. In addition, written comments regarding

the waiver request should be sent, in duplicate, to Mr. Dickinson at the address noted above. Copies of material relevant to the waiver request (Docket No. A-97-38) will be available for public inspection during the working hours of 8:00 a.m. to 5:30 p.m. Monday through Friday, at the U.S.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Room M1500, First Floor Waterside Mall, 401 M St., S.W., Washington, DC 20460, Telephone: (202) 260-7548.

FOR FURTHER INFORMATION CONTACT: Mr. David Dickinson, Group Manager, Vehicles Programs and Compliance Division, U.S. Environmental Protection Agency, 401 M St., S.W. (6405J), Washington, DC 20460. Telephone: (202) 564-9256. E-Mail address: Dickinson.David@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

Section 209(a) of the Act as amended, 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * [or] require certification, inspection, or any other approval relating to the control of emissions * * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

The State of California may be exempted from the prohibitions of section 209(a) of the Act. Section 209(b) of the Act provides in part that the Administrator shall, after notice and opportunity for public hearing, waive application of the prohibitions of section 209(a) for California "if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—(A) the determination of the State is arbitrary and capricious, (B) [California] does not need such * * * standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of (the Act)."

As previous decisions granting waivers of federal preemption have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology given the cost of compliance

within that time period or if the Federal and State test procedures impose inconsistent certification requirements.

With regard to enforcement procedures accompanying standards, I must grant the requested waiver unless I find that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the California and Federal certification test procedures are inconsistent.

Once California has been granted a waiver of the application of the prohibitions of section 209(a) for its standards and accompanying enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving further waiver of Federal preemption.

By letter dated July 22, 1997, CARB submitted to EPA a request for waiver of Federal preemption for its regulations that set forth onboard refueling vapor recovery (ORVR) standards and test procedures. In addition, CARB requested EPA to confirm that amendments to CARB's evaporative emission test procedures fall within the scope of a pending waiver request before EPA.

The ORVR requirements adopted by CARB are nearly identical to the Federal ORVR standards and test procedures. EPA published its final ORVR rule on April 6, 1994 (59 FR 16296), and both the CARB and EPA emission standard is the same—0.20 grams hydrocarbon (Organic Material Hydrocarbon Equivalent, or OMHCE, for alcohol fuels) per gallon of fuel dispensed. Both CARB and EPA ORVR regulations apply to all gasoline-, diesel-, and alcohol-fueled vehicles in the California vehicle classes of passenger cars, light-duty trucks, and medium-duty vehicles with a gross vehicle weight rating (GVWR) of 8,500 lbs. or less. CARB's regulation incorporates the federal preconditioning and sequencing provisions for integrated and non-integrated ORVR systems. The state regulation also incorporates the federal refueling steps that are common to both integrated and non-integrated systems: (a) Disconnect the vapor line from the fuel tank to the canister, (b) drain the fuel tank, (c) refuel with test fuel to 10 percent of the nominal tank capacity, (d) soak the vehicle for six to 24 hours at 80°F (±3°F), (e) reconnect the vapor line, and (f) refuel the vehicle with test fuel at a rate of 9.8 (±0.3) gallons per minute at 67°F (±1.5°F) in a sealed enclosure

while measuring emissions (fueling is terminated at automatic shut-off after at least 85 percent of the nominal tank capacity has been dispensed). In addition CARB's ORVR regulations incorporate by reference the federal test procedures for ORVR, with some variances associated with fuel specifications for methanol, ethanol, liquefied petroleum, gas (LPG) and natural gas, and that a provision on preconditioning hybrid electric vehicles has been added. CARB's ORVR regulations also require manufacturers to meet the same ORVR phase-in schedule as that adopted by EPA. As noted above EPA published its final ORVR rule on April 6, 1994, which includes standards and test procedures for determining compliance with the standards. (59 FR 16296.) The federal and CARB ORVR compliance schedule requires that 40 percent of a manufacturer's 1998 model-year passenger cars be certified to the ORVR standard, followed by 80 percent in the 1999 model year and 100 percent in the 2000 model year. The same three-year implementation schedule applies to light-duty trucks starting with the 2001 model year, and applies to medium-duty vehicles of 6,001–8,500 lbs. GVWR starting with the 2004 model year. Passenger cars produced by small volume manufacturers are not subject to the ORVR requirements until the 2000 model year, when 100 percent compliance is required.

CARB's adopted amendments to the enhanced evaporative emission test procedures fall into two categories. First, in order to facilitate the testing of vehicles with ORVR systems, CARB's amendments allow for the preconditioning of integrated and non-integrated evaporative/refueling canisters. Second, the amendments further align California test procedures with the federal test procedures.

California states in its July 22, 1997 letter, that it has determined that its ORVR standards and test procedures are, in the aggregate, at least as protective of the public health and welfare as the applicable federal standards. Further, California states that it continues to need separate standards to meet compelling and extraordinary conditions. Finally, California states that its amendments are consistent with section 202(a) of the Act. With regard to amendments to its evaporative emission test procedures to which CARB seeks a within the scope determination, California states nothing within its amendments undermines prior protectiveness determinations and that its requirements continues to be consistent with section 202(a) of the

Act. Finally, CARB states that it is not aware of any new issues raised by the amendments which would affect the pending evaporative emission waiver request pending before EPA.

California's request, with regard to the ORVR standards and test procedures, will be considered according to the procedures for a waiver determination, thus an opportunity for a public hearing is being provided. Any party wishing to present testimony at the hearing and/or to submit written comments should address the following issues:

(1) Whether California's determination that its standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;

(2) Whether California needs separate standards to meet compelling and extraordinary conditions; and,

(3) Whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

California's request, with regard to the amendments to the evaporative emission test procedures, will be considered by EPA as a within the scope request. Thus, EPA plans to review whether CARB's amendments have undermined its protectiveness determination or whether CARB's amendments have caused its evaporative emission standards and test procedures to be inconsistent with section 202(a) or has raised any new issues with regard the previous waiver granted by EPA for such standards or test procedures. EPA is currently reviewing a request for waiver of federal preemption for California's evaporative emission standards and test procedures for the 1996-1998 model years. EPA plans to issue its waiver decision with regard to CARB's pending waiver request (see EPA Air Docket A-95-39, 60 FR 9185 (February 28, 1997)) and shall either include its review of CARB's recently adopted amendments within such decision or EPA shall include such review with the waiver decision associated with the present ORVR waiver request. Any party wishing to present testimony at the hearing and/or to submit written comments on CARB's amendments to evaporative emission test procedures should address the same criteria as that for the ORVR waiver request noted above and may also comment on the appropriate location (within the waiver decision that EPA will issue for the ORVR waiver request or the waiver decision associated with CARB's pending evaporative emission standards and test procedure waiver request) for EPA's review of CARB's amendments.

II. Procedures for Public Participation

Any party desiring to make an oral statement on the record should submit ten (10) copies, if feasible, of its proposed testimony and other relevant material to Mr. Dickinson of EPA's Vehicles Programs and Compliance Division at the address listed above not later than March 11, 1998. In addition, the party should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

In recognition that a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements which he or she deems irrelevant or repetitious and to impose reasonable limits on the duration of the statement of any participant.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until April 16, 1998. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions and other information which she deems pertinent.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its waiver decision in part on a submission labeled as CBI, then a nonconfidential version of the document which summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the person making comments.

Dated: February 18, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98-4655 Filed 2-23-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-140265; FRL-5771-5]

Access to Confidential Business Information by Chemical Abstract Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Chemical Abstract Services (CAS) and its subcontractor, TMC MICROIMAGE (TMC), both of Columbus, Ohio, access to information which has been submitted to EPA under sections 5 and 8(b) of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than March 6, 1998.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68-W5-0015, contractor CAS, of 2540 Olentangy River Road, and its subcontractor TMC MICROIMAGE, of 2709 Sawbury Boulevard, Columbus, OH, will assist the Office of Pollution Prevention and Toxics (OPPTS) in microfilming and processing of TSCA CBI materials.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-W5-0015, CAS and TMC will require access to CBI submitted to EPA under sections 5 and 8(b) of TSCA to perform successfully the duties specified under the contract (microfilming and providing a permanent storage medium for the confidential data). CAS and TMC personnel will be given access to information submitted to EPA under sections 5 and 8(b) of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of July 25, 1996 (61 FR 38728) (FRL-5386-2), CAS and TMC were authorized access to CBI submitted to EPA under sections 5 and 8 (b) of TSCA.

EPA is issuing this notice to inform all submitters of information under sections 5 and 8 (b) of TSCA that EPA may provide CAS and TMC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place either at CAS' Columbus, Ohio facility or the subcontractor may take TSCA CBI materials to its facility for the purpose of microfilming, provided that the transfer of materials is done so only under the direct supervision of a CAS official authorized for TSCA CBI access and that all TSCA CBI materials be returned daily to CAS' facility.

CAS and TMC will be authorized access to TSCA CBI at their facilities under the EPA *TSCA Confidential Business Information Security Manual*. Before access to TSCA CBI is authorized at CAS' site, EPA will perform the required inspection of its facility and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, CAS will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until April 7, 1998.

CAS and TMC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: February 11, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98-4656 Filed 2-23-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5970-2]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's

(OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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.

FOR FURTHER INFORMATION CONTACT: Call Sandy Farmer at (202) 260-2740, or E-mail at

"farmer.sandy@epamail.epa.gov", and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 0309.09; Registration of Fuels and Fuel Additives: Requirements for Manufacturers; was approved 01/17/98; OMB No. 2060-0150; expires 06/30/2000.

EPA ICR No. 0916.08; Annual Updates of Emission Data to the Aerometric Information Retrieval System (AIRS); was approved 01/17/98; OMB No. 2060-0088; expires 01/31/2001.

EPA ICR No. 1071.06; NSPS for Stationary Gas Turbines, Information Requirements—Subpart GG; was approved 01/30/98; OMB No. 2060-0028; expires 01/31/2001.

EPA ICR No. 1716.02; 40 CFR part 63, subpart JJ, Final Standards for Hazardous Air Pollutants from Wood Furniture Manufacturing Operations; was approved 02/04/98; OMB No. 2060-0324; expires 02/28/2001.

EPA ICR No. 1658.02; Regulations Governing Constructed or Reconstructed Major Sources; was approved 02/02/98; OMB No. 2060-0373; expires 02/28/2001.

Extension of Expiration Dates

EPA ICR No. 1727.01; Evaluation of Mandated Drinking Water Filtration and its Effects on Community Health; OMB No. 2080-0050; expiration date was extended from 01/31/98 to 07/31/98.

EPA ICR No. 0559.05; Application for Reference or Equivalent Method Determination; OMB No. 2080-0005; expiration date was extended from 01/31/98 to 05/31/98.

EPA ICR No. 1463.03; National Oil and Hazardous Substances Pollution Contingency Plan (NCP); OMB No. 2050-0096; expiration date was extended from 01/31/98 to 04/30/98.

EPA ICR No. 1808.01; Environmental Impact Assessment of Nongovernmental

Activities in Antarctica; OMB No. 2060-0028; expiration date was extended from 02/28/98 to 08/31/98.

EPA ICR No. 1696.01; Fuels and Fuel Additives Registration Regulations; OMB No. 2060-0297; expiration date was extended from 01/31/98 to 04/30/98.

EPA ICR No. 1702.01; Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; OMB No. 2060-0302; expiration date was extended from 01/31/98 to 04/30/98.

Dated: February 18, 1998.

Joseph Retzer,

Division Director, Regulatory Information Division.

[FR Doc. 98-4653 Filed 2-23-98; 8:45 am]

BILLING CODE 6560-50-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: March 5 and 6, 1998. The White House Conference Center, Truman Room, Third Floor, 726 Jackson Place NW, Washington, DC 20500.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Committee of Advisors on Science and Technology (PCAST) will meet in open session on Thursday, March 5 at approximately 9 am, and on Friday, March 6, at approximately 9 am to discuss PCAST Panels, the federal budget, science policy and energy/environment, and the 1998 PCAST agenda setting. This session on March 5 will end at approximately 5 pm; the session on March 6, will end at approximately Noon.

PUBLIC COMMENTS: There will be a time allocated for the public to speak on any of the above agenda items. We request that you notify us of the topic that you would like to address at the PCAST meeting at least five (5) days in advance of the meeting. Please notify Yolanda Comedy on 202-456-6100 or fax your requests/comments to 202-456-6026.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda please call Yolanda Comedy at

(202) 456-6005. Please note that public seating for this meeting is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by John H. Gibbons, Assistant to the President for Science and Technology, and by John Young, former President and CEO of the Hewlett-Packard Company.

Dated: February 19, 1998.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 98-4722 Filed 2-20-98; 9:27 am]

BILLING CODE 3170-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

February 18, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 26, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0173.

Title: Section 73.1207, Rebroadcasts.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 5,562.

Estimated Time Per Response: 0.5 hours.

Frequency of Response:

Recordkeeping requirement and third party disclosure requirement.

Cost to Respondents: N/A.

Total Annual Burden: 5,056 hours.

Needs and Uses: Section 73.1207 requires that licensees of broadcast stations obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. Section 73.1207 also requires stations who use the National Bureau of Standards ("NBS") time signals to notify the NBS semi-annually of use of time signals. The written consent assures the Commission that prior authorization for retransmission of a program was obtained.

OMB Control No.: 3060-XXXX.

Title: Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95-20.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 5. Total annual responses—10.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement; semi-annual reporting requirement.

Cost to Respondents: N/A.

Total Annual Burden: 20 hours.

Needs and Uses: In addition to seeking comment on a variety of Computer III and ONA rules, the Further Notice of Proposed Rulemaking (FNPRM) in CC Docket 95-20, tentatively concludes that the Commission should eliminate the requirement that the BOCs file Comparably Efficient Interconnection (CEI) plans and obtain Bureau approval for those plans prior to providing new intraLATA information services. Also, the Commission proposes allowing the BOCs to consolidate into one filing or posting all generic information they currently submit in their semi-annual reports.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98-4648 Filed 2-23-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[FCC 98-22]

Amended Notice; Commission To Hold En Banc February 19, 1998 in Connection With Report to Congress on Universal Service

February 18, 1998.

The prompt and orderly conduct of the Commission business requires that notice of this en banc meeting be given within less than 7 days notice.

The Federal Communications Commission will hold an En Banc on Thursday, February 19, 1998, from 2:00 p.m. to 4:00 p.m., in Room 856 at 1919 M Street, N.W., Washington, D.C. The En Banc is in connection with the Report to Congress on Universal Service required by statute.

The 1998 appropriations legislation for the Departments of Commerce, Justice, and State, Public Law 105-119, directs the Commission to undertake a review of the implementation of the provisions of the Telecommunications Act of 1996 (1996 Act) relating to universal service, and to submit a report to Congress no later than April 10, 1998.

At the En Banc, the Commission will hear from panels of experts addressing issues regarding various definitions in the 1996 Act, as well as the payment and receipt of Universal Service contributions by information service providers and telecommunications carriers.

The En Banc is open to the public, and seating will be available on a first come, first served basis. A transcript of the En Banc will be available 10 days after the event on the FCC's Internet site. The URL address for the FCC's Internet Home Page is <http://www.fcc.gov>.

The En Banc will also be carried live on the Internet. Internet users may listen to the real-time audio feed of the En Banc by accessing the FCC Internet Audio Broadcast Home Page. Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Internet Audio Broadcast Home Page.

The URL address for this home page is <http://www.fcc.gov/realaudio/>.

News Media Contact: Rochelle Cohen (202) 418-0253.

Report Working Group Contacts: Melissa Waksman (202) 418-1580; Marcelino Ford-Livene (202) 418-2030.

Action by the Commission on February 18, 1998, Chairman Kennard and Commissioners Ness, Furchtgott-Roth, Powell, and Tristani voting to consider this item.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98-4649 Filed 2-23-98; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

February 18, 1998.

Deletion of Agenda Item From February 19th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the February 19, 1998, Open Meeting and previously listed in the Commission's Notice of February 12, 1998.

Item No.	Bureau	Subject
2	Mass Media	<i>Title:</i> 1998 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996. <i>Summary:</i> The Commission will review its broadcast ownership rules as part of the regulatory reform review adopted by the Telecommunications Act of 1996.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98-4647 Filed 2-19-98; 12:03 pm]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

[Notice 1998-7]

Filing Dates for the California Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: California has scheduled a special election on April 7, 1998, to fill the U.S. House seat in the Ninth Congressional District vacated by Congressman Ronald Dellums. Should no candidate achieve a minority vote, a Special Runoff Election will be held on June 2, 1998, among the top vote-getters of each qualified political party, including qualified independent candidates.

Committees required to file reports in connection with the Special General Election on April 7 should file a 12-day Pre-General Election Report on March

26, 1998. Committees required to file reports in connection with both the Special General and Special Runoff Election must file a 12-day Pre-General Election Report on March 26, an April Quarterly Report on April 15, a Pre-Runoff Report on May 21, and a consolidated Post-Runoff & July Quarterly Report on July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Information Division, 999 E Street, N.W., Washington, DC 20463, Telephone: (202) 219-3420; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates who participate in the California Special General and Special Runoff Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-General Report on March 26, 1998, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through March 18, 1998; an April Quarterly Report on April 15, 1998, with coverage dates from March 19 through March 31, 1998; a Pre-Runoff Report on May 21, 1998, with coverage dates from April 1 through May 13, 1998; and a

consolidated Post-Runoff & July Quarterly Report on July 15, 1998, with coverage dates from May 14 through June 30, 1998.

All principal campaign committees of candidates in the Special General Election *only* and all other political committees not filing monthly which support candidates in the Special General Election shall file a 12-day Pre-General Report on March 26, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through March 18; an April Quarterly Report on April 15, with coverage dates from March 19 through March 31; and a Post-General Report on May 7, with coverage dates from April 1 through April 27, 1998.

All political committees not filing monthly which support candidates in the Special Runoff *only* shall file a 12-day Pre-Runoff Report on May 21, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through May 13, and a consolidated Post-Runoff & July Quarterly Report on July 15, with coverage dates from May 14 through June 30, 1998.

CALENDAR OF REPORTING DATES FOR CALIFORNIA SPECIAL ELECTION

Report	Close of books ¹	Reg./cert. mailing date ²	Filing date
If only the Special General is held (04/07/98), Committees must file:			
Pre-General	03/18/98	03/23/98	03/26/98
April Quarterly	03/31/98	04/15/98	04/15/98

CALENDAR OF REPORTING DATES FOR CALIFORNIA SPECIAL ELECTION—Continued

Report	Close of books ¹	Reg./cert. mailing date ²	Filing date
Post-General	04/27/98	05/07/98	05/07/98
If two elections are held, but a Committee is involved only in the Special General (04/07/98):			
Pre-General	03/18/98	03/23/98	03/26/98
April Quarterly	03/31/98	04/15/98	04/15/98
Committees involved in the Special General (04/07/98) and Special Runoff (06/02/98) must file:			
Pre-General	03/18/98	03/23/98	03/26/98
April Quarterly	03/31/98	04/15/98	04/15/98
Pre-Runoff	05/13/98	05/18/98	05/21/98
Post-Runoff and July Quarterly ³	06/30/98	07/15/98	07/15/98
Committees involved in the Special Runoff (06/02/98) only must file:			
Pre-Runoff	05/13/98	05/18/98	05/21/98
Post-Runoff and July Quarterly ³	06/30/98	07/15/98	07/15/98

¹ The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

² Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

³ Committees should file a consolidated Post-Runoff and July Quarterly Report by the filing date of the July Quarterly Report.

Dated: February 19, 1998.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 98-4628 Filed 2-23-98; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 10, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Gus Rusher*, Brinkley, Arkansas (as General Partner), to retain, and Gus Rusher Family Limited Partnership, Brinkley, Arkansas; to acquire, voting shares of Brinkley Bancshares, Inc., Brinkley, Arkansas, and thereby indirectly acquire Bank of Brinkley, Brinkley, Arkansas.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice

President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Patrick A. Brooks, Paula Brooks, Stacey Brooks, Shelley Brooks, Nancy L. Smith*, all of Chickasha, Oklahoma; Bruce Murray, and Joyce Murray, both of Redmond, Washington; and Stephanie Brooks Connel, Abilene, Texas; to acquire voting shares of First Independent Bancorp, Inc., Chickasha, Oklahoma, and thereby indirectly acquire First National Bank & Trust Company, Chickasha, Oklahoma.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Y.C. and Ya-Chen Yang*, San Francisco, California; John and Betty Yang, San Francisco, California; Stephen and Virginia Yang, Los Altos, California; and Paul and Alice Yang, Los Angeles, California, all acting in concert; to retain voting shares of National American Bancorp, San Francisco, California, and thereby indirectly retain National American Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, February 18, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4584 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part

225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *First Midwest Bancorp*, Itasca, Illinois; to acquire 100 percent of the voting shares of Heritage Financial Services, Inc., Tinley Park, Illinois, and thereby indirectly acquire Heritage Bank, Blue Island, Illinois.

In connection with this application, Applicant also has applied to acquire Heritage Trust Company, Tinley Park, Illinois, and thereby engage in

performing trust company operations, pursuant to § 225.28(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BancFirst Corporation, Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of Lawton Security Bancshares, Inc., Lawton, Oklahoma; and thereby indirectly acquire Security Bank & Trust Company, Lawton, Oklahoma.

Board of Governors of the Federal Reserve System, February 18, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4582 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Kanbanc, Inc., Overland Park, Kansas; to acquire 54.94 percent of the voting shares of State Bank of Colony, Colony, Kansas.

Board of Governors of the Federal Reserve System, February 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4697 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Union Bank of Switzerland, Zurich, Switzerland ("UBS") and UBS AG, Zurich, Switzerland ("New UBS"); to acquire Swiss Bank Corporation, Basle, Switzerland ("SBC"), and thereby acquire its subsidiaries and engage worldwide in certain nonbanking activities. Under the proposed transaction, SBC would merge into New UBS, which currently is a subsidiary of UBS. Shortly thereafter, UBS would merge into New UBS and New UBS would acquire the nonbanking subsidiaries of UBS. The nonbanking activities and companies involved in the

transaction are listed in the notice. UBS, through various subsidiaries, currently conducts certain nonbanking activities in the United States, including underwriting and dealing in equity and debt securities that a state member bank may not underwrite and deal in ("bank-ineligible securities"), pursuant to grandfather rights established by section 8(c) of the International Banking Act of 1978 (IBA) (12 U.S.C. § 3106(c)). Following consummation of the proposed transaction with SBC, UBS and New UBS propose to transfer certain nonbanking activities currently conducted by subsidiaries of UBS operating pursuant to the grandfather rights established by section 8(c) of the IBA to subsidiaries that would operate pursuant to section 4(c)(8) of the Bank Holding Company (BHC) Act, and thereby engage in such activities worldwide pursuant to section 4(c)(8) of the BHC Act and the Board's Regulation Y.

In connection with the transactions described above, UBS and New UBS propose to engage in or acquire companies engaged in nonbanking activities including: (a) making, acquiring, or servicing loans or other extensions of credit pursuant to § 225.28(b)(1) of the Board's Regulation Y; (b) activities related to making, acquiring, brokering or servicing loans or other extensions of credit pursuant to § 225.28(b)(2) of the Board's Regulation Y, including acquiring debt that is in default at the time of acquisition; (c) leasing personal or real property or acting as agent, broker, or adviser in leasing such property pursuant to § 225.28(b)(3) of the Board's Regulation Y; (d) performing functions or activities that may be performed by a trust company pursuant to § 225.28(b)(5) of the Board's Regulation Y; (e) providing financial and investment advisory services pursuant to § 225.28(b)(6) of the Board's Regulation Y; (f) providing securities brokerage, riskless principal, private placement, futures commission merchant and other agency transactional services pursuant to § 225.28(b)(7) of the Board's Regulation Y; (g) underwriting and dealing in government obligations and other obligations that state member banks may underwrite and deal in ("bank-eligible securities"), engaging in investment and trading activities, and buying and selling bullion and related activities pursuant to § 225.28(b)(8) of the Board's Regulation Y and *Swiss Bank Corporation*, 81 Fed. Res. Bull. 185 (1995); (h) engaging in community development activities pursuant to § 225.28(b)(12) of the Board's Regulation

Y; (i) serving as general partner of certain private investment limited partnerships in accordance with the BHC Act and the Board's decisions and interpretations thereunder, *see Meridian Bancorp, Inc.*, 80 Fed. Res. Bull. 736 (1994); and (j) underwriting and dealing in, to a limited extent, all types of bank-ineligible securities, except ownership interests in open-end investment companies, *see Canadian Imperial Bank of Commerce*, 76 Fed. Res. Bull. 158 (1990) and *J.P. Morgan & Co., Inc.*, 75 Fed. Res. Bull. 192 (1989).

Board of Governors of the Federal Reserve System, February 18, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4585 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 11, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *First Chicago NBD Corporation*, Chicago, Illinois; to acquire Roney & Co., L.L.C., Detroit, Michigan ("Roney"), and thereby engage in financial advisory activities, debt and equity securities

underwriting activities, and debt and equity placement activities, and retail brokerage, pursuant to §§ 225.28(b)(6) and (b)(7) of the Board's Regulation Y, and *J.P. Morgan & Co. Inc.*, 75 Fed. Res. Bull. 92 (1989). First Chicago NBD Corporation received approval to engage to a limited extent in underwriting and dealing in equity securities in a Board Order dated July 28, 1997.

Board of Governors of the Federal Reserve System, February 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4696 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 98-3950) published on page 8204 of the issue for Wednesday, February 18, 1998.

Under the Federal Reserve Bank of Kansas City heading, the entry for Morrill Bancshares, Inc., Sebetha, Kansas, and Morrill & Janes Bancshares, Inc., Hiawatha, Kansas, First Centralia Bancshares, Inc., Centralia, Kansas, Davis Bancorporation, Inc., Davis, Oklahoma, and Onaga Bancshares, Onaga, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Morrill Bancshares, Inc.*, Sebetha, Kansas, and *Morrill & Janes Bancshares, Inc.*, Hiawatha, Kansas, *First Centralia Bancshares, Inc.*, Centralia, Kansas, *Davis Bancorporation, Inc.*, Davis, Oklahoma, and *Onaga Bancshares, Onaga, Kansas*; to acquire FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4) of the Board's Regulation Y.

Comments on this application must be received by March 13, 1998.

Board of Governors of the Federal Reserve System, February 19, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98-4698 Filed 2-23-98; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Advisory Council on Government Auditing Standards; Notice of Meeting; Sunshine Act Meeting

The Advisory Council on Government Auditing Standards will meet on Monday, March 9, 1998, from 9:00 a.m. to 5:00 p.m., and Tuesday, March 10, 1998, from 8:30 a.m. to 3:00 p.m., in room 7C13 of the General Accounting Office building, 441 G St., NW., Washington, D.C.

The Advisory Council on Government Auditing Standards will hold a meeting to discuss issues that may impact Government Auditing Standards. Any interested person may attend the meeting as an observer. Council discussions and reviews are open to the public.

For further information contact: Marcia Buchanan, Assistant Director, Government Auditing Standards, AIMD, (202) 512-9321.

Dated: February 20, 1998.

Marcia B. Buchanan,

Assistant Director.

[FR Doc. 98-4823 Filed 2-20-98; 3:08 pm]

BILLING CODE 1610-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 438F, Humphrey Building, Department of Health and Human Services (HHS), Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

For information about how the poverty guidelines are used in a particular program, contact the Federal (or other) office which is responsible for that program.

For general information about the poverty guidelines (but NOT for information about a particular program—such as the Hill-Burton Uncompensated Services Program—that uses the poverty guidelines), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, Room 438F, Humphrey Building, Department of Health and Human Services, Washington, D.C. 20201—telephone: (202) 690-6141.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance and Recovery, HRSA, HHS, Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 520, Rockville, Maryland 20852—telephone: (301) 443-5656 or 1-800-638-0742 (for callers outside Maryland) or 1-800-492-0359 (for callers in Maryland). The Division of Facilities Compliance and Recovery notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

Under an amendment to the Older Americans Act, the figures in this notice are the figures that state and area agencies on aging should use to determine "greatest economic need" for Older Americans Act programs. For information about Older Americans Act programs, contact Carol Crecy, Administration on Aging, HHS—telephone: (202) 619-0011.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Theodore W. Mastroianni, Associate Assistant Secretary, Employment and Training Administration, U.S. Department of Labor—telephone: (202) 219-6236.

For information about the number of persons in poverty (since 1959) or about the Census Bureau (statistical) poverty thresholds, contact the HHES Division, Room 1462, Federal Office Building #3, U.S. Bureau of the Census, Washington, D.C. 20233—telephone: (301) 457-3242.

1998 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	\$8,050
2	10,850
3	13,650
4	16,450
5	19,250
6	22,050
7	24,850
8	27,650

For family units with more than 8 members, add \$2,800 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1998 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	\$10,070
2	13,570
3	17,070
4	20,570
5	24,070
6	27,570
7	31,070
8	34,570

For family units with more than 8 members, add \$3,500 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1998 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	\$9,260
2	12,480
3	15,700
4	18,920
5	22,140
6	25,360
7	28,580
8	31,800

For family units with more than 8 members, add \$3,220 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

(Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966-1970 period. Note that the Census Bureau poverty thresholds—the primary version

of the poverty measure—have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, the Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.)

The preceding figures are the 1998 update of the poverty guidelines required by section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97-35). As required by law, this update reflects last year's change in the Consumer Price Index (CPI-U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA-1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the "OMB" (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services (formerly by the Office of Economic Opportunity/Community Services Administration). The poverty guidelines may be formally referenced as "the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981."

The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty

guidelines in this notice—the 1998 guidelines—reflect price changes through calendar year 1997, they are approximately equal to the poverty thresholds for calendar year 1997 which the Census Bureau will issue in late summer or autumn 1998. (A preliminary version of the 1997 thresholds is now available from the Census Bureau.)

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines). Non-Federal organizations which use the poverty guidelines under their own authority in non-Federally-funded activities also have the option of choosing to use a percentage multiple of the guidelines such as 125 percent or 185 percent.

Some programs, while not using the guidelines to exclude non-lower-income persons as ineligible, use them for the purpose of giving priority to lower-income persons or families in the provision of assistance or services.

In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and nonfarm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Definitions

There is no universal administrative definition of “income,” “family,” “family unit,” or “household” that is valid for all programs that use the poverty guidelines. Federal programs may use administrative definitions that differ somewhat from the statistical definitions given below; the Federal office which administers a program has the responsibility for making decisions about administrative definitions. Similarly, non-Federal organizations which use the poverty guidelines in non-Federally-funded activities may use administrative definitions that differ from the statistical definitions given below. In either case, to find out the precise definitions used by a particular program, one must consult the office or organization administering the program in question.

The following statistical definitions (derived for the most part from language

used in U.S. Bureau of the Census, Current Population Reports, Series P60-185 and earlier reports in the same series) are made available for illustrative purposes only; in other words, these statistical definitions are not binding for administrative purposes.

(a) *Family*. A family is a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. For instance, if an older married couple, their daughter and her husband and two children, and the older couple's nephew all lived in the same house or apartment, they would all be considered members of a single family.

(b) *Unrelated individual*. An unrelated individual is a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the only person living in a house or apartment, or may be living in a house or apartment (or in group quarters such as a rooming house) in which one or more persons also live who are not related to the individual in question by birth, marriage, or adoption. Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.

(c) *Household*. As defined by the Bureau of the Census for statistical purposes, a household consists of all the persons who occupy a housing unit (house or apartment), whether they are related to each other or not. If a family and an unrelated individual, or two unrelated individuals, are living in the same housing unit, they would constitute two family units (see next item), but only one household. Some programs, such as the food stamp program and the Low-Income Home Energy Assistance Program, employ administrative variations of the “household” concept in determining income eligibility. A number of other programs use administrative variations of the “family” concept in determining income eligibility. Depending on the precise program definition used, programs using a “family” concept would generally apply the poverty guidelines separately to each family and/or unrelated individual within a household if the household includes more than one family and/or unrelated individual.

(d) *Family unit*. “Family unit” is not an official U.S. Bureau of the Census term, although it has been used in the poverty guidelines **Federal Register** notice since 1978. As used here, either an unrelated individual or a family (as defined above) constitutes a family unit. In other words, a family unit of size one

is an unrelated individual, while a family unit of two/three/etc. is the same as a family of two/three/etc.

(e) *Income*. Programs which use the poverty guidelines in determining eligibility may use administrative definitions of “income” (or “countable income”) which differ from the statistical definition given below. Note that for administrative purposes, in many cases, income data for a part of a year may be annualized in order to determine eligibility—for instance, by multiplying by four the amount of income received during the most recent three months.

For statistical purposes—to determine official income and poverty statistics—the Bureau of the Census defines income to include total annual cash receipts before taxes from all sources, with the exceptions noted below. Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children or Temporary Assistance for Needy Families, Supplemental Security Income, and non-Federally-funded General Assistance or General Relief money payments), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships, and assistantships; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For official statistical purposes, income does not include the following types of money received: capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; or tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are noncash benefits, such as the employer-paid or

union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance.

Dated: February 17, 1998.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 98-4566 Filed 2-20-98; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98021]

Fellowship Program in Violence Prevention for Minority Medical Students; Notice of Availability of Funds for Fiscal Year 1998

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for a Fellowship Program in Violence Prevention for Minority Medical Students. This program addresses the "Healthy People 2000" priority area of Violent and Abusive Behavior. The purpose of this program is to provide minority medical students with training in violence prevention and epidemiological research over an eight-week period at the Centers for Disease Control and Prevention. Specifically, this award is intended to:

1. Develop and strengthen minority physicians' leadership in violence prevention;
2. Provide education and research opportunities in violence prevention for minority medical students;
3. Provide a model for future violence prevention training programs at the undergraduate medical school level and;
4. Provide eight-week fellowships for four fellows to participate in epidemiological research on violence and in violence prevention projects.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local

governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Pub. L. 104-65, which became effective January 1, 1996, states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

C. Availability of Funds

Approximately \$35,000 is available in FY 1998 to fund one award. It is expected that the awards will begin on or about the third week of June, 1998, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Each fellow will receive a stipend of \$5,000 during each budget period.

Continuation awards within the project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Note: Indirect Cost: Indirect costs under this cooperative agreement will be reimbursed at 8 percent of total allowable direct cost exclusive of tuition and related fees and equipment, or at the actual indirect cost rate, whichever results in a lesser dollar amount.

D. Application Requirements

Applicants must:

1. Demonstrate a 5-year history of developing and managing fellowship assistance and/or specialized training for minority medical students;
2. Demonstrate that faculty/staff committed to this project have experience supervising medical fellows and medical fellowship programs and;
3. Demonstrate experience in providing and managing fellowship programs which places no fewer than 10 fellows in a one year period, and which has placed no fewer than 50 fellows over the life of the program.

An affirmative response to each requirement is necessary for the full objective review of applications under this announcement. The applicant must provide this documentation on a separate page to be included as the first page of the application, entitled: "Application Requirements Declaration."

E. Program Requirements

Cooperative Activities: In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be

responsible for the activities listed under 2. (CDC Activities).

1. **Recipient Activities:** Select and provide four fellows for each budget period, (the performance period for the first budget period will begin the third week of June 1998), to participate in an 8-12 week program. Fellows should be: (a) Third or fourth year minority medical students; (b) able to organize and analyze data; (c) interested in pursuing a career in public health research, practice, or teaching. Fellows will:

- a. Review existing literature and data on violence prevention efforts and organize the information into text and table report;
- b. Evaluate violence prevention strategies;
- c. Analyze data and prepare written manuscripts for publication;
- d. Observe technical assistance to local violence prevention projects; and
- e. Make clear, concise presentations of projects completed during the fellowship period.

2. **CDC Activities:**

- a. Coordinate and facilitate fellows orientation on current CDC violence prevention research activities;
- b. Provide fellows office space and access to computers;
- c. Provide related background and reading materials;
- d. Coordinate site visits to CDC funded projects; and
- e. Coordinate and assign specific topic areas and project activities.

F. Application Content

Each application should be limited to 25 pages, excluding attachments (i.e., letters of support, resumes, etc.). All material must be typewritten, single-spaced, with type no smaller than 10 cpi on 8.5"x11" paper, with at least 1" margins, headings, and footers, unbound and printed on one side only. Do not include any spiral or bound materials. The first page of the application should contain the response to the requirements as indicated in the Application Requirements Section of this announcement.

The application must include:

1. **Application Requirements Declaration.** See Application Requirements Section.
2. **Abstract:** A one page abstract and summary of the proposed program outlining the goals and objectives, the evaluation design, and desired outcome.
3. **Background and Need:** Background and need for the program in terms of the magnitude of the violence related injury problem and minority medical students training in violence prevention efforts. Include a description of current

activities and previous experience in coordinating fellowship programs, and evaluation capability.

4. Goals: Specific goals which indicate where the applicant anticipates its Fellowship Program will be at the end of the 3 year project period.

5. Objectives: Specific, time-phased, measurable, and achievable objectives which are feasible to be accomplished during the budget period. Objectives should relate directly to the program goals, and should include, but not be limited to, identifying and describing the violence-related injury problem demonstrating the effectiveness of medical students experience/training in violence prevention efforts and epidemiological research.

6. Methods: A detailed description of specific activities that are proposed to achieve each of the program objectives during the budget period. A time-frame should be included which indicates when each activity will occur and when preparations for activities will occur. For each activity, describe who will do what to implement the activities. If other organizations will participate, describe the role of the unit or organization, who will coordinate and supervise the activities, and how this will occur. Document concurrences with this plan by other involved organizations.

7. Evaluation: A detailed description of the methods and design to evaluate program effectiveness, including what will be evaluated, data to be used, who will perform the evaluation and the time-frame. Document staff availability, expertise, and capacity to evaluate program activities and effectiveness. Evaluation should include progress in meeting the objectives during the budget and project periods, and the impact of program activities on Fellows. Provide detailed description of how evaluation results will be used for programmatic decisions and how results will be reported.

8. Project Management and Staffing: A description of the roles and responsibilities of the project director and each other staff member. Allocation of staff to the activities (described in the Methods section) should be provided. Descriptions should include education and experience required, and the percentage of time each will devote to the program. Curriculum vitae (CV) for existing staff should be included. If the identity of any individual who will fill a position as a Fellow is known, his/her name and CV should be attached.

9. Budget and Accompanying Justification: A detailed first year budget (with future year projections) with accompanying narrative justifying all

individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities.

G. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937-0189). Forms are in the application kit.

On or before April 27, 1998, submit to: Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98021, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE, Mailstop E-13, Atlanta, Georgia 30305-2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

H. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (20 percent): The extent to which the applicant presents data justifying need for the program in terms of magnitude of the related injury problem and the need for minority medical students' training in violence prevention. The extent to which a description of current and previous related experiences: (a) Is inclusive in terms of fellowship activities and success, evaluation capability and coordination activities, and (b) demonstrates capacity to conduct the program.

2. Goals and Objectives (15 percent): The extent to which the applicant has included goals which are relevant to the purpose of the proposal and feasible to be accomplished during the project period, and the extent to which these are specific, and measurable. The extent to which the applicant has included objectives which are feasible to be accomplished during the budget period, and which address all activities necessary to accomplish the purpose of the proposal. The extent to which the objectives are specific, time-phased, and measurable.

3. Methods (35 percent): The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective and overall program goals and which includes designation of responsibility for each action undertaken. The extent

to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which roles of each Fellow and CDC are described, and coordination and supervision of Fellow in proposed activities is apparent. The extent to which documentation of program organizational location is clear. The extent to which position descriptions, CV's and lines of command are appropriate to accomplishment of program goals and objectives. The extent to which concurrence with the applicant's plans by all other involved parties is specific and documented.

4. Evaluation (30 percent): The extent to which the proposed evaluation system is detailed and will document program process, effectiveness, impact, and outcome. The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included.

5. Budget and Justification (not scored): The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

I. Other Requirements

The below listing of requirements are also included in this announcement. See Addendum 1 for a complete description of each requirement.

1. AR98-10: Smoke-Free Workplace Requirement.
2. AR98-11: Healthy People 2000 Requirement.
3. AR98-12: Lobbying Restrictions.
4. AR98-13: Prohibition on Use of CDC Funds for Certain Gun Control Activities.
5. AR98-16: Security Requirement.

J. Background

For further background information regarding this announcement see Addendum 2.

K. Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. progress reports annually;
 2. financial status report, no more than 90 days after the end of the budget period; and
 3. final financial report and performance report, no more than 90 days after the end of the project period.
- Send all reports to: Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and

Grants Office, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE., Mailstop E-13, Atlanta, GA 30305-2209.

L. Authority and Catalog of Federal Domestic Assistance Number

This program announcement is authorized under sections 391(a) and 393(a) of the Public Health Service Act (42 U.S.C. 280b(a), and 280b-1a), as amended. The Catalog of Federal Domestic Assistance number is 93.136.

M. Where To Obtain Additional Information

To receive a complete application kit, please call 1-888-GRANTS4. You will be asked to leave your name and address. A complete kit will be mailed to you.

Please refer to Program Announcement 98021 when you request information.

For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98021, Centers for Disease Control and Prevention, Room 300, 255 East Paces Ferry Road, NE., Mailstop E-13, Atlanta, GA 30305-2209, telephone (404) 842-6535, E-mail address jcw6@cdc.gov.

See also the CDC home page on the Internet: <http://www.cdc.gov>.

For program technical assistance, contact: Wendy Watkins, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., Mailstop K-60, Atlanta, GA 30341-3724, telephone (404) 488-4646, E-mail address dmw7@cdc.gov.

Dated: February 18, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98-4614 Filed 2-23-98; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Meeting Announcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council

(Council) will meet on March 11th to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act. Upon completion of the Council's review, proposals will be submitted to the Migratory Bird Conservation Commission with recommendations for funding. The meeting is open to the public.

DATES: March 11, 1998, 1:00 p.m.

ADDRESSES: The meeting will be held at the National Rural Electric Cooperative Association, located at 4301 Wilson Boulevard, Conference Center Room CC2, Arlington, VA. The North American Wetlands Conservation Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia, 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Coordinator, North American Wetlands Conservation Council, (703) 358-1784.

SUPPLEMENTARY INFORMATION: In accordance with the North American Wetlands Conservation Act (Pub. L. 101-223, 103 Stat. 1968, December 13, 1989, as amended), the North American Wetlands Conservation Council is a Federal-State-private body which meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to and final approval by the Migratory Bird Conservation Commission. Proposals from State, Federal, and private sponsors require a minimum of 50 percent non-Federal matching funds.

Dated: February 13, 1998.

Paul R. Schmidt,

Acting Assistant Director, Refuges and Wildlife.

[FR Doc. 98-4592 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Department of the Interior announces that the following Information Collection Request (ICR) for grantees participating in the Public Law 102-477 program is being forwarded to

the Office of Management and Budget (OMB) for review and extension: Public Law 102-477 Reporting, OMB 1076-0135 (expiring 3-31-98).

The proposed information collection requirement, with no appreciable changes, is submitted to OMB for review and extension, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A). The Department invites public comments on the subject proposal described below.

DATES: Interested parties are invited to submit written comments regarding this proposal on or before April 27, 1998.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is needed to document satisfactory compliance with statutory requirements of the various integrated programs. Public Law 102-477 authorizes tribal governments to integrate federally funded employment, training and related services programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of the Interior, Department of Labor and the Department of Health and Human Services. The Bureau of Indian Affairs is statutorily required to serve as the lead agency. Section 11 of this Act requires that the Secretary of the Interior make available a single universal report format which shall be used by a tribal government to report on integrated activities and expenditures undertaken. The Bureau of Indian Affairs shares the information collected from these reports with the Department of Labor and Department of Health and Human Services.

II. Method of Collection

Public Law 102-477 grantees are required to complete two single page, one-sided report forms and one narrative report, with four pages of instructions, annually. They replace 166 pages of instructions and applications representing three different agencies and twelve different funded but related programs. We estimate a 95 percent reduction in reporting which is consistent with the Paperwork Reduction Act and goals of the National Performance Review. The statistical and narrative report will be used to demonstrate how well a plan was executed in comparison to proposed goals. The financial status report will be used to track cash flow, and will allow an analysis of activities versus expenditures and expenditures to approved budget. It is a slightly modified SF-269-A (short form).

These report forms and narrative are limited but satisfy the Department of Health and Human Services, Department of Labor and the Department of the Interior. They reduce the burden on tribal governments by consolidating data collection for employment, training, education, child care and related service programs. The reports are due annually. These forms have been developed within a partnership between tribes and representatives of all three Federal agencies, to standardized terms and definitions, eliminate duplication and reduce frequency of collection.

Respondents: Tribes participating in Pub. L. 102-477 will report annually. Currently there are 21 grantees participating in the program.

Burden: We estimate that completion of the reporting requirements will require ten hours per year to complete for each grantee.

Request for Comments

Comments may include:

(a) Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility.

(b) The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used.

(c) The quality, utility, and clarity of the information to be collected.

(d) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Comments should refer to the proposal by name and/or OMB Control Number and should be sent to Lynn Forcia, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS-4660-MIB, Washington, DC 20240.

All written comments will be available for public inspection in room 4644 of the Main Interior building, 1849 C Street, NW, Washington, DC, from 9 a.m. until 3 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or additional copies of the information collection instructions should be directed to Lynn Forcia, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4660-MIB, Washington, DC 20240, telephone 202-219-5270 (this is not a toll-free number).

Dated: February 16, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98-4608 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities: Comment

AGENCY: Bureau of Indian Affairs, Office of Indian Education Programs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Information Collection Request for the Bureau of Indian Affairs Higher Education Grant Program Annual Report Form, OMB No. 1076-0106, requires reinstatement. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 350(c)(2)(A). The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before April 27, 1998.

ADDRESSES: Comments are to be mailed to Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 3512-MIB, Washington, D.C. 20240, or hand delivered to Room 3512 at the above address. All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington D.C., from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Garry R. Martin, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, Mail Stop 3512, Washington, D.C. 20240. Telephone 202-208-3478.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess annual performance in accordance with 25 CFR, Part 40—Administration Of Educational Loans, Grants And Other Assistance For Higher Education.

II. Method of Collection

The regulations provided in 25 CFR Part 40 contain the program requirements which govern the program. Information collected from the

programs will be used for the continued operation and evaluation of program delivery to ensure continued and expanded opportunities for Indian students.

III. Data

(1) Title of the Collection of Information is the Higher Education Grant Program Annual Report Form, OMB No. 1076-0106. Expiration date: 5-31-98; Type of Review: Renewal of an approved information collection form.

(2) Summary of the Collection of Information: The collection of information provides pertinent data concerning annual performance of the Higher Education Program.

(3) Affected Entities: Bureau and tribally administered higher education grant programs.

(4) Description of the need for the information and proposed use of the information: Submission of an annual report is necessary to assess an annual performance for the expenditure of funds received under the authorizing Act. The information collected with the annual report will be used by the Bureau of Indian Affairs or tribal programs for fiscal accountability. The analysis of data will be utilized for administrative and program planning.

(5) Description of likely respondents including the estimated number of likely respondents and proposed frequency of responses to the collection of information: There are approximately 125 programs that respond annually.

(6) Estimate of total annual reporting and record keeping burden that will result from the collection of information: 375 hours per annum. This form is estimated to average three hours per respondent that includes time for reviewing the instructions, gathering and maintaining data and completing the form. Estimated Annual Costs: \$6,750.00 (375 hours @ \$18.00 per hour).

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(b) The accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

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, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will become a matter of public record.

Dated: February 16, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

BILLING CODE 4310-02-P

OMB No. 1076-0106
Expiration Date: 5-31-98

HIGHER EDUCATION GRANT PROGRAM ANNUAL REPORT FORM

Bureau of Indian Affairs - Office of Indian Education Programs

Reporting Period: August 1, 19__ - July 31, 19__

Information and General Instructions: This information is collected to meet program reporting requirements. The annual report form is due on before July 31st of each year. The public reporting burden for this form is estimated to average three hours per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and receiving the form. Send comments regarding the burden estimate, or any other aspect of this form to the Bureau ICCO, 1849 C Street, NW, MS-337-MIB, Washington, D.C. 20245, and the Office of Management and budget, Paperwork Reduction Project (1076-0106), Washington, D.C.

Program Site Program Director

Mailing Address

Telephone Number Facimile

TRIBES SERVED	

STATISTICAL PROFILE			
	AY 19__ (Carry Forward)	AY 19__	TOTAL \$
Direct Grants to Students			
Administrative Cost ¹			

Administered by: (check one) _____
BIA TRIBE TRIBAL ORG 93-638 102-325

OMB No. 1076-0106
Expiration Date: 5-31-98

Total Number of Grant Requests (Part Time and Full Time) Received.				
Total Number of Grants Awarded.				
Total Number of Students Not Funded.				
Total Amount of Unfunded Unmet Need.				
No.FTE Freshman ²	No.FTE Sophomore	No.FTE Junior	No.FTE Senior	
Total Number Enrolled in Community Colleges.				
Total Number Enrolled in Four-Year Institutions				

FINANCIAL PROFILE ³			
Student/Spouse Contribution		Parent Contribution	
Federal Pell Grant		Student Incentive Grant	
College/University Sch		Federal SEOG	
Federal Stafford		College Work Study	
Federal SLS		Federal Perkins	
College/Univ Funded Loans		Plus Loans	
Voc Rehab		Tuition Waivers	
Veteran Assistance		Direct Tribal Assist	
Other		Total Resources	

GRADUATE LISTING

Total Number Graduates	
------------------------	--

Submit graduates in publish ready format with the following information:

- Name & Mailing Address
- Tribe
- Institution, Degree & Graduation Date

1 Administrative Cost charged out of direct program funds and not the Indirect Cost fund.

2. FTE means Full Time Enrollment

3. These financial aid programs are frequently used by most college students applying for educational grants and loans. Individual program definitions are found in the Department of Education's edition of The Student Guide.

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Proposed Agency Information Collection Activities; Comment**

AGENCY: Bureau of Indian Affairs, Office of Indian Education Programs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Information Collection Request for the Johnson-O'Malley Program Annual Report Form, OMB No. 1076-0096, requires reinstatement. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 350(c)(2)(A). The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before April 27, 1998.

ADDRESSES: Comments are to be mailed to the Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 3512-MIB, Washington, D.C. 20240, or hand delivered to Room 3512 at the above address. All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington, D.C., from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Garry R. Martin, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, Mail Stop 3512, Washington, D.C. 20240. Telephone 202-208-3478.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The information collection is necessary to assess the annual performance in accordance with 25 CFR Part 273—Education Contracts Under Johnson-O'Malley Act.

II. Method of Collection

The Johnson-O'Malley Act regulations provided in 25 CFR Part 273 contain the

program requirements which govern the program. Information collected from the program will be used for the continued operation and improvement of efforts to meet the specialized and unique educational needs of Indian students.

III. Data

(1) The title of the Collection of Information is: Johnson-O'Malley Annual Report Form, OMB No. 1076-0096. Expiration Date: 9-30-93; Type of Review: Reinstatement of an approved information collection form.

(2) Summary of The Collection of Information: The collection of information provides pertinent data concerning program need and annual performance of educational programs.

(3) Affected Entities: Tribal and Non-Tribal Johnson-O'Malley education programs.

(4) Description of the need for this information and proposed use of the information: Submission of an annual report (OMB No. 1076-0096) is required by statute. Submission of the annual report is necessary to assess an annual performance for the expenditure of funds received under the authorizing Act. The information is needed to ensure continued support of the development, operation and improvement of supplementary education programs. The information collected with the annual report will be used by the Bureau of Indian Affairs or tribal programs for fiscal accountability. The analysis of data will be utilized for administrative and program planning.

(5) Description of likely respondents, including the estimated number of likely respondents, and proposed frequently of responses to the collection of information: There are 360 programs that respond annually.

(6) Estimate of total annual reporting and record keeping burden that will result from the collection of information: 1,800 hours per annum. The form is estimated to average five hours per respondent that includes time for reviewing the instructions, gathering and maintaining data and completing the form. 1,800 hours is the estimated public reporting burden for the 360 programs to complete the Johnson-O'Malley annual report form (OMB No.

1076-0096). Estimated Total Annual Burden Hours: 1,800 hours. Estimated Annual Costs: \$32,400.00 (1,800 hours @ \$18.00 per hour).

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(b) The accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

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, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will become a matter of public record.

Dated: February 16, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

BILLING CODE 4310-02-P

BIA No. 62118

OMB No. 1076-0096
 Expire Date 9-30-93

JOHNSON-O'MALLEY (JOM) ANNUAL REPORT FORM

Information and General Instructions: This information is collected to meet the contract application requirements. The application is due on or before December 31st of each year. The public reporting burden for this form is estimated to average 5 hours per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and receiving this form. Send comments regarding the burden estimate, or any other aspect of this form to the Bureau ICCO, 1849 C Street NW, MS 337-SIB, Washington, D.C. 20245, and the Office of Management and Budget, Paperwork Reduction Project (1076-0096), Washington, D.C.

SECTION I - SUMMARY

CONTRACTOR _____ CONTRACT NO. _____ CURRENT YEAR FUNDS _____

MAILING ADDRESS _____ CONTRACT PERIOD _____ CARRY-OVER FUNDS _____

TELEPHONE NO./ E-MAIL ADDRESS _____ INDIRECT COSTS _____

PROGRAM OFFICIAL & TITLE _____ TOTAL BUDGET _____

Schools/Project Sites Contained in this Report: (Name & Address)	Signatory Authority:
	Contractor's Authorized Representative _____ Date _____
	OIEP Education Line Officer _____ Date _____
	Area Contracts & Grants COR _____ Date _____

BIA No. 62118

OMB No. 1076-0096
 Expire Date 9-30-93

JOHNSON-O'MALLEY PROGRAM ANNUAL REPORT FORM - PROGRESS & EVALUATION

SECTION II - QUANTITATIVE EVALUATION OR EFFECTIVENESS IN MEETING STATED OBJECTIVES

Name of School/Pre-School/Project Site

Official In Charge & Title

Eligible Students Counted		Grade Levels(s)	
Students Actually Served		Grade Levels(s)	

Instructions: For items 1 thru 5, summarize the goals, objectives and activities of each program component as contained in your approved education plan. Use a separate page for each component. Items 6 and 7, describe actual progress achieved and evaluate the program. Item 8, show funds expended to date. Enter cumulative totals in appropriate space on page 5.

(1) PROGRAM	(2) GRADE LEVELS SERVED	(3) EDUCATIONAL GOALS	MEASURABLE OBJECTIVES

BIA No. 62118

OMB No. 1076-0096
Expire Date 9-30-93

JOHNSON-O'MALLEY PROGRAM ANNUAL REPORT FORM - PROGRESS & EVALUATION
CONTINUED QUANTITATIVE EVALUATION OF EFFECTIVENESS IN MEETING STATED OBJECTIVES

Name of School/Pre-School/Project Site	Official In Charge & Title
(5) Activities & Procedures To Achieve Objectives	(6) Quantitative Evaluation
(7) Comments	(8) Program Expenditures a) Salaries _____ b) Fringe _____ c) Supplies _____ d) Travel _____ e) Other _____ f) Total _____

BIA No. 62118

OMB No. 1076-0096
Expire Date 9-30-93

JOHNSON-O'MALLEY PROGRAM ANNUAL REPORT FORM

SECTION III - INDIAN EDUCATION COMMITTEE (IEC) REPORT

School/Project Site _____ Official In Charge & Title _____

In-School Project _____ Out-of-School Project _____ No. Of IEC Members _____

Average No. IEC attending JOM meetings _____ No. Of Meetings Held _____ Dates of Meetings _____

- 1. Does the JOM IEC also serve as the following: _____ School Board of Education _____ Title IV, Part A Committee _____
- 2. Explain how the IEC was involved in the planning, implementation and evaluation of the JOM Program.

3. Does the IEC recommend the continued operation of all of the JOM programs described within this annual report _____ Y _____ N _____ (No requires response.)

4. IEC Budget Expenditures \$ _____

Meetings _____ Training _____
Travel _____ Workshop _____

IEC Chairperson & Date _____

BIA No. 62118

OMB No. 1076-0096
 Expire Date 9-30-93

JOHNSON-O'MALLEY PROGRAM ANNUAL REPORT FORM

SECTION IV - EXPENSE SUMMARY

JOM Contractor Name:		Contract No.		Date	
Contract Line Item	Original Budget	Modification	Revised Budget	YTD ¹ Expenditures	Balance
Personnel/Salaries					
Fringe Benefits					
Travel					
Equipment					
Supplies					
Consultants/Contracts					
Space Cost					
IEC Expenditures					
Other (Itemize)					
Subtotal					
Indirect Cost					
Total					

¹ - YTD - means Year to Date

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-030-08-1220-00: GP8-0096]

Notice of Meeting of the Oregon Trail Interpretive Center Advisor Board

AGENCY: National Historic Oregon Trail Interpretive Center, Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given that a meeting of the Advisory Board For the National Historic Oregon Trail Interpretive Center will be held on Friday, March 13, 1998 from 8 a.m. to 4 p.m. at the National Historic Oregon Trail Interpretive Center, Oregon Highway 86, Flagstaff Hill, Baker City, Oregon 97814.

At an appropriate time, the Board will recess for approximately one hour for lunch. Public comments will be received from 2 p.m. to 2:30 p.m., March 13, 1998. Topics to be discussed are the Pilot Fee Program Monies, the

draft of the Strategic Plan, and reports from Coordinators of Subcommittees.

DATES: The meeting will begin at 8 a.m. and run to 4 p.m. March 13, 1998.

FOR FURTHER INFORMATION CONTACT: David B. Hunsaker, Bureau of Land Management, National Historic Oregon Trail, Interpretive Center, P.O. Box 987, Baker City, OR 97814, (Telephone 541-523-1845).

Edwin J. Singleton,
District Manager.

[FR Doc. 98-4567 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-910-08-1020-00]

New Mexico Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The New Mexico Bureau of Land Management (BLM) has completed eight Resource Management Plan Conformance and National Environmental Policy Act Adequacy Determination Reports. There is one Report for each of the eight Resource Management Plans that have been completed in NM. The Reports are for the following Resource Management Plans (RMP).

1. Carlsbad RMP
2. Farmington RMP
3. Mimbres RMP
4. Rio Puerco RMP
5. Roswell RMP
6. Socorro RMP
7. Taos RMP
8. White Sands RMP

ADDRESSES: Copies of the Reports may be obtained from the following offices:

Office and address	Telephone
Bureau of Land Management, New Mexico State Office, Information Access Center, P.O. Box 27115, Santa Fe, NM 87502-0115	(505) 438-7400
Albuquerque District Office, 435 Montano Road, NE, Albuquerque, NM 87107-4935	(505) 761-8700
Rio Puerco Resource Area, 435 Montano Road, NE, Albuquerque, NM 87107-4935	(505) 761-8704
Taos Resource Area, 226 Cruz Alta Road, Taos, NM 87571-5983	(505) 758-8851
Las Cruces District Office, 1800 Marquess Street, Las Cruces, NM 88005-3371	(505) 525-4300
Mimbres Resource Area, 1800 Marquess Street, Las Cruces, NM 88005-3371	(505) 525-4300
Caballo Resource Area, 1800 Marquess Street, Las Cruces, NM 88005-3371	(505) 525-4300
Socorro Resource Area, 198 Neel Avenue, NW, Socorro, NM 87801-4648	(505) 835-0412
Roswell District Office, 2909 West Second Street, Roswell, NM 88201-2019	(505) 627-0272
Roswell Resource Area, 2909 West Second Street, Roswell, NM 88201-2019	(505) 627-0272
Carlsbad Resource Area, 620 E. Greene St., Carlsbad, NM 88220-6292	(505) 887-6544
Farmington District Office, 1235 La Plata Highway, Farmington, NM 87401-1808	(505) 599-8900

FOR FURTHER INFORMATION CONTACT: J.W. Whitney, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, telephone (505) 438-7438.

SUPPLEMENTARY INFORMATION: The Reports were prepared to determine whether a plan amendment and/or a supplemental Environmental Impact Statement was required. The Reports evaluated new information on threatened and endangered species, which has come to light since the RMPs were completed and implementation of the biological opinions, that resulted from the 1997 formal consultation with the U.S. Fish and Wildlife Service on the eight BLM RMPs in New Mexico. The Reports are an evaluation of this information as provided by Bureau of Land Management (BLM) Planning regulation; 43 CFR 1610.4-9 (Resource management planning process—Monitoring and evaluation) and the

BLM H-1790-1, National Environmental Policy Handbook, Chapter III, B (Reviewing Existing Environmental Documents).

Dated: February 13, 1998.

Richard A. Whitley,
Deputy State Director.

[FR Doc. 98-4611 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing marina facilities and services for the public at Gateway National Recreation Area for a period of

approximately fifteen (15) years from date of contract execution.

EFFECTIVE DATE: April 27, 1998.

ADDRESSES: Interested parties should contact the Concession Management Division, Gateway National Recreation Area, Floyd Bennett Field, HQ Building 69, Brooklyn, NY 11234, Telephone No. (718) 338-4603, to obtain a copy of the prospectus describing the requirements of the proposed contract. The cost for each prospectus will be \$100.00 to new respondents who have not previously paid.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner does not have a right of preference in the renewal of its contract. The Secretary will consider and evaluate all proposals

received as a result of this notice. Any proposal must be received by the Senior Concessions Program Manager, Boston Support Office, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: February 8, 1998.

Chrysendra L. Walter,

Acting Regional Director, Northeast Region.

[FR Doc. 98-4634 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Issue a Prospectus for Operation of a Snack Bar at Lake Roosevelt National Recreation Area

SUMMARY: The National Park Service will be releasing a concession Prospectus authorizing continued operation of a snack bar facility at Spring Canyon (day use recreation site) within Lake Roosevelt National Recreation Area. This is a modest operation accommodating visitors using the beach and swimming area with fast food, snacks and non-alcoholic beverage services. This seasonal operation serves visitors 3 months out of the year from Memorial Day (end of May) through Labor Day (first of September). The average visitation to the site is about 103,000 during the operating season.

The annual gross receipts average between \$9,000 to \$14,000. The new permit will be for four (4) years and eleven (11) months. The operator will be required to provide all the appliances necessary to conduct the proposed business. There is an existing concessioner which has operated satisfactorily under the existing permit 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 (NO CASH) made 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. The front of the envelope should be marked "Attention: Office of Concession Program Management—Mail Room Do Not Open". Please include in your request 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: February 13, 1998.

Cynthia Ip,

Acting Regional Director, Pacific West Region.

[FR Doc. 98-4569 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Big Cypress National Reserve; 3-D Geophysical Seismic Survey

ACTION: In accordance with section 9.52 of Title 36 of the Code of Federal Regulations, the National Park Service (NPS) has received a Plan of Operations from Calumet Florida, Inc. for conducting a 3-D Geophysical Seismic Survey in Big Cypress National Preserve, Florida.

SUMMARY: The NPS has prepared an Environmental Assessment (EA) in compliance with the National Environmental Policy Act. The public is invited to review and comment on the Plan of Operations and the Environmental Assessment, which are available at the following locations.

DATES: Comments on the Plan of Operations and the Environmental Assessment will be accepted by the Superintendent for a period on or before April 27, 1998 and will become part of the official record.

ADDRESSES:

Superintendent, Big Cypress National Preserve, Star Route, Box 110, Ochopee, Florida 33943, Telephone: (941) 695-2000, X339

Regional Director, Southeast Region, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW., Atlanta, Georgia 30303, Telephone: (404) 562-3124

SUPPLEMENTARY INFORMATION: The proposed work may result in impacts to wetlands and floodplains. Executive Orders 11990 ("Protection of Wetlands") and 11988 ("Floodplain Management") require the NPS and other Federal agencies to evaluate the likely impacts of the proposed action in wetlands and floodplains and a Statement of Findings may be prepared.

Dated: February 13, 1998.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 98-4636 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Sleeping Bear Dunes National Lakeshore, Michigan

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement, and notice of public open house.

SUMMARY: The National Park Service (NPS) will prepare a General Management Plan (GMP) Amendment, Historic Properties Management Plan, and an Environmental Impact Statement (EIS) for Sleeping Bear Dunes National Lakeshore, Michigan (hereafter, "the Lakeshore"), in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This notice is being furnished as required by NEPA Regulations 40 CFR 1501.7.

To facilitate sound planning and environmental analysis, the NPS intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and suggestions in this scoping process are invited.

Public meetings and open houses will be held during the development of the GMP Amendment and Historic Properties Management Plan (HPMP), and the preparation of the EIS. Notices of the dates, times, and locations of these public sessions will be advertised in local media outlets prior to the events. Information about public sessions and about the management plans and EIS will also be provided through periodic newsletters.

DATES: Public open houses will be held on Friday, March 20 and Saturday, March 21, 1998. Both open houses will be held between 9:30 am and 12 pm at the offices of Sleeping Bear Dunes National Lakeshore, 9922 Front Street, Empire, Michigan.

Written comments and suggestions concerning preparation of the GMP Amendment, HPMP, and EIS should be received by April 17, 1998.

ADDRESS: Written comments and suggestions should be directed to: Superintendent, Sleeping Bear Dunes National Lakeshore, 9922 Front Street, Empire, Michigan 49630.

FOR FURTHER INFORMATION CONTACT: Superintendent, Sleeping Bear Dunes National Lakeshore, at the above address or at telephone number 616-326-5134.

SUPPLEMENTARY INFORMATION: The Lakeshore's existing general management plan was approved in

1979. In accordance with National Park Service Management Policies, the GMP sets forth a management concept for the Lakeshore, and identifies broad strategies for resolving issues and achieving management objectives. The GMP amendment described in this notice will only address changes to the GMP necessary to provide an updated foundation for decision-making related to the management of historic properties within the Lakeshore.

The Historic Properties Management Plan is an implementation plan that describes how goals identified in the Lakeshore's GMP and Strategic Plan will be achieved. The Historic Properties Management Plan is identified as a work element in the Lakeshore's Annual Performance Plan. The Annual Performance Plan and the Strategic Plan are required by the Government Performance and Results Act (GPRA).

Elements of the Historic Properties Management Plan will include:

(1) Identification of landscapes and properties that should or may be preserved, and a determination of preservation strategies;

(2) Identification of landscapes and properties that will not be preserved, and a determination of action strategies, and;

(3) Identification of how visitors, surrounding communities, other interested groups and the Lakeshore can protect and preserve and adaptively use these landscapes and properties.

The environmental review of the HPMP for Sleeping Bear Dunes National Lakeshore will be conducted in accordance with requirements of NEPA (42 U.S.C. Section 4371 *et seq.*), NEPA regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and NPS procedures and policies for compliance with those regulations.

Dated: February 13, 1998.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 98-4564 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore, South Wellfleet, Massachusetts, Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore

Advisory Commission will be held on Friday, March 20, 1998.

The Commission was reestablished pursuant to Public Law 99-349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 9:30 a.m. at Headquarters, Marconi Station, South Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting 01/23/98
3. Reports of Officers
4. Report of Nickerson Subcommittee
5. Special Report: "Camp Wellfleet" ordinance
6. Superintendent's Report
 - Hatches Harbor Update
 - Fort Hill Update
 - Clearing of Herring River Run
 - Highlands Center for Arts & Environment
 - General Management Plan
 - News from Washington
 - Renomination Procedures
7. Old Business—Advisory Commission Handbook
8. New Business
9. Agenda for next meeting
10. Date for next meeting
11. Public comment
12. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: February 12, 1998.

Maria Burks,

Superintendent.

[FR Doc. 98-4637 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Dayton Aviation Heritage Commission, Ohio

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting

SUMMARY: This notice sets the schedule for the forthcoming meetings of the Dayton Aviation Heritage Commission. Meeting notices are required under the Federal Advisory Committee Act (Pub. L. 92-463).

DATES: Tuesday, February 24, 1998; 4:15 p.m. to 6:30 p.m.

ADDRESSES: 22 South Williams Street (Bicycle Shop).

DATES: Monday, March 2, 1998; 5:15 p.m. to 6:30 p.m.

ADDRESSES: Innerwest Priority Board conference room, 1024 West Third Street, Dayton, Ohio 45407.

These business meetings will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the Superintendent, Dayton Aviation, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: William Gibson, Superintendent, Dayton Aviation, National Park Service, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409, or telephone 513-225-7705.

SUPPLEMENTARY INFORMATION: The Dayton Aviation Heritage Commission was established by Pub. L. 102-419, October 16, 1992.

Dated: February 17, 1998.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 98-4568 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Announcement of a public meeting to receive testimony concerning planning for how and where in the Franklin Delano Roosevelt Memorial, Washington, D.C., permanent recognition of President Roosevelt's disability should be achieved.

DATES: March 9, 1998, 10:00 am.

ADDRESSES: National Capital Planning Commission, 801 Pennsylvania Avenue, NW., Third Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Parsons, Associate Superintendent, Stewardship and Partnerships, National Capital Region, at 202-619-7025. Written comments can be addressed to Mr. Parsons at National Park Service, National Capital Region, 1100 Ohio Drive, SW., Room 220, Washington, DC 20242. Comments must be received by March 27, 1998.

SUPPLEMENTARY INFORMATION: Pursuant to Public Law 105-29, the Franklin D. Roosevelt Memorial Committee and the National Park Service will conduct a public meeting to receive testimony on an addition to the Franklin Delano Roosevelt Memorial to recognize President Roosevelt's disability. On July 24, 1997, President William Clinton signed into law a Joint Resolution which directs the Secretary of the Interior to "plan for the design and construction of an addition of a permanent statue, bas-relief, or other similar structure to the [Franklin Delano Roosevelt Memorial] to provide recognition of the fact that President Roosevelt's leadership in the struggle by the United States for peace, well-being, and human dignity was provided while the president used a wheelchair." The National Park System Advisory Board established the Franklin D. Roosevelt Memorial Committee to help the Board advise the Secretary on achieving appropriate recognition. The Franklin D. Roosevelt Memorial Committee will make its recommendations to the full Board, which will then provide the advice the Secretary has requested.

The Franklin D. Roosevelt Memorial Committee is chaired by Dr. Holly A. Robinson, Historian and Vice Chair of the National Park System Advisory Board. The other members of the Committee are: Hugh Gallagher, author of *FDR's Splendid Deception* and noted disability rights activist; Karl Komatsu, historic architect and board member of the National Trust for Historic Preservation; Laurie D. Olin, landscape architect and Adjunct Professor, University of Pennsylvania; Michael R. Deland, Vice Chairman of American Flywheel Systems, Inc., and Chairman of the Board of the National Organization on Disability; David Dillon, author, architecture critic and Loeb Fellow at Harvard University; and James Roosevelt, Jr., public policy leader and grandson of President Franklin D. and Eleanor Roosevelt.

The Franklin D. Roosevelt Memorial Committee has met on three occasions with the memorial designer, Mr. Lawrence Halprin, to become familiar with the memorial and his design philosophy. As a result of these

deliberations toward integrating an addition into the highly acclaimed memorial design, the Franklin D. Roosevelt Memorial Committee and the National Park Service have determined that the next step in the planning process is to seek public opinion concerning the placement of an addition at the Franklin Delano Roosevelt Memorial which will recognize President Roosevelt's disability.

The Franklin D. Roosevelt Memorial Committee and the National Park Service will conduct a public meeting on March 9, 1998, in the Commission Meeting Room at the National Capital Planning Commission, Third Floor, 801 Pennsylvania Avenue, NW., Washington, D.C. beginning at 10:00 am.

The intent of the meeting is to receive public testimony concerning how and where in the existing memorial recognition of President Roosevelt's disability should occur. Those who wish to register in advance to speak can do so by calling the Office of Stewardship and Partnerships of the National Capital Region of the National Park Service at 202-619-7025 until 4:00 on Friday, March 6, 1998. Those who register in advance will be called to testify at the meeting in the order of their registration. Those who register at the meeting will be called in turn in the order of their registration. Speakers are requested to limit their remarks to a 3-minute time period. Written testimony will be accepted at the meeting. For further information contact Mr. John G. Parsons, Associate Superintendent, Stewardship and Partnerships, National Capital Region, at 202-619-7025. Written comments can be addressed to Mr. Parsons at National Park Service, National Capital Region, 1100 Ohio Drive, SW., Room 220, Washington, DC 20242. Comments must be received by March 27, 1998.

Dated: February 17, 1998.

John G. Parsons,

Associate Superintendent, Stewardship and Partnerships, National Capital Region.

[FR Doc. 98-4563 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Meeting of the New Orleans Jazz Commission

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the New Orleans Jazz Commission will be held at the following place and time.

DATES: Tuesday, March 17, 1998 at 5:00 p.m.

ADDRESSES: The meeting will be held in the U.S. Mint Conference Room on 751 Chartres Street, New Orleans, LA 70116.

FOR FURTHER INFORMATION CONTACT: Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact: Rayford Harper, Superintendent, New Orleans Jazz National Historical Park, 365 Canal Street, Suite 2400, New Orleans, Louisiana 70130-1142, Telephone (504) 589-4806.

SUPPLEMENTARY INFORMATION: The official designation of the Commission is the New Orleans Jazz Commission.

The Commission has been established to assist the National Park Service in implementing the purposes of Public Law 103-433. The purposes of Public Law 103-433 are to:

- a. Establish a New Orleans Jazz National Historical Park to preserve the origins, early history, development and progression of jazz;
- b. Provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and
- c. Implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

In accordance with Public Law 103-433, Title XII, the duties of the Commission are to:

- (1) Advise the Secretary in the preparation of the General Management Plan; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreement;
- (2) In consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups in furtherance of the purposes of the act establishing the New Orleans Jazz National Historical Park;
- (3) In consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies, social and pleasure clubs and other traditional groups in encouraging the continuation of and enhancement of jazz cultural traditions;
- (4) Acquire or lease property for jazz education, and advise on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) In consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) Assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) Notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expand and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study as having outstanding significance to the history of jazz in New Orleans.

The matters to be discussed at this meeting include:

Old Business (Commission Projects)
New Business
General Management Plan Update

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning matters to be discussed with the Superintendent, New Orleans Jazz National Historical Park.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the headquarters office of New Orleans Jazz National Historical Park.

Dated: February 10, 1998.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 98-4635 Filed 2-23-98; 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 February 14, 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, PO Box 37127, Washington, DC

20013-7127. Written comments should be submitted by March 11, 1998.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Yavapai County

Fort Misery, 415 W. Gurley St., Prescott, 98000224

CALIFORNIA

Yuba County

Miller, Warren P., House, 704 D St., Marysville, 98000225

COLORADO

Denver County

Helene Apartment Building, 1052 Pearl St., Denver, 98000226

GEORGIA

Lumpkin County

Davis, Daniel M., House, GA 9, 1.5 SW of jct. of GA 9 and GA 52, Dahlonega vicinity, 98000227

LOUISIANA

Iberia Parish

Lutzenberger Foundry and Pattern Shop Building, 502 and 505 Jane St., New Iberia, 98000228

MONTANA

Gallatin County

Flaming Arrow Ranch House and Office, 15325 Bridger Canyon Rd., Bozeman vicinity, 98000229

NEW JERSEY

Bergen County

Beech Street School, 49 Cottage Place, Ridgewood, 98000233

Camden County

Gloucester City Water Works Engine House, Jct. of Johnson Blvd and Gaunt St., Gloucester City, 98000235

Cape May County

Cold Spring Grange Hall, 720 Seashore Rd., Lower Township, 98000234

Mercer County

Green—Reading House, 107 Wilburtha Rd., Ewing Township, 98000237

Middlesex County

Wicoff, John Van Buren, House, 641 Plainsboro Rd., Plainsboro, 98000236

Union County

Young Women's Christian Association of Plainfield and North Plainfield, 232 W. Front St., Plainfield, 98000232

NEW MEXICO

Catron County

Zuni Salt Lake and Sanctuary District, Address Restricted, Quemado vicinity, 98000238

NEW YORK

New York County

First Romanian—American Congregation Synagogue, 89-93 Rivington St., New York, 98000239

NORTH CAROLINA

Martin County

Conoho Creek Historic District, Roughly bounded by Conoho Cr., Salsbury Mill Branch, and 0.5 mi. S of NC 142, Hassell vicinity, 98000230

New Hanover County

Hooper, William, School (Former), 410 Meares St., Wilmington, 98000231

TENNESSEE

Knox County

Daniel House, 2701 Woodson Dr., Knoxville, 98000240

Shelby County

Delmar—Lema Historic District, 1044-1066 Delmar Ave; 1044-1060, 1041-1061 Lemar Pl., Memphis, 98000242
Douglass High School, 3200 Mount Olive Rd., Memphis, 98000241

Washington County

Bowers—Kirkpatrick Farmstead, 3033 Boone's Creek Rd., Gray vicinity, 97001108

VIRGINIA

Alleghany County

Rosedale Historic District, Addams St., Midland Trail Rd., Rosedale Ave., Stoughton Ln., Sweetbrier Ave., Covington vicinity, 98000243
A Removal has been requested for:

TENNESSEE

Obion County

Parks Covered Bridge, N of Trimble of US 51, Trimble vicinity, 78002624

PENNSYLVANIA

Dauphin County

Greenawalt Building, 118-120 Market St., Harrisburg, 83002235

[FR Doc. 98-4607 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Desert Caballeros Western Museum, Wickenburg, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Desert Caballeros Western Museum which meets the

definition of "object of cultural patrimony" under Section 2 of the Act.

The item is an Apache *Gaan* ceremonial headdress of painted wood and cloth.

During the 20th century, this headdress was collected in Arizona. In 1978, this headdress was donated to the Desert Caballeros Western Museum by Henry Frick.

This headdress has been verified to be San Carlos Apache by representatives of the San Carlos Apache Tribe, the White Mountain Apache Tribe, the Tonto Apache Tribe, and the Yavapai-Apache Nation of the Camp Verde Reservation. The San Carlos Apache Tribe have documented that this item has ongoing traditional and cultural importance to the tribe and could not have been conveyed by any individual tribal member.

Based on the above-mentioned information, officials of the Desert Caballeros Western Museum have determined that, pursuant to 43 CFR 10.2 (d)(3), these cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Desert Caballeros Western Museum have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the San Carlos Apache Tribe.

This notice has been sent to officials of the San Carlos Apache Tribe, the White Mountain Apache Tribe, the Tonto Apache Tribe, and the Yavapai-Apache Nation of the Camp Verde Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Sheila Kollasch, Curator, Desert Caballeros Western Museum, 21 North Frontier St., Wickenburg, AZ 85390; telephone (520) 684-2272 before March 26, 1998. Repatriation of this object to the San Carlos Apache Tribe may begin after that date if no additional claimants come forward.

Dated: February 18, 1998.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 98-4685 Filed 2-23; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Camp Verde, AZ in the Possession of Arizona State Parks, Phoenix, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43CFR 10.9, of the completion of an inventory of human remains from Camp Verde, AZ in the possession of Arizona State Parks, Phoenix, AZ

A detailed assessment of the human remains was made by Arizona State Parks professional staff in consultation with representatives of the Yavapai-Apache Nation of the Camp Verde Reservation.

In 1970, human remains representing one individual were acquired by Arizona State Parks from the Camp Verde Historical Society. This individual has been identified as Del-che, an Apache man killed in 1874. No associated funerary objects are present.

In 1874, Del-che was killed and his head was brought in to Fort Verde where his death was confirmed by the U.S. Army. Dr. James Reagles was the fort surgeon at the time, and retained possession of Del-che's skull. Following Dr. Reagles' death, his son, Walter J. Reagles had possession of the skull until it's donation to the Camp Verde Historical Society around 1943.

Based on the above mentioned information, officials of the Arizona State Parks have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Arizona State Parks have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Yavapai-Apache Nation of the Camp Verde Reservation.

This notice has been sent to officials of the Yavapai-Apache Nation of the Camp Verde Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Cathy Johnson, Historic Resources Manager/Archaeologist, 1300 West Washington, Phoenix, AZ 85007; telephone: (602) 542-6951, fax: (602) 542-4180, before March 26, 1998.

Repatriation of the human remains to the Yavapai-Apache Nation of the Camp Verde Reservation may begin after that date if no additional claimants come forward.

Dated: February 18, 1998.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 98-4684 Filed 2-23-98 ; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Review of Existing Coordinated Long-Range Operating Criteria for Colorado River Reservoirs (Operating Criteria)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of final decision regarding the operating criteria.

SUMMARY: The purpose of this action is to provide public notice that the Secretary of the Interior (Secretary) has decided not to change the existing Operating Criteria as a result of the recently completed review process. The review has been conducted as an open public process, including formal consultation with the seven Colorado River Basin States (Basin States). The results of the review indicate that modification of the Operating Criteria is not justified at the present time.

EFFECTIVE DATE: February 18, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Moore, Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138-1102, telephone (801) 524-3702, or Ms. Jayne Harkins, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89005, telephone (702) 293-8190.

SUPPLEMENTARY INFORMATION: The public review process began with a **Federal Register** notice published on August 20, 1996 (61 FR 43073), announcing the review of the Operating Criteria and inviting comments during the 60 days following the notice. On October 31, 1996, another **Federal Register** notice (61 FR 56246) was published announcing two public consultation meetings and extending the comment period an additional 30 days. On November 4, 1996, a Fact Sheet containing information about the Operating Criteria review and an invitation to the public consultation meetings was sent to known and anticipated interested parties and agencies, and governor-designated

representatives of the Basin States, inviting their participation.

Comments from the two **Federal Register** notices were received from 18 respondents. The comments were reviewed by the Bureau of Reclamation for identification and analysis of the issues. Public consultation meetings were held on November 18, 1996, and December 2, 1996, to discuss the identified issues and answer questions from all interested parties. A set of all comment letters received was provided to any interested party requesting a copy. After the public consultation meetings, the analyses of the issues raised during the public review process were sent to all interested parties and participants in a March 1997 newsletter entitled the River Review.

In response to requests, another public consultation meeting and an additional 45-day comment period were announced in the **Federal Register** on March 28, 1997 (62 FR 14942). On April 4, 1997, a letter from the Reclamation Team Leader containing the preliminary results of Reclamation's analysis on each major issue area and an invitation to attend a public consultation meeting on the preliminary results and analysis was sent to all 18 respondents, governor-designated representatives of the Basin States, and any others who had attended meetings or expressed an interest in the review of the Operating Criteria. On April 22, 1997, a final public consultation meeting was conducted to discuss the preliminary analyses.

As required by Pub. L. 90-537, formal consultation with the representatives of the seven Basin States, and other parties and agencies as the Secretary may deem appropriate, was conducted in the context of public consultation meetings on three separate occasions: November 18, 1996; December 2, 1996; and April 22, 1997.

Following analysis of comments received as a result of this notice, the National Environmental Policy Act (NEPA) was applied to the Secretary's final decision.

Background

The Operating Criteria, promulgated pursuant to Section 602 of Pub. L. 90-537 (43 U.S.C. 1552), were published in the **Federal Register** on June 10, 1970. The Operating Criteria provide for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the

Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty.

Previous reviews of the Operating Criteria were initiated in 1975, 1980, 1985, and 1990. They resulted in no changes to the Operating Criteria. Prior to 1990, reviews were conducted primarily through meetings with and correspondence among representatives of the seven Basin States and Reclamation. Because the long-range operation of the Colorado River reservoirs is important to many agencies and individuals, in 1990, through an active public involvement process, Reclamation expanded the review of the Operating Criteria to include all interested stakeholders. A team consisting of Reclamation staff from Denver, Colorado; Salt Lake City, Utah; and Boulder City, Nevada, was organized to conduct the 1990 review. Review of the Operating Criteria in 1990 resulted in no changes. For the 1995 review, Reclamation staff from Salt Lake City, Utah, and Boulder City, Nevada, followed the same public process.

The scope of the review has been consistent with the statutory purposes of the Operating Criteria which are "to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty." Long-range operations generally refer to the planning of reservoir operations over several decades, as opposed to the Annual Operating Plan (AOP) which details specific reservoir operations for the next operating year.

Synopsis of Review Results

Many of the issues raised during the review are more properly dealt with during the development of the AOP. These include annual surplus determinations in the Lower Basin; the probability of spills from Lake Powell, including the release of beach/habitat building flows from Glen Canyon Dam; storage equalization between Lakes Powell and Mead; and factors for determining 602(a) storage.

The Operating Criteria were purposely designed to be flexible so that during the development of the AOP, variations in hydrologic conditions and changing demands for water use, including environmental demands and possible mitigation measures, could be accommodated. The process for developing the AOP is open to the public and all interested parties.

Reclamation regularly applies the NEPA process to activities constituting a major federal action significantly affecting the quality of the human

environment. The decision not to change the Operating Criteria is subject to NEPA and a Categorical Exclusion has been executed.

With respect to other environmental issues, Reclamation is in various stages of consultation with the Fish and Wildlife Service under Section 7 of the Endangered Species Act on most Colorado River mainstem facilities. When a Section 7 consultation results in the Service providing Reclamation with specific flow recommendations to remove or prevent jeopardy to listed species or their critical habitat, they are incorporated into Reclamation's operations, and if appropriate, included in the AOP.

Reclamation has programmed and expended funds for fish and wildlife mitigation and enhancement for impacts associated with previous activities where appropriate. Reclamation will continue to use this approach. Any changes associated with the long-range Operating Criteria will also be evaluated to determine if there are any mitigation requirements or enhancement opportunities.

Regarding the issue of water marketing and banking, Reclamation has initiated a rule making process focused on water banking in groundwater aquifers or off-mainstem storage reservoirs in the Lower Basin. This administrative rule is considered a responsibility of the Secretary of the Interior and focuses only on the three Lower Basin states. Reclamation believes that water marketing and banking do not require a change to the current Operating Criteria, as this issue lends itself to the AOP process.

Throughout the course of the review of the Operating Criteria, Reclamation has encouraged public participation and developed a thorough administrative record. Based on the results of the review and the analysis of public comments, it has been decided not to modify the Operating Criteria at this time.

Analysis of Issues

Issue #1

Application of the Administrative Procedure Act (APA).

Background

The APA was signed into law in 1946 by President Truman. The purposes of the Act are: (1) To require agencies to keep the public informed on organization, procedures and rules, (2) to provide for public participation in the rule making process, (3) to prescribe uniform standards of conduct for rule making and adjudicatory proceedings,

and (4) to restate the law of judicial review. The law primarily deals with rule making. The definition in the law (5 U.S.C. 551(4)) of a rule in part is as follows: ". . . the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency . . ." Rule making has two parts, formal and informal.

Analysis and Response

The Coordinated Long-Range Operating Criteria is a document generated from a requirement in the 1968 Colorado River Basin Project Act. It describes how the Secretary of the Interior will meet some of the commitments under the Act. The review of the Coordinated Long-Range Operating Criteria is not a rule making exercise and is therefore not subject to the formal rule making provisions of the APA.

Nevertheless, the Bureau of Reclamation has encouraged full public participation in this process and has developed a thorough administrative record of this review.

Issue #2

Surplus declarations are referenced in the 1964 Supreme Court decree (*Arizona v. California*) and are a part of the 1970 Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs. The decree apportions surpluses (50 percent to California, 46 percent to Arizona, and 4 percent to Nevada), while the Operating Criteria define surpluses as existing when there is sufficient storage in Lake Mead to supply greater than 7.5 million acre-feet (MAF) for Lower Basin consumptive uses. Guidelines for determining when surplus conditions exist have never been formally adopted.

Background

In the past, Reclamation has performed computer modeling studies of alternative surplus guidelines to determine the effects of various levels of surplus use. Because the shortage risks of surplus use (Arizona) fall on other than the benefactor (California), impacts and differences in risks of future shortages and reservoir drawdown have been keenly debated. All modeling strategies have as their foundation the principle of reducing system spills by allowing greater use in the Lower Basin, thus drawing down the reservoirs and thereby avoiding flood control releases. This greater drawdown then allows the high flows of flood years to be captured by the reservoir system. While the

amount of system spills is thus reduced, the degree of drawdown affects the risk of shortages to users during possible future drought conditions. Resolving the balance between risk of shortages and spills is the heart of the surplus issue.

Until 1996, Lower Basin consumptive uses were less than their allocation of 7.5 MAF, and California uses were met through unused apportionments of Arizona and Nevada rather than surplus declarations. However, with the implementation of the Arizona groundwater banking program, total Lower Basin use now exceeds 7.5 MAF and water above this amount can only be delivered through surplus declarations.

The 1996 Annual Operating Plan (AOP) committed to meet all reasonable beneficial consumptive uses, and later in the year when the annual Lower Division States' net diversions were projected to be greater than 7.5 MAF, a surplus was declared. The 1997 AOP contains an explicit determination of surplus, based on the current hydrologic situation and a lack of impacts from this single decision. Taking into account (1) the existing water storage conditions in the basin, (2) the most probable near-term water supply conditions in the basin, and (3) that the beneficial consumptive use requirements of Colorado River mainstream users in the Lower Division states are expected to be more than 7.5 MAF, the surplus condition is the criterion proposed to govern the operation of Lake Mead for calendar year 1998. This determination is based on flood control and spill avoidance considerations.

While these determinations have relied on an annual examination of existing water storage conditions in the basin, the most probable near-term water supply conditions in the basin, and the expected beneficial consumptive use requirements of Colorado River mainstream users in the Lower Division states, parties interested in the operation of the Colorado River system reservoirs have not collectively agreed to support any specific long-term strategy for declaring surplus and shortage conditions. Specific, long term strategies have been evaluated, each of which could provide potential benefits and affect water supply reliability when compared to the existing mode of operating the reservoir system. Drought periods in the basin can extend for many years and with the large volume of reservoir storage, many years could be required before negative impacts of surplus determinations are observed. Much of the current debate is focused on the risk of certain things happening in the future.

Analysis and Response

The comments received addressed three key topics relating to surplus determinations: (1) The establishment of guidelines, (2) the forum for establishing these guidelines, and (3) how surpluses will affect the probability of spills from Lake Powell.

Establishment of Guidelines. The commentors all agreed that surplus and shortage guidelines should be established, but varied in how firm or detailed these guidelines should be. The most flexible approach would be the annual determination of surplus/normal/shortage conditions through the AOP process, deciding on the condition of the reservoir system on a year-by-year basis. The most rigid approach would be the revision of the Operating Criteria to include specific guidelines which then would be applied each year to produce a determination.

Flexible guidelines have the advantage of being easily modified as consumptive use demands and hydrologic conditions change throughout the basin. For some parties, near-term surpluses could be more liberal than when Upper Basin uses increase and the likelihood of surplus deliveries are reduced. Flexible guidelines could be adopted without the more formal process of incorporating guidelines into the Operating Criteria.

Modifying the Operating Criteria to include surplus guidelines offers the advantage of clearly specifying under what conditions surpluses would be declared. All interests would then understand exactly what impacts could be expected under ranges of hydrologic conditions. Contingency plans could be implemented to mitigate adverse impacts and agreements could be formed to help meet consumptive use demands during non-surplus periods.

Forum for Establishing Guidelines. Most commentors felt that the AOP would be the most appropriate mechanism for preparing surplus/shortage guidelines. The less formal nature of the AOP meetings was viewed as positive for attempting to resolve this difficult issue. However, the issue has been addressed for the last five years in the AOP meetings, and no definite guidelines have been produced.

Probability of Spills from Lake Powell. The release of beach/habitat building flows from Glen Canyon Dam was a contentious topic during the completion of the Glen Canyon Dam Environmental Impact Statement. The 1968 Colorado River Basin Project Act directed the Secretary of the Interior to avoid anticipated spills while the 1992 Grand Canyon Protection Act directed the

Secretary to operate the dam to improve the environmental conditions in the Grand Canyon. In 1995, an agreement was reached between interested parties which attempts to meet the intent of both the 1968 and 1992 Acts by providing these high flows during high reservoir storage conditions when required for dam safety purposes.

Surplus determinations which explicitly drop the level of Lake Mead and through equalization drop the level of Lake Powell would likely reduce the probability of these powerplant bypasses. Commentors responded with concern for this possibility recommending that if surpluses were declared, measures should be taken to keep the probability of bypasses the same as at the present. The impacts of high spring flows are currently believed to be very important and this potential effect should be addressed as surplus guidelines are developed.

The Bureau of Reclamation believes that surplus/shortage criteria should (1) be specific guidelines that can be used to predict measurable effects in the future, (2) be developed through the AOP process, and (3) include a discussion of the potential effects on Lake Powell spills along with possible mitigation measures.

Issue #3

Section 602(a)(3) of the 1968 Colorado River Basin Project Act discusses the quantification of a reservoir storage volume in the Upper Basin. This storage is intended to supplement the unregulated flow of the Colorado River at Lees Ferry during drought periods as part of the 1922 Colorado River Compact deliveries to the Lower Basin. The intent of this provision is to avoid impairment of Upper Basin consumptive uses.

Background

The 1968 Act contains a provision providing that water not required to be stored shall be released from Lake Powell: (i) To the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and (iii) to avoid anticipated spills from Lake Powell. Through a combination of avoiding spills, equalizing storage between Lakes Powell and Mead, and the 602(a) storage volume, Upper Basin water was to be transferred to Lake Mead for use in the

Lower Basin. When Upper Basin storage falls below this 602(a) storage level, storage equalization provisions of the 1968 Act are disregarded.

By statute, the 602(a) storage volume was to be quantified taking into account historic stream flows, the most critical period of record, and probabilities of water supply. Since the purpose of this storage is to help provide Lower Basin deliveries, it is quantified as the difference between depleted flow at Lees Ferry and the Lower Basin delivery requirements over some period of drought. Upper Basin depletion levels significantly affect the storage calculation. Using the most critical period of natural flow, the 602(a) volume is currently estimated to be about 10 million acre-feet, which includes preservation of the 5.2 million acre-feet minimum power pool in Lake Powell. In the future, when Upper Basin consumptive uses increase, it has been assumed that Lake Powell could be completely drained to provide Lower Basin deliveries.

Controversy exists regarding the probability attached to the depleted flow assumptions with respect to both the rarity of the critical flow period and the projected depletion increases in the Upper Basin. These are the principle reasons that 602(a) storage has never been formally determined and agreed to by the Basin States. However, in the computer modeling of long-range operations of the reservoir system, some estimate or procedure must be used to model this portion of the applicable statutes. Currently, the Bureau of Reclamation uses the observed critical 12-year period (1953–1964) as the basis for the storage calculation. Reflecting the lack of a formal determination, each year's Annual Operating Plan has contained language stating that current reservoir storage in Upper Basin reservoirs exceeds the storage required under Section 602 under any reasonable range of assumptions which may be applied. The current Upper Basin depletion level is the prime reason that this statement is true.

Analysis and Response

The relationship between the 602(a) volume and surplus/shortage criteria has been raised in previous Annual Operating Plan discussions. Some parties have argued that both less or more severe drought periods should be used in the modeling, thus changing the Upper Basin risk of shortages.

Formally specifying or changing the risks associated with the 602(a) storage level will likely require a legal opinion on the issue of avoiding impairment of Upper Basin consumptive uses. Since

these uses presently do not significantly restrict Lower Basin surpluses and require much less than full Lake Powell storage to meet Lower Basin deliveries, this issue perhaps is not ripe for resolution. Reclamation recommends delaying implementing guidelines or changing the current 602(a) modeling assumptions until current assumptions or practices create unacceptable impacts.

Issue #4a

The Bureau of Reclamation should conduct an environmental analysis under the National Environmental Policy Act (NEPA) of any changes to the Operating Criteria.

Background

Letters of comment to the Operating Criteria review expressed concern over the long-term effects of the Operating Criteria on downstream resources as it relates to cumulative effects and spill frequency. Several letters indicated that the current Operating Criteria do not give equal consideration to environmental and recreational resources, and instead focus only on traditional water and power uses. To incorporate consideration of all resources and impacts of the Operating Criteria, the commentors recommended that the Operating Criteria be evaluated through application of NEPA.

Analysis and Response

Reclamation regularly applies the NEPA process to activities constituting a federal action, and agrees that compliance with NEPA would be required for any proposed changes to the long-range Operating Criteria that are discretionary Federal Actions (Chapter 2.1 of the Reclamation NEPA Handbook). The appropriate level of NEPA compliance after review of the Operating Criteria was determined to be a Categorical Exclusion which has been executed.

NEPA regulations require that each agency promulgate agency-specific guidelines to supplement the Council on Environmental Quality's general regulations (40 CFR parts 1500–1508). These classifications list those actions that: (1) Have a significant impact on the environment (requiring preparation of an environmental impact statement); (2) those which are categorically excluded from the EIS process (for which a categorical exclusion (CE) is prepared); and (3) those which fall in between (1) and (2) and will usually require the preparation of an environmental assessment (EA). As a result of the analysis contained in an EA, either an EIS or a Finding of No Significant

Impact (FONSI) is prepared by the agency.

The key issue in whether NEPA documentation is needed regarding this 5-year review is whether there is a federal action or federal discretion associated with this review. If no federal action is being proposed or taken by Reclamation, no NEPA documentation would be required. No changes are being proposed as the result of this review. However, because the decision to make no changes is a federal action, Reclamation concludes that preparation of a NEPA compliance document is appropriate. Reclamation executed a Categorical Exclusion pursuant to Departmental Instructions 516 DM 2, appendix 1.7, which provides that a CE may be prepared for routine and continuing government business, including such things as supervision, administration, operations, maintenance and replacement activities having limited context and intensity; e.g. limited size and magnitude or short-term effects.

Issue #4b

The Operating Criteria should recognize the need to preserve and recover endangered species dependent upon the quantity, quality, and pattern of release.

Background

Construction and operation of water storage and delivery facilities on the Colorado River and its tributaries are recognized as factors contributing to the decline of certain fish and wildlife species which have been listed as threatened or endangered by the Fish and Wildlife Service (Service). Storing water during the spring runoff decreases the natural spring flow, and releasing water later in the year for consumptive use raises the base flow. These types of changes in the hydrograph have removed spawning cues and affected water temperature, clarity, the food base, and fluvial geomorphology. Physical alteration from riverine to extensive reservoir environments has occurred causing further change to habitat for these species and contributed to the establishment of exotic species of fish, wildlife, and plants that compete with listed species and their habitat. The control of natural flood cycles and development of the floodplain for agriculture and other purposes has significantly changed or eliminated original habitats in and along extensive parts of the lower Colorado River. The success of efforts to recover endangered species are often thought to be dependant on restoring the natural hydrograph to the degree possible.

Commentors are concerned that if provisions for releases designed to recover endangered species are not incorporated into the Operating Criteria, changes to operations will not be implemented.

Analysis and Response

Reclamation is in various stages of consultation with the Service under Section 7 of the Endangered Species Act on most mainstem facilities. Conservation plans and recovery programs are also a large part of Reclamation activities in operation of the Colorado River. Operation of these facilities for endangered species would remain consistent with the original intended purpose of the project in accordance with the implementing regulations of the Endangered Species Act. When a Section 7 consultation results in the Service providing Reclamation with specific flow recommendations or other alternatives to remove or prevent jeopardy to listed species or their critical habitat, they are incorporated into Reclamation's operations, and if appropriate, are included in the Annual Operating Plan of the particular facility which was the subject of the consultation. Operations remain consistent with the "Law of the River," water service contracts, and other legal obligations. Examples of facilities where consultation has been completed resulting in a flow recommendation are Flaming Gorge Dam on the Green River in Utah, Glen Canyon Dam on the Colorado River in Arizona, and several features of the Colorado River Front Work and Levee System Program on the last 270 miles of the Colorado River in the United States.

Reclamation and the Service recently completed formal Section 7 consultation on lower Colorado River operations and maintenance (Lake Mead to the Southerly International Boundary with Mexico), and are engaged in ongoing consultation for Navajo Reservoir operations on the San Juan River in Colorado, and Aspinall Unit operations on the Gunnison River in Colorado. The Department of the Interior signed a Memorandum of Agreement in August 1995 that was further described in a Memorandum of Clarification and most recently a joint Participation Agreement to develop a long-term (50 year) Lower Colorado River Multi-Species Conservation Program (MSCP) from Lees Ferry to the Southerly International Boundary with Mexico. The overall objective of the MSCP is to develop a plan which would conserve and protect more than 100 listed and sensitive species within the Colorado River and its one hundred-year flood plain, and to

the extent consistent with law, accommodate current and future water and power operations.

Reclamation continues to undertake and pursue efforts for conservation and recovery of fish and wildlife and associated critical habitat under specific project authorities such as Section 8 of the Colorado River Storage Project Act and the Grand Canyon Protection Act. In addition, Reclamation has significant ongoing conservation and recovery efforts under the authority of Section 7(a)(1) of the Endangered Species Act. For example, the Lake Mohave Native Fish Rearing Program in the Lower Colorado River Basin continues to collect and rear wild larval razorback and bonytail chubs for release back into Lake Mohave to maintain the primary adult population and genetic pool for these species. Voluntary refinements to river operations have also been implemented when possible to benefit endangered species (i.e., management of reservoir levels in Lake Mohave for endangered fish). The Upper Colorado River Recovery Implementation Program, with an annual budget exceeding \$7 million, and the San Juan River Basin Recovery Implementation Program are other examples.

Reclamation will continue to plan and implement initiatives for protection of endangered species and associated critical habitat on a project-specific basis as described, with the goal of integrating these actions to the greatest degree possible to address ecosystem level needs. Initiatives such as the Glen Canyon Adaptive Management Program and the MSCP will be considered and incorporated into future Annual Operating Plans and Section 7 consultations, as appropriate.

Issue #4c

Funding for mitigation of negative impacts to fish and wildlife resources should be provided.

Background

Modification of river flows due to the operation of projects authorized by the Colorado River Storage Project Act has impacted fish, wildlife, and their habitats through reduction or elimination of overbank flooding, channelization, water depletions, and changes in water quality. These projects produce revenue primarily through power production. Commentors are concerned that sufficient funds be made available for mitigation activities.

Analysis and Response

Reclamation, like all federal agencies, must have both authorization and appropriations to undertake actions and

incur debt. In the Upper Colorado River Basin, Section 8 of the Colorado River Storage Project Act authorizes and directs the Secretary of the Interior to investigate, plan, construct, operate, and maintain facilities to improve conditions for and mitigate losses of fish and wildlife. Funds authorized by this section of the Act are nonreimbursable and nonreturnable, and therefore must be appropriated by Congress. Section 5(a) specifies that the Basin Fund will not be applied to Section 8 (fish and wildlife mitigation). The Grand Canyon Protection Act states that power revenues may be used for activities designed to conserve the environment downstream from Glen Canyon Dam, but does not exclude the use of other funding mechanisms.

Mitigation and enhancement activities are typically identified and proposed on a project-by-project basis through project planning and environmental compliance. Reclamation has programmed and expended funds for fish and wildlife mitigation and enhancement for impacts associated with previous activities where appropriate. Most often these activities are identified in Fish and Wildlife Coordination Act Reports and National Environmental Policy Act documents. Reclamation will continue to use this approach. Since no changes are being proposed, there is no specific mitigation or enhancement necessary for this action. Reclamation will continue to comply with NEPA and other appropriate environmental laws in identifying, planning, and carrying out mitigation and enhancement activities.

Issue #5

Is there a need to change the Operating Criteria.

Background

The Operating Criteria are to accomplish the objectives of Section 602(a) of the Colorado River Basin Project Act. Modification of the Operating Criteria can be done by the Secretary of the Interior “* * * as a result of actual operating experiences or unforeseen circumstances * * * to better achieve the purposes specified in (Section 602(a) of the Colorado River Basin Project Act).”

Some commentators stated that they believe “* * * there are no conditions resulting from actual operating experiences or unforeseen circumstances, since the last review, that justify the need to modify the existing Criteria,” and that the reservoirs have been operating satisfactorily under the present Operating Criteria. These comments

support not changing the criteria at this time.

Others stated that we are entering a new era and that the Operating Criteria should be changed to reflect different circumstances and concerns. The Lower Basin States have reached their annual apportionment of 7.5 million acre-feet for consumptive use. Environmental and recreational issues have increased in value in the eyes of the public. There were also those who stated that the Operating Criteria need to be changed to include specific guidelines that allow the Secretary of the Interior to make surplus, shortage, and normal determinations. These comments all support a need for change.

Analysis and Response

The Operating Criteria provide guidelines for the operation of Upper Basin Reservoirs and Lake Mead. Specific operational needs are not detailed in the Operating Criteria. The specific needs have, in the past, been addressed in the Annual Operating Plan development process.

The Operating Criteria may be modified from time to time as a result of actual operating experiences or unforeseen circumstances. A significant amount of operating experience has been gained over the 27-year period since the Operating Criteria were issued. Furthermore, Reclamation has developed and used analytical tools which allow operations of the Colorado River system reservoirs to be projected into the future with the inclusion of alternative operating strategies.

With the above in mind, the evaluation of operational experiences over the next several years will determine whether or not to change the Operating Criteria. But in the interim, the recommendation is not to change the Operating Criteria.

Issue #6

Water marketing and banking.

Background

Several years ago the Bureau of Reclamation advanced draft regulations for administering Colorado River water entitlements in the Lower Basin States of Arizona, California, and Nevada. The draft regulations contained provisions for water banking and water marketing in the Lower Basin. Because there was not consensus with the states regarding the draft regulations, they have been held in abeyance while the three states attempt to reach some agreement on numerous issues, including water marketing and banking. This negotiation process among the states is continuing. Many people believe that some form of

water banking and marketing will be essential to meeting future water needs in the Lower Colorado River Basin.

Analysis and Response

Reclamation initiated a rule making process focused on water banking in groundwater aquifers or off-mainstem storage reservoirs in the Lower Basin. Reclamation published the draft administrative rule on Offstream Storage of Colorado River Water in the **Federal Register** on December 31, 1997. In addition, the Environmental Assessment was released in the same timeframe. Both documents are out for review and comment until March 2, 1998. This administrative rule is considered a responsibility of the Secretary of the Interior under the Boulder Canyon Project Act, and focuses only on the three Lower Basin States.

Reclamation believes that the limited water marketing and banking currently under consideration would not require a change to the current Operating Criteria.

Final Decision

The Department considered issues arising from the review of the Operating Criteria. After a careful review of the issues, solicitation of involved parties' responses to Reclamation's analysis, and consultation with the Governors' representatives of the seven Basin States, the Department has decided not to modify the Operating Criteria at this time.

Dated: February 18, 1998.

Bruce Babbitt,

Secretary, Department of the Interior.

[FR Doc. 98-4570 Filed 2-23-98; 8:45 am]

BILLING CODE 4310-94-P

DEPARTMENT OF JUSTICE

Supplemental Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation & Liability Act

On February 5, 1998, the Department of Justice published notice of lodging of a proposed consent decree on January 21, 1998, with the United States District Court for the Northern District of Illinois, in *United States et al. v. City of Rockford, Illinois*, Civil No. 98 C 50026, under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (“CERCLA”), 42 U.S.C. 9601 *et seq.* See 63 FR 5967 (February 5, 1998). The Department of Justice hereby supplements its Notice to indicate that under section 7003(d) of the Resource

Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973(d), the public may request an opportunity for a public meeting at which time they may offer comment.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98-4644 Filed 2-23-98; 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 Consent Decree in *United States v. Harold Shane et al.*, Civil Action No. 90-0102-C (S.D. Ohio) entered into by the United States and Harold Shane, was lodged on February 11, 1998, with the United States District Court for the Southern District of Ohio. The proposed Consent Decree will resolve claims of the United States against Harold Shane for recovery of response costs incurred by the U.S. Environmental Protection Agency at the Arcanum Iron & Metals Superfund Site in Arcanum, Ohio pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* ("CERCLA"). The settlement requires Harold Shane to make payment of \$354,112 to the United States following entry of the proposed Consent Decree.

The Consent Decree includes a covenant not to sue by the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and under section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973 ("RCRA").

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, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044-7611, and should refer to *United States v. Harold Shane et al.*, Civil Action No. 90-0102-C, and the Department of Justice Reference No. 90-11-3-504. Commenters may request an opportunity for a public hearing in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decree, and attached exhibits, may be examined at the Office of the United States Attorney for the Southern District of Ohio, 200 West Second Street, Dayton, Ohio 45402; the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, telephone no. (202) 624-0892. A copy of the proposed 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 with attached exhibits, please refer to DJ #90-11-3-504, and enclose a check in the amount of \$5.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98-4643 Filed 2-23-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AMMAP Venture Team

Notice is hereby given that, on December 23, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the AMMAP Venture Team ("the AMMAP Team") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Ovonic Battery Company, Troy, MI; Manufacturing Sciences Corporation, Oak Ridge, TN; Oak Ridge National Laboratory, Oak Ridge, TN; Energy Conversion Devices, Inc., Troy, MI; Colorado School of Mines, Golden, CO; and Iowa State University, Ames, IA.

The objective of the AMMAP Team is to perform a research program with the goal of developing a Mg-based high-capacity hydrogen storage material and its production technology. The activities of the AMMAP Team will be partially funded by an award from the Advanced

Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98-4645 Filed 2-23-98; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '98 for a cooperative agreement to fund the "Prison Health Care Initiative" project.

Purpose: The National Institute of Corrections is seeking applications for a cooperative agreement for researching, updating and expanding the monograph, *Prison Health Care: Guidelines for the Management of an Adequate Delivery System*. The award recipient will conduct research and develop a new edition of this comprehensive guide on providing medical care and health services in a correctional environment.

Authority: Public Law 93-415

Funds Available: The award will be limited to a maximum total of \$100,000.00 (direct and indirect costs) and project activity must be completed within 18 months of the date of the award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Prisons Division.

Deadline for Receipt of Applications: Applications must be received in NIC's Washington, D.C. office by 4:00 p.m. Eastern Time, Friday, April 17, 1998.

ADDRESSES AND FURTHER INFORMATION:

Request for application kit, which includes further details on the project's objectives, etc., should be directed to *Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street N.W., Room 5007, Washington, D.C. 20534* or by calling 800-995-6423, ext. 159. You may also obtain an application kit by an E-mail request to Ms. Evens, jevans@bop.gov.

Any technical and/or programmatic information/questions on this announcement should be directed to Mr. Keith O. Nelson at the above address or by calling 800-995-6423, ext. 141 or 202-307-3106, ext. 141, or by E-mail via knelson@bop.gov.

Eligible Applicants: An eligible applicant is any private, nonprofit organization or institution, or individual.

Review Consideration: Applications received under this announcement will be subjected to a NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1)

NIC Application Number: 98P02. This number should appear as a reference line in your cover letter and box 11 of Standard Form 424.

Other Information: Applicants are advised that the narrative description of their program, not including the budget justification or Standard Form 424, attachments and appendices *should not* exceed forty (40), double-spaced typed pages.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on projects serving more than one State.

Dated: February 19, 1998.

(Catalog of Federal Domestic Assistance number is 16.603)

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 98-4681 Filed 2-23-98; 8:45 am]

BILLING CODE 4410-36-M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs

Office of Foreign Relations; Solicitation for Grant Application: Establish a Post-Graduate Masters- Level IR-HRM Degree Program With a Polish University

AGENCY: Bureau of International Labor Affairs, Office of Foreign Relations.

ACTION: Notice.

SUMMARY: The purpose of this one grant is to (develop and) establish a masters-level IR-HRM degree program with a Polish University in order to institutionalize previous Labor Management Relations (LMR) work done by the USDOL in Poland during the last five years. THIS GRANT IS LIMITED TO AMERICAN UNIVERSITIES OR COLLEGES LOCATED IN THE UNITED STATES OF

AMERICA. The maximum funding level is \$300,000.

DATES: An application package and instructions for completion will be made available for issuance on or about February 11, 1998. The closing date for receipt of a completed application in response to the SGA will be no later than 4:30 pm, May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, Department of Labor, Procurement Services Center, Room N-5416, 200 Constitution Ave., NW, Washington, DC 20210, Telephone (202) 219-9355, e-mail: harvey-lisa@dol.gov.

Signed at Washington, D.C. this 18 day of February, 1998.

Lawrence J. Kuss,

Grant Officer.

[FR Doc. 98-4668 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-28-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-33,742]

Notice of Revised Determination on Reconsideration

On October 10, 1997, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 24 1997 (62 FR 55424).

The Department initially denied TAA to workers of Dana Corporation, Spicer Trailer Products, Berwick, Pennsylvania, producing leaf springs because the "contributed importantly" group eligibility requirement of Section 223(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of major customers of Dana Corporation, Spicer Trailer Products. The survey revealed that a former major customer reduced purchases of leaf springs from the Berwick plant and increased purchases from a firm which increased its imports of leaf springs similar to the articles produced at the Berwick plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with leaf springs, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Dana Corporation, Spicer

Trailer Products. In accordance with the provisions of the Act, I make the following certification:

All workers of Dana Corporation, Spicer Trailer Products, Berwick, Pennsylvania who became totally or partially separated from employment on or after August 7, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 11th day of February 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4665 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-31,969]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 17, 1996, applicable to all workers of Hasbro Manufacturing Services, located in El Paso, Texas. The notice was published in the **Federal Register** on May 16, 1996 (61 FR 24815).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers separated from employment at Hasbro Manufacturing Services had their wages reported under a separate unemployment insurance (UI) tax account at Kelly Services. Workers from Kelly Services, Incorporated produced toys at the El Paso location of Hasbro Manufacturing.

Based on these findings, the Department is amending the certification to include workers from Kelly Services, Incorporated, El Paso, Texas who were engaged in the production of toys at Hasbro Manufacturing Services, El Paso, Texas by imports. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to TA-W-31,969 is hereby issued as follows:

All workers of Hasbro Manufacturing Services, El Paso, Texas and workers of Kelly Services, Incorporated, El Paso, Texas engaged in employment related to the production of toys for Hasbro Manufacturing Services, El Paso, Texas who became totally

or partially separated from employment on or after March 16, 1996, through April 17, 1998 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4667 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-33,050 and TA-W-33,050I]

Ithaca Industries, Incorporated; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 14, 1997, applicable to all workers of Ithaca Industries, Inc., Thomasville, Georgia. The notice was published in the **Federal Register** on April 29, 1997 (62 FR 23273).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations will occur in early February due to the closing of Ithaca's re-processing operation in Glennville, Georgia. The Glennville, Georgia workers are engaged in performing two operations for the production of men's and boy's undergarments; re-processing and sewing which will remain open. Based on these new findings, the Department is amending the certification to cover workers at the Glennville, Georgia facility.

The intent of the Department's certification is to include all workers of Ithaca Industries, Inc. adversely affected by increased imports.

The amended notice applicable to TA-W-33,050 is hereby issued as follows:

All workers of Ithaca Industries, Inc., Thomasville, Georgia (TA-W-33,050), and Glennville, Georgia (TA-W-33,050I) who became totally or partially separated from employment on or after December 4, 1995, through February 14, 1999 are eligible to

apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4664 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-33,974]

Lightalrms Electronics Corporation, Baldwin, New York; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 12, 1998, the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The certification was signed on December 17, 1997, and published in the **Federal Register** on January 22, 1998 (63 FR 3351).

The petitioner has made assertions regarding company imports of emergency lighting products from Canada.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 11th day of February 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4663 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34,208]

Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

initiated on February 2, 1998 in response to a worker petition which was filed January 20, 1998 on behalf of workers at Oxford Industries, Incorporated, Oxford of Giles, Pearisburg, Virginia (TA-W-34,208).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA-W-34,061A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 6th day of February 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4659 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-33,935]

Reef Gear Manufacturing, Incorporated, Plant II, Marine City, Michigan; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 16, 1998, the company requested administrative reconsideration of the Department of Labor's Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The certification was signed on December 10, 1997, and published in the **Federal Register** on January 6, 1998 (63 FR 578).

The company presents evidence that merits the Department's reinvestigation of the certification.

Conclusion

After careful review of the application, I concluded that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 11th day of February 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-4662 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[NAFTA-01866]

Dana Corporation, Spicer Trailer
Products, Berwick, Pennsylvania;
Notice of Revised Determination on
Reconsideration

On October 10, 1997, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 24, 1997 (62 FR 55424).

The initial investigation resulted in a negative determination issued on September 4, 1997, because criteria (3) and (4) of paragraph (a)(1) of Section 250 of the Trade Act of 1974, as amended, were not met. There was no shift of production from the Berwick, Pennsylvania plant to Canada or Mexico, nor did Dana Corporation, or its major declining customers, increase import purchases of leaf springs.

On reconsideration, the Department conducted further survey analysis of major customers of Dana Corporation, Spicer Trailer Products. The survey revealed that a former major customer reduced purchases of leaf springs from the Berwick plant and increased purchases from a firm which increased its imports from Mexico and Canada of leaf springs similar to the articles produced at the Berwick plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles from Mexico and Canada like or directly competitive with leaf springs, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Dana Corporation, Spicer Trailer Products. In accordance with the provisions of the Act, I make the following certification:

All workers of Dana Corporation, Spicer Trailer Products, Berwick, Pennsylvania who became totally or partially separated from employment on or after August 7, 1996 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 11th day of February 1998.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98-4666 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[NAFTA-02076]

Dimetrics, Inc., Davidson, North
Carolina; Notice of Termination of
Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on December 15, 1997 in response to a petition filed on behalf of workers at Dimetrics, Inc., Davidson, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 11th day of February, 1998.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98-4661 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[NAFTA-0823]

Amended Certification Regarding
Eligibility To Apply for NAFTA-
Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on April 17, 1996, applicable to all workers of Hasbro Manufacturing Services, El Paso, Texas. The notice was published in the **Federal Register** on May 16, 1996 (61 24815).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers separated from employment at Hasbro Manufacturing Services had their wages reported under a separate unemployment insurance (UI) tax account at Kelly Services. Workers from Kelly Services, Incorporated

produced toys at the El Paso, Texas location of Hasbro Manufacturing.

Based on these findings, the Department is amending the certification to include workers from Kelly Services, Incorporated, El Paso, Texas who were engaged in the production of toys at Hasbro Manufacturing Services, El Paso, Texas.

The intent of the Department's certification is to include all workers of Hasbro Manufacturing Services adversely affected by imports.

The amended notice applicable to TA-W-31,969 is hereby issued as follows:

All workers of Hasbro Manufacturing Services, El Paso, Texas and workers of Kelly Services, Incorporated, El Paso, Texas engaged in employment related to the production of toys for Hasbro Manufacturing Services, El Paso, Texas who became totally or partially separated from employment on or after March 16, 1996, through April 17, 1998 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of February 1998.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98-4669 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training
Administration

[NAFTA-02050]

Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on December 1, 1997 in response to a petition filed on behalf of workers at Thunderbird Moulding Company, located in Yreka, California.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 9th day of February 1998.

Grant D. Beale,*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98-4660 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "National Longitudinal Survey of Youth 97 (NLSY97)." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before April 27, 1998. The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Part of the mission of the Department of Labor (DOL) is to promote the development of the U.S. labor force and the efficiency of the U.S. labor market. BLS contributes to this mission by gathering information about the labor force and labor market and disseminating it to policy makers and the public so that participants in those markets can make more informed and, thus, more efficient choices.

The collection of the NLSY97 data will aid in the understanding of labor market outcomes faced by individuals in the early stages of career and family development and represents an important means of fulfilling BLS responsibilities.

II. Current Actions

This proposed collection covers the next three waves of the NLSY97 cohort. This will cover waves two through four of a longitudinal study of youths who were 12 through 16 years old on December 31, 1996. DOL will interview these youths on a yearly basis to study how young people make the transition from full-time schooling to the establishment of their families and

careers. The longitudinal focus of this survey requires the collection of information about the same individuals over many years in order to trace their education, training, work experience, fertility, income and program participation. Recognizing the crucial role of schools in training the next generation of workers, we plan to collect data on which schools these youths attend to measure the characteristics of those schools and relate them to the cognitive development of the respondents. In addition we will use existing data resources about these schools and measure the youth's academic aptitudes both directly and by collecting scores on other standardized tests the youth may have taken.

A major purpose of the data collection is to determine the strengths and weaknesses of the process for guiding the nation's youth from school to work. The transition from school to work, and the process of establishing a more permanent career, takes several years and proceeds at a different pace for different people. Accordingly, these data will help us understand how different youths negotiate the transition and which youths experience less favorable outcomes for the work transition. This study will help us identify the antecedents and causes for youths experiencing difficulties making the school to work transition. By comparing these data to comparable data from previous cohorts, we will be able to identify and understand some of the dynamics of the labor market and whether and how the experiences of this cohort of young people differs from those of earlier cohorts.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Youth 97 (NLSY97).

OMB Number: 1220-0157.

Affected Public: Individuals or households and not-for-profit institutions (secondary schools).

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden (hours)
Youth	9,100	Annually	9,100	1 hour	9,100
Transcript request (letter)	1,800	Annually	1,800	30 minutes	900
Validation reinterview	1,300	Annually	1,300	6 minutes	130
Totals	10,900	12,200	10,130

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the

information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 19th day of February, 1998.

W. Stuart Rust, Jr.,

*Chief, Division of Management Systems,
Bureau of Labor Statistics.*

[FR Doc. 98-4670 Filed 2-23-98; 8:45 am]

BILLING CODE 4510-24-M

NATIONAL INSTITUTE FOR LITERACY

Advisory Board Meeting

AGENCY: National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: March 19, 1998, at 10:30 am-5 pm and March 20, 1998, at 9:30 am-4 pm.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Sara Pendleton, National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006. Telephone (202) 632-1524.

SUPPLEMENTARY INFORMATION: The Board is established under section 384 of the Adult Education Act, as amended by Title I of Public Law 102-73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group programs to achieve the goals of the Institute. Specifically, the Board performs the following functions (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute, and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships. The Board meeting will be held in Philadelphia, PA. On March 19, 1998, the meeting will be held at the offices of the National Center for Adult

Literacy (NCAL) at the University of Pennsylvania, 3910 Chestnut Street. The focus of that day's meeting will be on technology and literacy, examining the Institute's current work in this area and discussing what role the Institute should play in the future. On March 20, 1998, the meeting will be held at the Philadelphia Public Library, 1901 Vine Street. The main focus of this day will be the need to expand and coordinate the information and communication capabilities of the Institute in support of its mission to improve and expand national literacy services. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006 from 8:30 am to 5 pm.

Dated: February 18, 1998.

Andrew J. Hartman,

Director, National Institute for Literacy.

[FR Doc. 98-4613 Filed 2-23-98; 8:45 am]

BILLING CODE 6055-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Deputy Director of the National Science Foundation has determined that the establishment of U.S. National Assessment Synthesis Team is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: U.S. National Assessment Synthesis Team.

Purpose: The U.S. National Assessment Synthesis Team is being formed under the auspices of the interagency Subcommittee on Global Change Research (SGCR), within the purview of the interagency Committee on Environmental and Natural Resources (CENR) and under the National Science and Technology Council (NSTC). The Team is meant to have broad responsibilities for the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Balanced Membership Plans. The Committee will be balanced with 12 men and women from government, academia, and the private sector to ensure that the final product represents

the best possible assessment of the impacts of climate change.

Responsible NSF Official: Dr. Robert Corell, Assistant Director for Geosciences and chair of the Subcommittee on Global Change Research, Room 705, National Science Foundation, 4301 Wilson Boulevard, Arlington, Va. 22300, telephone (703) 306-1500.

Dated: February 18, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-4581 Filed 2-23-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting; Public Hearing on Safety of Nation's Transit Bus Systems

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m. local time on Tuesday, March 3, 1998, at the Adams Mark Hotel, Fourth and Chestnut Streets, St. Louis, Missouri. For more information, contact Jeanmarie Poole, NTSB Office of Highway Safety at (202) 314-6440 or Ted Lopatkiewicz, NTSB Office of Public Affairs at (202) 314-6100.

This meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Bob Barlett at (202) 314-6446.

Dated: February 20, 1998.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 98-4777 Filed 2-20-98; 12:10 pm]

BILLING CODE 7533-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting; Public Hearing on Safety Oversight of the Union Pacific Railroad

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m. local time on Wednesday, March 18, 1998, at the Springfield Hilton Hotel, 6550 Loisdale, Road, Springfield, Virginia. For more information, contact James P. Dunn, NTSB Office of Railroad Safety at (202) 314-6430 or Shelly Hazle, NTSB Office of Public Affairs at (202) 314-6100.

Dated: February 20, 1998.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 98-4778 Filed 2-20-98; 12:10 pm]

BILLING CODE 7533-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting; Public Symposium on Family and Victim Assistance for Transportation Disasters

On September 28 and 29, 1998, at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA, the National Transportation Safety Board will host an international symposium to discuss the role of government and industry in the care of victims and their families following major transportation disasters. For more information, contact Liz Cotham, NTSB Office of Family Assistance, at (202) 314-6100 or Matt Furman, NTSB Office of Public Affairs, at (202) 314-6100.

Dated: February 20, 1998.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 98-4779 Filed 2-20-98; 12:10 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-51 issued to Entergy Operations, Inc., (the licensee) for operation of the Arkansas Nuclear One, Unit No. 1 (ANO-1), located in Pope County, Arkansas.

The proposed amendment would allow the use of the repair roll technology (reroll) for the upper tubesheet region of the ANO-1 steam generators. The reroll technology is proposed as an alternative to the existing technical specification requirements to either sleeve or plug steam generator tubes found during inservice inspections to have defects that exceed the stated repair criteria. The reroll process has been developed to repair tubes with flaws in the

tubesheet region by creating a new mechanical tube to tubesheet structural joint below the tube defect indications.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The reroll process utilizes the original tube configuration and extends the roll expanded region. Thus all of the design and operating characteristics of the steam generator and connected systems are preserved. The reroll joint length has been analyzed and tested for design, operating, and faulted condition loading.

The qualification of the reroll joint is based on establishing a mechanical roll length which will carry all of the structural loads imposed on the tubes with required margins. A series of tests and analyses were performed to establish this length. Tests that were performed included leak, tensile, fatigue, ultimate load, and eddy current measurement uncertainty. The analyses evaluated plant operating and faulted loads in addition to tubesheet bow effects. Testing and analysis evaluated the tube springback and radial contact stresses due to temperature, pressure, and tubesheet bow. At worst case, a tube leak would occur with the result being a primary to secondary system leak. Any tube leakage would be bounded by the ruptured tube evaluation which has been previously analyzed. The potential for a tube rupture is not increased by the use of the reroll process.

The reroll process establishes a new pressure boundary for the associated tube in the upper tubesheet below the flaw. Qualification testing indicates that normal and faulted leakage from the new pressure boundary joint would be well below the Technical Specification limits. Since the normal and faulted leak rates are well within the Technical Specification limits, the analyzed accident scenarios are still bounding.

Applying a hydraulic expansion prior to making a repair roll near the secondary face of the upper tubesheet minimizes the

potential for Obrigheim denting of the tube above the new roll. The hydraulic expansion does not have an adverse impact on the structural integrity of the tube or tubesheet. A tube that is rerolled deep into the tubesheet and not hydraulically expanded has the potential of denting inward if water is trapped between the new and old roll regions. The dented portion of the tube would be outside the pressure boundary and therefore not a safety concern. If the tube were dented, such that future inspections would not be possible, the tube would have to be removed from service.

Based on the Framatome Technologies Inc. qualification, as well as the history for similar industry repair rolls, there are no new safety issues associated with a reroll repair. Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The reroll process establishes a new pressure boundary for the associated tube in the upper tubesheet below the flaw. The new roll transition may eventually develop primary water stress corrosion cracking (PWSCC) and require additional repair. Industry experience with roll transition cracking has shown that PWSCC in roll transitions are normally short axial cracks, with extremely low leak rates. The standard MRPC eddy current inspection during the refueling outages have proven to be successful in detecting these defects early enough in their progression to facilitate repair.

In the unlikely event the rerolled tube failed and severed completely at the transition of the reroll region, the tube would retain engagement in the tubesheet bore, preventing any interaction with neighboring tubes. In this case, leakage is minimized and is well within the assumed leakage of the design basis tube rupture accident. In addition, the possibility of rupturing multiple steam generator tubes is not increased. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

A tube with degradation can be kept in service through the use of the reroll process. The new roll expanded interface created with the tubesheet satisfies all of the necessary structural and leakage requirements. Since the joint is constrained within the tubesheet bore, there is no additional risk associated with tube rupture. Therefore, the analyzed accident scenarios remain bounding, and the use of the reroll process does not reduce the margin of safety. Consequently, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has determined that the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 26, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be

filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the

hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the

Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(l)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 9, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas.

Dated at Rockville, Maryland, this 18th day of February 1998.

For the Nuclear Regulatory Commission.

William D. Reckley,

Senior Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98-4621 Filed 2-23-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

GPU Nuclear Corporation et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear Corporation, et al., (the licensee) to withdraw its January 16, 1995, application as supplemented by letters dated June 22, and September 20, 1995, for proposed amendment to Facility Operating License No. DPR-50 for the Three Mile Island Nuclear Station, Unit No. 1, located in Dauphin County, Pa.

The proposed amendment would have revised the Technical Specifications related to surveillance testing of the control room emergency ventilation system.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on March 15, 1995 (60 FR 14021). However, by letter dated January 16, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 16, 1995, as supplemented June 22 and September 20, 1995, and the licensee's letter dated January 16, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's

Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, P.O. Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 18th day of February 1998.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Project Directorate 1-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98-4623 Filed 2-23-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-387 and 50-388]

Pennsylvania Power and Light Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-14 and NPF-22 issued to Pennsylvania Power and Light Company (PP&L, the licensee) for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would change the SSES Technical Specifications facility staff requirements to allow an individual who does not hold a current senior reactor operator (SRO) license to hold the position of Manager-Nuclear Operations (MNO) and require an individual serving in the capacity of the Operations Supervisor-Nuclear to hold a current SRO license and report directly to the MNO and be responsible for directing the licensed activities of licensed operators.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a

significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes affect an administrative control which was based upon the guidance of ANSI N18.1-1971. ANSI N18.1-1971 establishes that the "Operations Manager" hold a SRO license. This standard was oriented to an organization where the duty Shift Supervisors reported directly to the "Operations Manager". The intent being that the person in the chain of command directly above the duty Shift Supervisors hold a SRO license. Susquehanna SES maintains the position of Operations Supervisor-Nuclear as this person within the chain of command. The position of Operations Supervisor-Nuclear satisfies all of the requirements of ANSI N18.1-1971 for the "Operations Manager". These changes retain the commitment to have a member of the unit staff not assigned to shift duties who holds a SRO license.

The proposed changes do not alter the design of any system, structure, or component, nor do they change the way plant systems are operated. They do not reduce the knowledge, qualifications, or skills of licensed operators, and do not affect the way the Operations Group is managed by the Manager-Nuclear Operations. The Manager-Nuclear Operations will continue to maintain the effective performance of operations personnel and ensure that the plant is operated safely and in accordance with the requirements of the operating license. Additionally, the control room operators will continue to be supervised by a licensed senior reactor operator.

The proposed changes do not detract from the Manager-Nuclear Operations ability to perform his primary responsibilities. The Manager-Nuclear Operations is required to achieve the necessary training, skills, and experience to fully understand the operation of plant equipment and the watch requirements for operators.

In summary, the changes retain the commitment to have a member of the unit staff not assigned to shift duties who holds a SRO license. The proposed changes do not detract from the Manager-Nuclear Operations ability to perform his primary responsibilities. Thus, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specification 6.2.2g and 6.3.1 do not affect

the design or function of any plant system, structure, or component, nor do they change the way the plant systems are operated. They do not affect the performance of licensed operators. Operation of the plant in conformance with technical specifications and other license requirements will continue to be supervised by personnel who hold a SRO license. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes involve an administrative control that is not related to a margin of safety. The proposed changes do not reduce the level of knowledge or experience required of an individual in the chain of command who serves directly above the duty Shift Supervisors in that the control room operators will continue to be supervised by personnel who hold a SRO license. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication

date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 26, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest.

The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who

has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any

hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 26, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 18th day of February 1998.

For the Nuclear Regulatory Commission.

Victor Nerses,

Senior Project Manager, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98-4624 Filed 2-23-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Nuclear Regulatory Commission.

Date: Weeks of February 23, March 2, 9, and 16, 1998.

Place: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

Status: Public and Closed.

Matters to be considered:

Week of February 23

There are no meetings the week of February 23.

Week of March 2—Tentative

There are no meetings the week of March 2.

Week of March 9—Tentative

There are no meetings the week of March 9.

Week of March 16—Tentative

Thursday, March 19

2:30 p.m. Affirmation Session (Public Meeting) (if needed)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. **CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415-1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 20, 1998.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98-4826 Filed 2-20-98; 3:13 pm]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection, Comment Request, Standard Form 1153

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed collection; Comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13) and 5 CFR 1320.5 (a)(i)(iv), this notice announces that OPM intends to submit to the Office of Management and Budget (OMB) a request for clearance of an information collection.

The Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee, is provided to the appropriate person(s) for completion as soon as practicable after the death of a civilian employee. The employing agency and, in the event of a disputed claim, OPM will use this information to help determine the claimant's and others' rights to the deceased employee's unpaid compensation. The authority to settle these claims was transferred from the General Accounting Office to the Director of OMB pursuant to the Legislative Branch Appropriations Act of 1996. Subsequently, the Director of OMB delegated this function to OPM.

It is estimated that 3300 individuals will respond annually for a total burden of 1,650 hours. To obtain copies of this proposal please contact James M. Farron at (202) 418-3208 or by E-mail to jmfarron@opm.gov.

Comments are particularly invited on:

- whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility;
- whether our estimate of the public burden of this collection of information is accurate; and
- ways in which we can minimize the burden of collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments on this proposal should be received on or before April 25, 1998. Submit comments on this proposal to Paul Britner, Office of Personnel Management, Room 7F08A, 1900 E. Street, N.W., Washington, D.C. 20415.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98-4495 Filed 2-23-98; 8:45 am]

BILLING CODE 6325-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of Information Collection: Form RI 38-31

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a

request for reclearance of an information collection. RI 38-31, Request for Information About Your Missing Payment, is sent in response to a notification by an individual of the loss or non-receipt of a payment from the Civil Service Retirement and Disability Fund. The form requests the information needed to enable the OPM to trace and or reissue payment. Missing payments may also be reported to OPM by a telephone call.

Approximately 8,000 missing payment requests for both Treasury checks and electronic funds transfers (EFT's) are processed each year; 500 RI 38-31 forms will be completed annually while 7500 telephone calls are received at OPM. We estimate it takes approximately 10 minutes to complete the form for missing Treasury checks or to report the missing payment by telephone. Approximately 50 RI 38-31 forms are completed for missing EFT payments; we estimate it takes 30 minutes because financial institution information and signature(s) are required. The combined annual burden is 1,350 hours.

For copies of this proposal, contact Jim Farron on (202) 418-3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before March 26, 1998.

ADDRESS: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING

ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Budget and Administrative Services Division, (202) 606-0623

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98-4496 Filed 2-23-98; 8:45 am]

BILLING CODE 6325-01-P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Rule 11Aa3-2; OMB Control No. 3235-new; SEC File No. 270-439.

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of the information collection discussed below.

- Rule 11Aa3-2: Filing and Amendment of National Market System Plans

Rule 11Aa3-2 provides that self-regulatory organizations ("SROs") may, acting jointly, file a national market system plan or may propose an amendment to an effective national market system plan by submitting the text of the plan or amendment to the Secretary of the Commission, together with a statement of the purpose of such plan or amendment and, to the extent applicable, the documents and information required by Rule 11Aa3-2(b) (4) and (5). These record keeping requirements assist the Commission with monitoring SROs, national market system plans, and ensuring compliance with the rule.

There are nine SROs which are members of the Intermarket Trading System ("ITS"), the Consolidated Tape Association ("CTA"), the Consolidated Quote System ("CQS"), the Nasdaq Stock Market, Inc., ("Nasdaq"), or the Options Price Reporting Association ("OPRA"). Only ITS, CTA, CQS, Nasdaq, and OPRA submit filings pursuant to Rule 11Aa3-2 and only after an agreement is reached among member SROs. The staff estimates that there will be approximately six filings pursuant to Rule 11Aa3-2 each year. The staff also estimates that the average number of hours necessary for compliance with the Rule 11Aa3-2 is 33 annually. The total burden is 200 hours annually, based upon past submissions. The average cost per hour is approximately \$50. Therefore, the total cost of compliance for SROs is \$10,000.

This rule does not require the SROs to maintain any records or submit filings. Instead, it merely sets forth procedures SROs must follow if they choose to file or amend NMS plans. Therefore, compliance with this rule is voluntary. Further, this rule does not

involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 17, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-4574 Filed 2-23-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of February 23, 1998.

A closed meeting will be held on Thursday, February 26, 1998, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 26, 1998, at 2:30 p.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: February 19, 1998.

Jonathan G. Katz,
Secretary.

[FR Doc. 98-4709 Filed 2-19-98; 3:49 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of February 16, 1998.

A closed meeting will be held on Friday, February 20, 1998, at 10:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9) (A) and (10) and 17 CFR 200.402(a)(4), (8), (9) (i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Friday, February 20, 1998, at 10:30 a.m., will be:

Settlement of injunctive actions.

Commissioner Johnson, as duty officer, determined that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: February 19, 1998.

Jonathan G. Katz,
Secretary.

[FR Doc. 98-4710 Filed 2-19-98; 3:49 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39673; File No. SR-MBSCC-98-01]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying MBS Clearing Corporation's Schedule of Charges for the Dealer Account Group

February 17, 1998.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 26, 1998, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies MBSCC's schedule of charges for the dealer account group.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change modifies MBSCC's schedule of charges for the dealer account group.³ Specifically, the proposed rule change reduces trade processing fees for settlement balance order ("SBO") destined trades, trade-for-trade transactions, and option trades to more accurately reflect the costs

incurred by MBSCC to provide trade processing services to dealers.

MBSCC charges dealers for trade creates⁴ relating to SBO destined trades a monthly fee for each million of par value. The fee currently charged is \$2.45 [par value between \$1 million and \$2,500 million], \$2.25 [par value between \$2,501 and \$5,000 million], \$2.10 [par value between \$5,001 and \$7,500 million], \$1.95 [par value between \$7,501 and \$10,000 million], \$1.75 [par value between \$10,001 and \$12,500 million], and \$1.60 [par value of \$12,501 million and over]. These fees are reduced to \$2.00, \$1.85, \$1.75, \$1.60, \$1.45, and \$1.30 respectively.

The current fee charged to dealers for trade creates relating to trade-for-trade transactions is \$5.00 per side. The current fee charged to dealers for trade creates for option trades is \$4.00 per side. The new reduced fee charged to dealers for trade creates relating to both trade-for-trade transactions and option trades is \$2.50 per side.

MBSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁵ and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among MBSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁶ of the Act and pursuant to Rule 19b-4(e)(2)⁷ promulgated thereunder in that the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within sixty days of the filing of such

⁴ A trade create is a type of transaction used to identify the submission and/or subsequent processing of trades as opposed to cancels or notifications of settlement.

⁵ 15 U.S.C. 78q-1.

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 CFR 240.19b-4(e)(2).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by MBSCC.

³ MBSCC has separate fee schedules for brokers and dealers. The dealer account group is the fee schedule for dealers' accounts.

rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR-MBSCC-98-01 and should be submitted by March 17, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-4571 Filed 2-22-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39672; File No. SR-NYSE-98-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

February 17, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),¹ notice is hereby given that on February 12, 1998, the New York Stock Exchange, Inc. (the "Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to modify Exchange Rule 451, "Transmission of Proxy Material," and Exchange Rule 465, "Transmission of Interim Reports and Other Material" (collectively the "Rules"). The Rules establish guidelines for the reimbursement of expenses incurred by NYSE member organizations for the processing of proxy materials and other issuer communications with respect to security holders whose securities are held in street name.

The Exchange proposes to reduce one of the fee reimbursement guidelines² that concerns charges for initial proxy and/or annual report mailings. In addition, the Exchange proposes to extend the pilot regarding the Rules, which currently is due to expire on May 13, 1998, through July 31, 1998.³

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² The specific fees listed in Rule 451 also are listed in Paragraph 402.10 of the Exchange's Listed Company Manual. The proposed rule change makes conforming changes to that paragraph.

³ See Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997) (the "Previous Filing"). The Previous Filing contains a detailed description regarding the background and history of the Rules.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Among other things, the Previous Filing lowered the reimbursement guidelines, created incentive fees to eliminate duplicative mailings, and established a supplemental fee for intermediaries that coordinate multiple nominees. The Commission approved the Previous Filing as a one-year pilot, and designated May 13, 1998, as the date of expiration.

The purpose of the proposed rule change is to lower the rate of reimbursement for mailing each set of initial proxies and annual reports from \$.55 to \$.50. The Exchange is proposing this lower fee based on the experience over the last year, which indicates that the lower fee better approximates proxy handling costs. This reduced fee would be effective through the end of the current pilot period.

In addition, the pilot period presently is scheduled to expire in the midst of the current proxy season, on May 13, 1998. The proposed rule change would extend the pilot period through the end of the current proxy season to July 31, 1998.⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act⁵ in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange further believes that the proposed rule change satisfies the requirement under Section 6(b)(5)⁶ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, protect investors and the public interest.

⁴ On February 6, 1998, the Exchange submitted a companion filing to this proposed rule change that would extend the pilot period through June 30, 2001. See SR-NYSE-98-05.

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78f(b)(5).

⁸ 17 CFR 200.30-3(a)(12).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date (or such shorter time period as designated by the Commission), the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act⁷ and Rule 19b-4(e)(6)⁸ thereunder.

A proposed rule change filed pursuant to Rule 19b-4(e)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(e)(6)(iii)⁹ permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested, in order to allow the fee reduction to be available for the 1998 proxy season, that the Commission designate such shorter time period so that the proposed rule change may take effect immediately upon its filing.

The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and therefore has determined to make the proposed rule change effective immediately upon filing. The proposed rule change reduces the reimbursement fee which Exchange member organizations are entitled to receive for mailing initial proxies and annual reports. The fee reduction should benefit issuers and public investors in the form of lower

costs and expenses. The fee reduction is based upon the Exchange's experience during the pilot period and should better reflect the actual costs incurred by member organizations.

The proposed rule change also extends the expiration date of the pilot period from May 13, 1998, through July 31, 1998. The Commission recognizes that the current expiration date intersects the time period when proxy materials traditionally are distributed to shareholders. As a result, member organizations would potentially be reimbursed at two different rates—the rates established by the Previous Filing, and the rates in effect prior to the implementation of the Previous Filing (the default rates)—if the expiration date were not extended. The Commission believes such a result would be confusing and counterproductive. The Commission also believes the extension of the expiration date will enable the Exchange to evaluate the effectiveness of the reimbursement guidelines based on their application during an entire proxy season.

The Commission notes that the pilot period reimbursement guidelines were conditionally approved in the Previous Filing following a full notice and comment period. As part of its approval, the Commission carefully considered all submitted comments concerning the pilot reimbursement guidelines and their impact on affected parties. Furthermore, the Exchange provided the Commission with advance written notice of the proposed rule change and implemented changes in responses to staff comments. Therefore, the Commission believes it is reasonable that the proposed rule change become immediately effective upon the date of filing, February 12, 1998.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-98-04 and should be submitted by March 17, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-4573 Filed 2-23-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39649; File No. SR-PCX-98-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Identification of Broker-Dealer Orders on the Options Floor

February 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 23, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to amend its rules on the identification of broker-dealer orders by requiring that, if an order is for an account in which a broker-dealer has an interest, the broker-dealer status of the order must be disclosed to the trading crowd prior to execution,

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(e)(6).

⁹ 17 CFR 240.19b-4(e)(6)(iii).

regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price. The text of the proposed rule change is attached as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

On July 21, 1994, the Commission approved an Exchange proposal to adopt new Rule 6.66(c), which currently states: "Prior to executing an order in which a broker-dealer has an interest, a member must indicate by public outcry that such order is for a broker-dealer if the order is to be executed at the trading crowd's disseminated bid or offering price. This rule applies regardless of whether such broker-dealer is an Exchange member."³ The Exchange is now proposing to expand the scope of Rule 6.66(c) by striking the words "if the order is to be executed at the trading crowd's disseminated bid or offering price" from the text of Rule 6.66(c). Accordingly, under the amended rule, prior to executing an order in which a broker-dealer has an interest, a Floor Broker would be required to indicate by public outcry that the order is for a broker-dealer.

The proposal is intended to facilitate transactions in option contracts by making the members in the trading crowd and the Order Book Official staff aware of the nature of orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. In that regard, the Exchange notes that only non-broker-dealer orders are entitled to be placed in the public limit order book and to be given priority over broker-dealer orders under certain circumstances.⁴

The Exchange further notes that only non-broker-dealers are entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price.⁵

The Exchange believes the proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. In that regard, the Exchange notes that there is no such distinction applicable to Market Maker orders, the identification of which is governed by Rule 6.66(b), which requires Floor Brokers to verbally identify Market Maker orders as such prior to their execution.⁶ Thus, removing the subject distinction from Rule 6.66(c) will make the Exchange's option order disclosure rules uniform, consistent, and easier to follow.

The Exchange is also proposing to amend Rules 6.2 and 6.77 by adding certain violations of Rule 6.66(c) (as amended) to the list of those violations that may give rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms.⁷ Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The reason for the limitation on the number of contract is that under Rule 6.86, only non-broker-dealer orders are eligible for a guaranteed execution of 20 contracts as the displayed price. If a Floor Broker does not disclose that an order for 20 contracts or less is for a broker-dealer (under the proposed rule), the numbers in the trading crowd may incorrectly assume that the order is for a public customer and provide an execution at the displayed price, without having an opportunity to update their quotes.⁸ The Exchange believes that adding this provision is simply a logical extension of Rule 6.2, Commentary .05(v), which permits two

Floor Officials to nullify, or adjust the terms of, any order executed in violation of Rule 6.86, which states that only non-broker-dealer orders are eligible for a guarantee of up to 20 option contracts at the disseminated market price.

Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act, in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Data of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

- (A) by order approve such rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

⁵ See PCX Rule 6.86(a).

⁶ Rule 6.66(b) states: "A Floor Broker holding an order for the amount of a Market Maker shall verbally identify the order as such prior to consummating a transaction, and shall, after effecting the trade, supply the name of the Market Maker concerned, by public outcry, upon the request of any member or member in the trading crowd."

⁷ Specifically, as Exhibit A indicates, the PCX proposes to move Commentary .05 from Rule 6.2 to Rule 6.77 and renumber it as Commentary .01. The existing subparagraphs will then be relettered and a new subparagraph, (f), added to address violations of Rule 6.66(c) as amended.

⁸ See PCX Rule 6.37(d) and Rule 6.37, Commentary .05 (Market Makers are required to make a market for, at a minimum, one contract for broker-dealer orders; they must also lower their bids or raise their offers if they do not satisfy an order in its entirety).

³ See Exchange Act Release No. 34426 (July 21, 1994), 59 FR 38497 (July 28, 1994) (Order approving SR-PSE-92-14).

⁴ See PCX Rules 6.52(a) and 6.75.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-98-04 and should be submitted by March 17, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

Exhibit A—Text of the Proposed Rule Change¹⁰

¶ 4733 Admission to and Conduct on the Options Trading Floor

Rule 6.2(a)-(c)—No change.

Commentary:

.01-.04—No change.

[.05] [Moved to Rule 6.77, Com. .01.]

* * * * *

¶ 5085 Order Identification

Rule 6.66(a)-(b)—No change.

(c) Broker-Dealer Orders. Prior to executing an order in which a broker-dealer has an interest, a member must indicate by public outcry that such order is for a broker-dealer. [if the order is to be executed at the trading crowd's disseminated bid or offering price.] This rule applies regardless of whether such broker-dealer is an Exchange member.

* * * * *

¶ 5151 Contract Made on Acceptance of Bid or Offer

Rule 6.77—No change.

Commentary:

.01 Two Options Floor Officials may nullify a transaction or adjust its terms if they determine the transaction to have been in violation of any of the following:

(a) [i] Rule 6.73 (Manner of Bidding and Offering).[:]

(b) [ii] Rule 6.75 (Priority of Bids and Offers).[:]

(c) [iii] Rule 6.56 (Transactions outside the Order Book Official's Last Quoted Range).[:]

(d) [iv] Rule 6.76 (Priority on Split Price Transaction).[:]

(e) [v] Rule 6.86 (Trading Crowd Firm Dissemination Market Quotes).

(f) *Rule 6.66(c) (Failure to identify a broker-dealer order for 20 contracts or less).* [FR Doc. 98-4572 Filed 2-23-98; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

**Information Collection Activities:
Proposed Collection Requests and
Comment Requests**

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Public Law 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Response to Notice of Revised Determination—0960-0347. Form SSA-765 is used by claimants to request a disability hearing and/or to submit additional information before a revised reconsideration determination is issued. The respondents are claimants who wish to file for a disability hearing in response to a notice of a revised determination for Old-Age, Survivors and Disability Insurance and Supplemental Security Income (SSI), under titles II and XVI of the Social Security Act.

Number of Respondents: 1,925.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 963 hours.

2. Notification of Projected Completion Date—0960-0429. Form SSA-891 is used by the Social Security Administration (SSA) and Disability Determination Services (DDS) components to inform the disability hearing units whenever a hearing case will not be completed and forwarded to the hearing unit as expected. This information is necessary to enable the hearing units to schedule hearings as promptly and efficiently as possible. The respondents are State DDSs and SSA components that make disability determinations for the Agency.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Average Burden: 8 hours.

3. Subpoena—Disability Hearing—0960-0428. The information on Form SSA-1272-U4 is used by SSA to subpoena evidence or testimony needed at disability hearings. The respondents are comprised of officers from Federal and State DDSs.

Number of Respondents: 36.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 18 hours.

4. Student's Statement Regarding Resumption of School Attendance—0960-0143. The information on Form SSA-1386 is used by SSA to verify full-time attendance at educational institutions and to determine eligibility for student benefits. The respondents are student beneficiaries currently receiving SSA benefits.

Number of Respondents: 133,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Average Burden: 13,300 hours.

5. Real Property Current Market Value Estimate—0960-0471. The information on Form SSA-2794 is used by SSA to determine the value of non-home real property owned by applicants for or recipients of SSI. The respondents are persons experienced in estimating the current market value of real property.

Number of Respondents: 5,438.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Average Burden: 1,813 hours.

Written comments and recommendations regarding the information collection(s) should be sent on or before April 27, 1998, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Report by Former Representative Payee—0960-0112. SSA collects the information on Form SSA-625 when a mental facility is terminating its payee services and a successor payee is to be named. The information is needed to determine the proper disposition of any conserved funds. The respondents are State institutions or agencies which are no longer serving as representative payee for beneficiaries who are incapable of managing benefits.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

⁹ 17 CFR 200.30-3(a)(12).

¹⁰ New text is italicized; deletions are bracketed.

Estimated Average Burden: 2,000 hours.

2. Pre-1957 Military Service Federal Benefit Questionnaire—0960-0120. Form SSA-2512 is used by SSA to solicit sufficient information to make a determination of eligibility for military wage credits. Sections 217 (a) and (e) of the Social Security Act provide for crediting military service to the wage earner's record and for using the data in the claims adjudication process to grant gratuitous military wage credits, when applicable. The respondents are individuals who are applying for Social Security benefits on a record where the wage earner has pre-1957 military service.

Number of Respondents: 56,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 9,333 hours.

3. Certificate of Support—0960-0001. The information collected on Form SSA-760-F4 is used to determine whether the deceased worker provided one-half support required for entitlement to parent's or spouse's benefits. The information will also be used to determine whether the Government pension offset would apply to the applicant's benefit payment. The respondents are parents of deceased workers or spouses who may be subject to Government pension offset.

Number of Respondents: 18,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 4,500 hours.

4. Report of Function—Child—0960-0542. The information collected on Forms SSA-3375, 3376, 3377, 3378, and 3379 will be used by SSA to help determine if a child claiming SSI disability benefits under title XVI is disabled. The respondents are parents or guardians who file for such benefits on behalf of a child.

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 166,667 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni 1-A-21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965-4125 or write to him at the address listed above.

Dated: February 18, 1998.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98-4705 Filed 2-23-98; 8:45 am]

BILLING CODE 4190-29-P

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 98-2(8)]

Sird v. Chater; Mental Retardation—What Constitutes an Additional and Significant Work-Related Limitation of Function—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 98-2(8).

EFFECTIVE DATE: February 24, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals' decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Eighth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after February 24, 1998. If we made a determination or decision on your application for benefits between January

27, 1997, the date of the Court of Appeals' decision, and February 24, 1998, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income.)

Dated: December 29, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

Acquiescence Ruling 98-2(8)

Sird v. Chater, 105 F.3d 401 (8th Cir. 1997)—Mental Retardation—What Constitutes an Additional and Significant Work-Related Limitation of Function—Titles II and XVI of the Social Security Act.

Issue: Whether a claimant for disability insurance benefits or Supplemental Security Income (SSI) benefits based on disability who has mental retardation or autism with a valid IQ score in the range covered by Listing 12.05C, and who cannot perform his or her past relevant work because of a physical or other mental impairment, has *per se* established the additional and significant work-related limitation of function requirement of Regulations 20 CFR Part 404, Subpart P, Appendix 1, section 12.05C.¹

Statute/Regulation/Ruling Citation: Sections 223(d)(1) and 1614(a)(3) of the Social Security Act (42 U.S.C. 423(d)(1) and 1382c(a)(3)); 20 CFR Part 404, Subpart P, Appendix 1, section 12.05C.

Circuit: Eighth (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota).

¹ Although *Sird* was a title XVI case, similar principles also apply to title II. Therefore, this Ruling extends to both title II and title XVI disability claims.

Sird v. Chater, 105 F.3d 401 (8th Cir. 1997).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing or Appeals Council).

Description of Case: Donald Sird applied for SSI benefits based on disability on September 27, 1991. In a decision dated January 27, 1995, an ALJ found that Mr. Sird had borderline intellectual capacity, a history of alcoholism, a history of chronic obstructive pulmonary disease and a history of urinary tract infection. The ALJ also found that Mr. Sird had an IQ score within the range required by Listing 12.05C but did not have "a physical or other mental impairment imposing additional and significant work-related limitation of function." The ALJ further found that the combination of Mr. Sird's impairments imposed several environmental restrictions and also functional limitations. Relying on the vocational expert's opinion that an individual with Mr. Sird's characteristics could perform light or sedentary work, the ALJ concluded that, although the claimant could not perform his past relevant work, he was not disabled. After the Appeals Council denied the claimant's request for review, he sought judicial review but the district court upheld the Social Security Administration's (SSA's) decision. Mr. Sird appealed this decision to the United States Court of Appeals for the Eighth Circuit.

Holding: The Eighth Circuit vacated the judgment of the district court and remanded the case to SSA with directions to award benefits. After reviewing Eighth Circuit case law that defined the other impairment requirement of Listing 12.05C as requiring "a physical or additional mental impairment that has a 'more than slight or minimal' effect on ability to work"² and the Fourth Circuit's holding in *Branham v. Heckler*, 775 F.2d 1271 (4th Cir. 1985)³ that

² *Warren v. Shalala*, 29 F.3d 1287 (8th Cir. 1994) and *Cook v. Bowen*, 797 F.2d 687 (8th Cir. 1986). The Court of Appeals made an alternative holding in the case, and found that, under the circumstances present in the case, the outcome would be the same under the interpretation of the regulations set out in *Warren and Cook*. See 105 F.3d at 403. The court's alternative holding in the case, relying on the interpretation of Listing 12.05C made in *Warren and Cook*, is not inconsistent with SSA's interpretation of the Listing.

³ On March 10, 1992, SSA published Acquiescence Ruling (AR) AR 92-3(4) at 57 FR 8463 to reflect the holding in *Branham*. On April 29, 1993, the AR was revised and republished as AR 93-1(4) at 58 FR 25996 to incorporate a regulatory

established the rule that an inability to do past relevant work meets the requirement of the Listing that the other impairment cause an additional and significant work-related limitation of function, the court held that the *Branham* court's conclusion was "ineluctable."

The Eighth Circuit observed that the ALJ's finding of Mr. Sird's inability to perform his past relevant work, assuming no change occurred in his mental impairments after he stopped working, was inconsistent with the ALJ's other finding that Mr. Sird did not satisfy the other impairment requirement of Listing 12.05C because he did not have an additional impairment that significantly limited his ability to work. The court was not convinced that, in this particular case, there was a difference in application between the Eighth Circuit's case law in *Warren and Cook*, and the *Branham* court's holding. The court concluded that under either test the claimant was disabled.

Statement As To How Sird Differs From SSA's Interpretation of the Regulations

At issue in *Sird* is the meaning of the term "additional and significant work-related limitation of function" in Listing 12.05C. What constitutes an "additional and significant work-related limitation of function" is not defined in SSA's regulations. SSA's interpretation of the Listing is that, if an individual has:

(1) mental retardation, i.e., significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period, or autism, i.e., a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period;

(2) a valid verbal, performance or full scale IQ in the range specified by Listing 12.05C; and

(3) a physical or other mental impairment that is severe within the meaning of 20 CFR 404.1520(c) or 416.920(c), the individual's impairments meet Listing 12.05C.⁴ That is, to satisfy the criteria of Listing 12.05C, the additional physical or other mental impairment must result in more than minimal limitations in the individual's ability to do basic work

change regarding the IQ range included in Listing 12.05C and to make several technical corrections.

⁴ For title XVI, an individual under age 18 shall be considered to have an impairment that meets Listing 112.05D if he or she has mental retardation, as defined above, with a valid verbal, performance or full scale I.Q. of 60 through 70 and a physical or other mental impairment that is severe within the meaning of 20 CFR 416.924(c).

activities. The inability to perform past work does not *per se* satisfy this standard.

The *Sird* court held that an impairment that prevents a claimant from performing his or her past relevant work constitutes a significant work-related limitation of function that is more than slight or minimal, and *per se* meets the other impairment requirement of Listing 12.05C.⁵

Explanation of How SSA Will Apply The Sird Decision Within The Circuit

This Ruling applies only where the claimant resides in Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota or South Dakota at the time of the determination or decision at any administrative level of review, i.e., initial, reconsideration, ALJ hearing or Appeals Council.

A claimant who has:

(1) mental retardation, i.e., significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period, or autism, i.e., a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period;

(2) a valid verbal, performance or full scale IQ in the range specified by Listing 12.05C; and

(3) a physical or other mental impairment that prevents him or her from performing past relevant work, will be considered to have a physical or other mental impairment that results in more than minimal limitations in the ability to do basic work activities and to have satisfied the requirements of Listing 12.05C.

[FR Doc. 98-4704 Filed 2-23-98; 8:45 am]

BILLING CODE 4190-29-F

DEPARTMENT OF STATE

Office of Consular Affairs

[Public Notice 2746]

60-Day Notice of Proposed Information Collection; Nonimmigrant Visa Application

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal**

⁵ As noted above, the Court of Appeals alternative holding, relying on the decisions in *Warren v. Shalala*, 29 F.3d 1287 (8th Cir. 1994) and *Cook v. Bowen*, 797 F.2d 687 (8th Cir. 1986) is not inconsistent with SSA's interpretation of the Listing, as explained above.

Register preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Originating Office: The Office of Consular Affairs, Visa Services.

Title of Information Collection: Nonimmigrant Visa Application.

Frequency: On occasion.

Form Number: OF-156.

Respondents: Aliens.

Estimated Number of Respondents: 8,000,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 8,000,000.

Public comments are being solicited to permit the agency to—

- Evaluate whether the proposed information collection is necessary for the proper performance of the agency functions.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Comments regarding the collection listed in this notice or requests for copies of the proposed collection and supporting documents should be directed to Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647-0596.

Dated: February 11, 1998.

Glen H. Johnson,

Acting Chief Information Officer.

[FR Doc. 98-4658 Filed 2-23-98; 8:45 am]

BILLING CODE 4710-06-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Imports Statistics Relating to Competitive Need Limitations; Invitation for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; invitation for public comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) is informing the

public of interim 1997 import statistics relating to Competitive Need Limitations (CNL) under the Generalized System of Preferences (GSP) program. The TPSC also invites public comments by 5:00 p.m. March 20, regarding possible de minimis CNL waivers with respect to particular articles, and possible redesignations under the GSP program of articles currently subject to CNLs.

FOR FURTHER INFORMATION CONTACT:

GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, N.W., Room 518, Washington, DC 20508. The telephone number is (202) 395-6971.

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limitations

Section 503(c)(2)(A) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2463(c)(2)(A)), provides for Competitive Need Limitations on duty-free treatment under the GSP program. When the President determines that a beneficiary developing country exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year (\$80 million for 1997), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the "50 percent" CNL), the President shall terminate GSP duty-free treatment for that article from that beneficiary developing country by no later than July 1 of the next calendar year.

II. Discretionary Decisions

A. De Minimis Waivers

Section 503(c)(2)(F) of the 1974 Act provides the President with discretion to waive the 50 percent CNL with respect to an eligible article imported from a beneficiary developing country if the value of total imports of that article from all countries during the calendar year did not exceed the applicable amount for that year (\$13.5 million for 1997).

B. Redesignation of Eligible Articles

Where an eligible article from a beneficiary developing country ceased to receive duty-free treatment due to exceeding the CNL in a prior year, Section 503(c)(2)(C) of the 1974 Act provides the President with discretion to redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNLs.

III. Implementation of Competitive Need Limitations, Waivers, and Redesignations

Exclusions from GSP duty-free treatment where CNLs have been exceeded, as well as the return of GSP duty-free treatment to products for which the President has used his discretionary authority to grant redesignations will be effective July 1, 1998. Decisions on these matters, as well as decisions with respect to de minimis waivers, will be based on full 1997 calendar year import statistics.

IV. Interim 1997 Import Statistics

In order to provide advance indication of possible changes in the list of eligible articles pursuant to exceeding CNLs, and to afford an earlier opportunity for comment regarding possible de minimis waivers and redesignations, interim import statistics covering the first 10 months of 1997 are included with this notice.

The following lists contain the HTSUS numbers and beneficiary country of origin for GSP-eligible articles, the value of imports of such articles for the first ten months of 1997, and their percentage of total imports of that product from all countries. The flags indicate the status of GSP eligibility.

Articles marked with an "*" are those that have been excluded from GSP eligibility for the entire past calendar year. Flags "1" or "2" indicate products that were not eligible for duty-free treatment under GSP for the first six months or last six months, respectively, of 1997.

The flag "D" identifies articles with total U.S. imports from all countries, based on interim 1997 data, less than the applicable amount (\$13.5 million in 1997) for eligibility for a de minimis waiver of the 50 percent CNL.

List I shows GSP-eligible articles from beneficiary developing countries that have exceeded the CNL of \$80 million in 1997. Those articles without a flag identify articles that were GSP eligible during 1997 but stand to lose GSP duty-free treatment on July 1, 1998. In addition, List I shows articles (denoted with a flag "*" or "2") which did not have GSP duty-free treatment in all or the last half of 1997.

List II shows GSP-eligible articles from beneficiary developing countries that (1) Have not yet exceeded, but are approaching, the \$80 million CNL during the period from January through October 1997, or (2) are close to or above the 50 percent CNL.

Depending on final calendar year 1997 import data, these products also

stand to lose GSP duty-free treatment on July 1, 1998.

List III is a subset of List II. List III identifies GSP-eligible articles from beneficiary developing countries that are near or above the 50 percent CNL, but that may be eligible for a *de minimis* waiver of the 50 percent CNL. Actual eligibility for *de minimis* waivers will depend on final calendar year 1997 import data.

List IV shows GSP articles from beneficiary developing countries which are currently not receiving GSP duty-free treatment, but which have import levels (based on interim 1997 data) below the CNLs and which thus may be eligible for redesignation pursuant to the President's discretionary authority. Articles with a "D" exceed the 50 percent CNL and would require both *de minimis* waivers and redesignation to receive GSP duty-free treatment. The list may contain articles that may not be redesignated until certain conditions are fulfilled, as for example, where GSP eligibility for articles was suspended because of deficiencies in beneficiary countries' protection of the rights of workers or owners of intellectual property. This list does not include articles from India which do not receive GSP treatment as a result of Presidential Proclamation 6425 of April 29, 1992 (57 FR 19067).

Each list is followed by a summary table that indicates the number of products cited from each beneficiary developing country and the total value

of imports of those products from the beneficiary developing country.

The lists appended to this notice are provided for informational purposes only. The attached lists are computer-generated and, based on interim 1997 data, may not include all articles that may be affected by the GSP CNLs. Regardless of whether or not an article is included on the lists, all determinations and decisions regarding the CNLs of the GSP program will depend on full calendar year 1997 import data with respect to each GSP eligible article. Each interested party is advised to conduct its own review of 1997 import data with regard to the possible application of GSP CNLs.

IV. Public Comments

All written comments with regard to the matters discussed should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, N.W., Room 518, Washington, DC 20508. All submissions must be in English and should conform to the information requirements of 15 CFR 2007. Furthermore, each party providing comments should indicate on the first page of the submission its name, the relevant Harmonized Tariff Schedule subheading(s), the beneficiary country or territory of interest, and the type of action (e.g., the use of the President's *de minimis* waiver authority, etc.) in which the party is interested.

A party must provide fourteen copies of its statement which must be received

by the Chairman of the GSP Subcommittee no later than 5 p.m., Friday, March 20. Comments received after the deadline will not be accepted. If the comments contain business confidential information, fourteen copies of a non-confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, the submissions containing confidential information should be clearly marked "confidential" at the top and bottom of each page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential".

Written comments submitted in connection with these decisions, except for information granted "business confidential" status pursuant to 15 CFR 2007.7, will be available for public inspection shortly after the filing deadline by appointment only with the staff of the USTR Public Reading Room (202) 395-6186. Other requests and questions should be directed to the GSP Information Center at USTR by calling (202) 395-6971.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

LIST I : ARTICLES EXCEEDING COMPETITIVE NEED LIMITS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	0603.10.70	Colombia.....	117,210,838	88.1%
2	1701.11.10	Dominican Republic..	162,165,853	21.2%
*	1701.11.10	Brazil.....	116,674,203	15.2%
*	2402.10.80	Dominican Republic..	178,437,776	57.8%
*	2905.11.20	Trinidad and Tobago.	82,299,819	31.9%
2	4015.11.00	Thailand.....	99,508,468	16.3%
2	4104.31.40	Argentina.....	123,389,026	39.3%
4409.10.40	Chile.....	82,781,865	36.1%	
*	6406.10.65	Dominican Republic..	174,720,405	58.4%
2	7113.11.50	Thailand.....	104,894,087	29.8%
2	7113.19.29	India.....	85,137,398	14.6%
*	7113.19.50	India.....	190,243,222	10.2%
2	7403.11.00	Peru.....	189,069,798	16.2%
*	7403.11.00	Chile.....	222,764,103	19.1%
2	8471.60.35	Indonesia.....	104,387,942	1.7%
2	8516.50.00	Thailand.....	88,023,841	17.3%
*	8517.21.00	Thailand.....	104,055,254	16.3%
*	8521.10.60	Thailand.....	256,379,553	11.4%
*	8544.30.00	Thailand.....	152,431,044	4.3%
*	8802.30.00	Brazil.....	203,883,988	8.7%
*	9009.12.00	Thailand.....	94,923,108	4.6%
*	9018.90.80	Dominican Republic..	243,894,781	32.8%
2	9403.60.80	Indonesia.....	88,939,422	5.9%

FLAGS: *'=Excluded full yr; '1'=Excluded January/June; '2'=Excluded July/December

LIST I : COUNTRIES EXCEEDING COMPETITIVE NEED LIMITS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER		IMPORTS	COUNT
PARTNER			
Argentina.....		123,389,026	1
Brazil.....		320,558,191	2
Chile.....		305,545,968	2
Colombia.....		117,210,838	1
Dominican Republic..		759,218,815	4
India.....		275,380,620	2
Indonesia.....		193,327,364	2
Peru.....		189,069,798	1
Thailand.....		900,215,355	7
Trinidad and Tobago.		82,299,819	1
TOTAL.....		3,266,215,794	23

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	0210.20.00	Uruguay.....	760,064	46.0%		2843.30.00	Colombia.....	48,499,429	94.0%
D	0304.10.30	Namibia.....	103,019	61.5%		2849.90.50	Republic of South Af	13,642,744	55.5%
D	0305.20.20	Russia.....	18,500	100.0%		2901.29.50	Republic of South Af	16,476,146	83.6%
D	0708.90.30	Ecuador.....	142,619	66.6%	D	2903.23.00	Brazil.....	8,019,841	88.3%
D	0710.29.30	Dominican Republic..	849,020	55.7%	D	2903.61.10	Brazil.....	729,541	96.6%
D	0711.30.00	Turkey.....	1,241,216	61.3%	D	2903.69.05	Hungary.....	28,381	76.5%
D	0714.90.10	Costa Rica.....	7,561,703	44.1%	D	2921.42.23	Brazil.....	649,556	72.9%
D	0714.90.20	Costa Rica.....	7,415,551	45.5%	1	2929.10.15	Brazil.....	912,600	80.4%
D	0802.50.20	Turkey.....	1,454,367	99.4%	D	2931.00.25	Brazil.....	1,551,585	100.0%
D	0802.50.40	Turkey.....	565,448	49.7%	D	2933.19.45	Slovakia.....	8,502	80.1%
D	0802.90.20	Pakistan.....	98,332	47.6%	D	2933.40.08	Hungary.....	402,977	100.0%
D	0802.90.80	Guatemala.....	1,058,153	65.8%	D	2933.40.10	Russia.....	1,901,909	47.9%
D	0804.50.80	Thailand.....	1,244,907	53.8%	D	2938.10.00	Brazil.....	753,268	74.0%
D	0813.40.10	Thailand.....	630,682	73.4%	D	3808.30.20	Brazil.....	394,893	63.3%
D	0904.20.76	India.....	2,668,086	49.7%	D	3817.10.50	Indonesia.....	2,732,046	60.2%
D	1006.30.10	India.....	1,118,393	74.0%	D	4104.39.40	Argentina.....	67,913,023	66.6%
D	1102.30.00	Thailand.....	2,727,424	79.7%	D	4106.12.00	Pakistan.....	1,790,506	73.2%
D	1509.90.40	Turkey.....	10,473,504	42.2%	D	4202.22.35	Philippines.....	222,580	89.2%
D	1510.00.60	Morocco.....	1,025,128	56.0%	D	4205.00.60	Venezuela.....	204,206	48.0%
D	1602.50.09	Argentina.....	3,214,313	74.5%	D	4412.14.25	Brazil.....	1,939,012	63.2%
D	1604.14.50	Indonesia.....	121,185	79.2%	1	4412.19.10	Brazil.....	4,795,746	95.8%
D	1604.15.00	Chile.....	9,011,023	64.6%	D	4412.22.50	Indonesia.....	909,822	96.6%
D	1604.30.20	Russia.....	8,935,952	94.8%	D	4412.29.15	Russia.....	1,575,583	47.5%
D	1701.91.42	Jamaica.....	14,445	57.7%	D	4412.29.45	Ecuador.....	5,899,426	72.0%
D	1703.90.30	India.....	15,301	51.0%	D	4412.92.10	Brazil.....	2,474,582	54.7%
D	1806.10.65	India.....	7,068	100.0%	1	4412.99.15	Brazil.....	50,323	100.0%
D	2005.10.00	Guatemala.....	93,894	53.4%	D	4412.99.45	Brazil.....	315,711	100.0%
D	2005.80.00	Thailand.....	1,309,646	48.8%	D	4414.00.00	Thailand.....	554,665	82.1%
D	2008.30.37	Argentina.....	249,790	48.0%	D	4414.00.00	Thailand.....	58,386,348	30.1%
D	2008.30.95	Ecuador.....	8,800	67.1%	D	4809.10.20	Guatemala.....	32,991	53.9%
D	2008.99.35	Thailand.....	3,309,928	92.0%	D	5607.30.20	Philippines.....	3,615,917	84.2%
D	2008.99.45	Dominican Republic..	62,286	49.2%	D	5608.90.23	Costa Rica.....	409,881	42.0%
D	2008.99.50	Thailand.....	1,387,669	48.2%	D	6116.99.35	Thailand.....	58,468	81.3%
D	2101.20.32	India.....	8,400	82.4%	D	6501.00.30	Czech Republic.....	1,987,851	51.5%
D	2208.90.05	Trinidad and Tobago.	3,090,892	96.4%	D	6501.00.60	Colombia.....	83,171	88.2%
D	2309.90.70	Hungary.....	506,257	94.1%	D	6814.90.00	India.....	914,987	42.7%
D	2401.20.57	Indonesia.....	195,000	58.6%	D	7018.10.50	Czech Republic.....	7,916,223	45.5%
D	2402.10.80	Honduras.....	60,385,512	19.5%	D	7018.90.50	Czech Republic.....	5,561,595	46.6%
D	2516.90.00	Republic of South Af	2,461,142	51.5%	D	7113.19.50	Turkey.....	63,861,358	3.4%
D	2619.00.30	Venezuela.....	1,086,801	78.0%	D	7113.20.29	India.....	887,657	42.7%
D	2707.99.40	Venezuela.....	779,143	65.5%	D	7113.20.30	Mauritius.....	888,090	72.5%
D	2804.29.00	Ukraine.....	2,375,870	53.8%	D	7117.90.55	Peru.....	2,603,759	55.3%
D	2811.29.50	Brazil.....	4,341,148	49.1%	D	7202.21.10	Argentina.....	722,005	47.3%
D	2819.10.00	Kazakhstan.....	3,520,163	67.2%	D	7202.49.50	Russia.....	36,249,397	46.8%
D	2825.30.00	Republic of South Af	9,926,752	99.7%	D	7202.50.50	Russia.....	11,987,531	76.0%
D	2825.70.00	Chile.....	7,035,656	68.5%	D	7202.80.00	Russia.....	3,701,360	89.6%
D	2840.11.00	Turkey.....	1,419,928	95.1%	D	7206.90.00	Trinidad and Tobago.	1,794,954	69.2%
D	2840.19.00	Turkey.....	1,944,609	98.2%	D	7307.91.30	Brazil.....	2,391,227	68.3%
D	2841.70.10	Chile.....	3,974,082	75.5%	D	7403.11.00	Brazil.....	70,681,136	6.0%
D	2841.90.10	Republic of South Af	401,574	58.2%	D	7407.22.30	Russia.....	522,720	64.4%
D	2841.90.20	Kazakhstan.....	783,995	57.5%	D	7409.39.50	Hungary.....	128,996	65.8%

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	7411.21.50	Trinidad and Tobago.	5,876,153	62.1%
	7418.19.20	India.....	21,452,545	47.4%
D	7604.10.30	Slovenia.....	3,727,681	71.4%
D	7614.90.20	Venezuela.....	5,255,691	68.2%
D	7904.00.00	Republic of South Af	1,019,017	63.2%
D	8112.91.50	Chile.....	4,790,549	77.4%
D	8213.00.60	Brazil.....	221,901	42.4%
D	8410.13.00	Egypt.....	835,000	62.6%
D	8419.81.10	Thailand.....	4,446,374	53.6%
D	8455.90.40	Russia.....	2,807,702	59.9%
D	8479.89.70	Brazil.....	107,915	46.3%
	8483.10.30	Brazil.....	62,251,506	28.5%
D	8501.10.20	Indonesia.....	1,774,108	54.7%
	8517.19.80	Indonesia.....	57,905,512	6.6%
	8525.20.05	Philippines.....	25,945,727	55.6%
D	8525.20.28	Thailand.....	5,717,797	48.6%
D	8528.12.16	Thailand.....	68,949,703	42.3%
D	8528.21.16	Thailand.....	550,758	43.4%
D	8528.21.34	Thailand.....	140,210	87.2%
D	8531.20.00	Philippines.....	65,139,941	8.7%
	8534.00.00	Thailand.....	69,110,989	4.0%
D	8540.12.10	India.....	319,065	46.3%
D	8543.81.00	Philippines.....	3,208,841	46.6%
D	8543.90.64	Thailand.....	1,135,633	74.2%
D	8606.30.00	India.....	8,602	65.4%
	8708.40.50	Brazil.....	38,869,625	60.3%
	9001.30.00	Indonesia.....	59,515,728	58.0%
D	9005.80.60	Russia.....	2,914,576	43.5%
D	9013.10.30	Ukraine.....	2,679,360	72.5%
D	9401.90.15	Czech Republic.....	1,790,639	71.0%
D	9506.19.40	Czech Republic.....	1,367,291	74.4%
D	9614.20.60	Turkey.....	77,264	76.2%

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER		PARTNER	IMPORTS	COUNT
		Argentina.....	72,099,131	4
		Brazil.....	200,441,021	20
		Chile.....	24,811,310	4
		Colombia.....	48,582,600	2
		Costa Rica.....	15,387,135	3
		Czech Republic.....	18,623,599	5
		Dominican Republic..	911,306	2
		Ecuador.....	2,626,001	3
		Egypt.....	835,000	1
		Guatemala.....	1,185,038	3
		Honduras.....	60,385,512	1
		Hungary.....	1,066,611	4
		India.....	27,400,104	10
		Indonesia.....	123,819,162	7
		Jamaica.....	14,445	1
		Kazakhstan.....	4,304,158	2
		Mauritius.....	888,090	1
		Morocco.....	1,025,128	1
		Namibia.....	103,019	1
		Pakistan.....	1,888,838	2
		Peru.....	2,603,759	1
		Philippines.....	98,133,006	5
		Republic of South Af	43,927,375	6
		Russia.....	74,939,073	10
		Slovakia.....	8,502	1
		Slovenia.....	3,727,681	1
		Thailand.....	219,106,536	15
		Trinidad and Tobago.	10,761,999	3
		Turkey.....	81,037,694	8
		Ukraine.....	5,055,230	2
		Uruguay.....	760,064	1
		Venezuela.....	7,325,841	4
		TOTAL.....	1,153,783,968	134

LIST III : POSSIBLE de MINIMIS ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	0210.20.00	Uruguay.....	760,064	46.0%	D	2931.00.25	Brazil.....	1,551,585	100.0%
D	0304.10.30	Namibia.....	103,019	61.5%	D	2933.19.45	Slovakia.....	8,502	80.1%
D	0305.20.20	Russia.....	18,500	100.0%	D	2933.40.08	Hungary.....	402,977	100.0%
D	0708.90.30	Ecuador.....	142,619	66.6%	D	2933.40.10	Russia.....	1,901,909	47.9%
D	0710.29.30	Dominican Republic..	849,020	55.7%	D	2938.10.00	Brazil.....	753,268	74.0%
D	0711.30.00	Turkey.....	1,241,216	61.3%	D	3808.30.20	Brazil.....	394,893	63.3%
D	0802.50.20	Turkey.....	1,454,367	99.4%	D	3817.10.50	Indonesia.....	2,732,046	60.2%
D	0802.50.40	Turkey.....	565,448	49.7%	D	4106.12.00	Pakistan.....	1,790,506	73.2%
D	0802.90.20	Pakistan.....	98,332	47.6%	D	4202.22.35	Philippines.....	222,580	89.2%
D	0802.90.80	Guatemala.....	1,058,153	65.8%	D	4205.00.60	Venezuela.....	204,206	48.0%
D	0804.50.80	Thailand.....	1,244,907	53.8%	1	4412.13.25	Brazil.....	1,939,012	63.2%
D	0813.40.10	Thailand.....	630,682	73.4%	1	4412.14.25	Brazil.....	4,795,746	95.8%
D	0904.20.76	India.....	2,668,086	49.7%	D	4412.19.10	Brazil.....	909,822	96.6%
D	1006.30.10	India.....	1,118,393	74.0%	D	4412.22.50	Indonesia.....	1,575,583	47.5%
D	1102.30.00	Thailand.....	2,727,424	79.7%	D	4412.29.15	Russia.....	5,899,426	72.0%
D	1510.00.60	Morocco.....	1,025,128	56.0%	D	4412.29.45	Ecuador.....	2,474,582	54.7%
D	1602.50.09	Argentina.....	3,214,313	74.5%	1	4412.92.10	Brazil.....	50,323	100.0%
D	1604.14.50	Indonesia.....	121,185	79.2%	1	4412.99.15	Brazil.....	315,711	100.0%
D	1604.30.20	Russia.....	8,935,952	94.8%	D	4412.99.45	Brazil.....	554,665	82.1%
D	1701.91.42	Jamaica.....	14,445	57.7%	D	4809.10.20	Guatemala.....	32,991	53.9%
D	1703.90.30	India.....	15,301	51.0%	D	5607.30.20	Philippines.....	3,615,917	84.2%
D	1806.10.65	India.....	7,068	100.0%	D	5608.90.23	Costa Rica.....	409,881	42.0%
D	2005.10.00	Guatemala.....	93,894	53.4%	D	6116.99.35	Thailand.....	58,468	81.3%
D	2005.80.00	Thailand.....	1,309,646	48.8%	D	6501.00.30	Czech Republic.....	1,987,851	51.5%
D	2008.30.37	Argentina.....	249,790	48.0%	D	6501.00.60	Colombia.....	83,171	88.2%
D	2008.30.95	Ecuador.....	8,800	67.1%	D	6814.90.00	India.....	914,987	42.7%
D	2008.99.35	Thailand.....	3,309,928	92.0%	D	7018.90.50	Czech Republic.....	5,561,595	46.6%
D	2008.99.45	Dominican Republic..	62,286	49.2%	D	7113.20.29	India.....	888,090	72.5%
D	2008.99.50	Thailand.....	1,387,669	48.2%	D	7117.90.55	Peru.....	887,657	42.7%
D	2101.20.32	India.....	8,400	82.4%	D	7202.21.10	Argentina.....	2,603,759	55.3%
D	2208.90.05	Trinidad and Tobago.	3,090,892	96.4%	D	7202.80.00	Russia.....	722,005	47.3%
D	2309.90.70	Hungary.....	506,257	94.1%	D	7206.90.00	Trinidad and Tobago.	3,701,360	89.6%
D	2401.20.57	Indonesia.....	195,000	58.6%	D	7307.91.30	Brazil.....	1,794,954	69.2%
D	2516.90.00	Republic of South Af	2,461,142	51.5%	D	7407.22.30	Russia.....	2,391,227	68.3%
D	2619.00.30	Venezuela.....	1,086,801	78.0%	D	7409.39.50	Hungary.....	522,720	64.4%
D	2707.99.40	Venezuela.....	779,143	65.5%	D	7411.21.50	Trinidad and Tobago.	128,996	65.8%
D	2804.29.00	Ukraine.....	2,375,870	53.8%	D	7604.10.30	Slovenia.....	5,876,153	62.1%
D	2811.29.50	Brazil.....	4,341,148	49.1%	D	7614.90.20	Venezuela.....	3,727,681	71.4%
D	2819.10.00	Kazakhstan.....	3,520,163	67.2%	1	7904.00.00	Republic of South Af	5,255,691	68.2%
D	2825.30.00	Republic of South Af	9,926,752	99.7%	D	8112.91.50	Chile.....	1,019,017	63.2%
D	2825.70.00	Chile.....	7,035,656	68.5%	D	8213.00.60	Brazil.....	4,790,549	77.4%
D	2840.11.00	Turkey.....	1,419,928	95.1%	D	8410.13.00	Egypt.....	221,901	42.4%
D	2840.19.00	Turkey.....	1,944,609	98.2%	D	8419.81.10	Thailand.....	835,000	62.6%
D	2841.70.10	Chile.....	3,974,082	75.5%	D	8455.90.40	Russia.....	4,446,374	53.6%
D	2841.90.20	Republic of South Af	401,574	58.2%	D	8479.89.70	Brazil.....	2,807,702	59.9%
D	2903.23.00	Kazakhstan.....	783,995	57.5%	D	8501.10.20	Indonesia.....	107,915	46.3%
D	2903.61.10	Brazil.....	8,019,841	88.3%	D	8525.20.28	Thailand.....	1,774,108	54.7%
D	2903.69.05	Hungary.....	729,541	96.6%	D	8528.21.16	Thailand.....	5,717,797	48.6%
D	2921.42.23	Brazil.....	28,381	76.5%	D	8528.21.34	Thailand.....	550,758	43.4%
1	2929.10.15	Brazil.....	649,556	72.9%	D	8540.12.10	India.....	140,210	87.2%
			912,600	80.4%				319,065	46.3%

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	8543.81.00	Philippines.....	3,208,841	46.6%
D	8543.90.64	Thailand.....	1,135,633	74.2%
D	8606.30.00	India.....	8,602	65.4%
D	9005.80.60	Russia.....	2,914,576	43.5%
D	9013.10.30	Ukraine.....	2,679,360	72.5%
D	9401.90.15	Czech Republic.....	1,790,639	71.0%
D	9506.19.40	Czech Republic.....	1,367,291	74.4%
D	9614.20.60	Turkey.....	77,264	76.2%

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER	
PARTNER	IMPORTS COUNT
Argentina.....	4,186,108 3
Brazil.....	28,638,754 17
Chile.....	15,800,287 3
Colombia.....	83,171 1
Costa Rica.....	409,881 1
Czech Republic.....	10,707,376 4
Dominican Republic.....	911,306 2
Ecuador.....	2,626,001 3
Egypt.....	835,000 1
Guatemala.....	1,185,038 3
Hungary.....	1,066,611 4
India.....	5,947,559 9
Indonesia.....	6,397,922 5
Jamaica.....	14,445 1
Kazakhstan.....	4,304,158 2
Mauritius.....	888,090 1
Morocco.....	1,025,128 1
Namibia.....	103,019 1
Pakistan.....	1,888,838 2
Peru.....	2,603,759 1
Philippines.....	7,047,338 3
Republic of South Af.....	13,808,485 4
Russia.....	26,702,145 8
Slovakia.....	8,502 1
Slovenia.....	3,727,681 1
Thailand.....	22,659,496 12
Trinidad and Tobago.....	10,761,999 3
Turkey.....	6,702,832 6
Ukraine.....	5,055,230 2
Uruguay.....	760,064 1
Venezuela.....	7,325,841 4
TOTAL.....	194,182,064 110

LIST IV : POSSIBLE REDESIGNATION ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
2	0303.77.00	Argentina.....	11,668,680	48.6%	*	2603.00.00	Indonesia.....	0	0.0%
*	0304.20.50	Argentina.....	0	0.0%	2	2608.00.00	Peru.....	10,813,963	55.0%
2	0404.90.10	Argentina.....	158,959	0.3%	*	2804.69.10	Brazil.....	8,594,418	10.7%
*	0703.10.20	Chile.....	0	0.0%	2	2805.40.00	Argentina.....	0	0.0%
2	0703.20.00	Argentina.....	3,014,848	15.6%	2	2813.90.50	Argentina.....	37,200	2.3%
2	0708.10.20	Guatemala.....	982,578	74.7%	2	2832.30.10	Argentina.....	60,821	21.4%
*	0709.10.00	Chile.....	1,802	0.2%	2	2839.90.00	Argentina.....	543,960	14.3%
* D	0709.20.10	Peru.....	4,849,900	63.0%	2	2841.30.00	Argentina.....	320,702	6.6%
*	0710.80.70	Guatemala.....	1,148,902	14.8%	2	2841.50.00	Argentina.....	0	0.0%
2	0710.80.93	Guatemala.....	2,365,645	68.7%	*	2843.30.00	Chile.....	0	0.0%
2	0711.40.00	India.....	2,621,014	62.4%	2	2843.30.00	Argentina.....	0	0.0%
2	0713.90.10	Peru.....	36,789	8.1%	2	2849.10.00	Argentina.....	204,682	70.0%
2	0714.10.10	Costa Rica.....	3,795,932	92.5%	2	2850.00.50	Argentina.....	0	0.0%
2	0714.10.20	Costa Rica.....	12,685,818	98.0%	2	2902.11.00	Argentina.....	7,282,053	29.4%
2	0714.20.20	Dominican Republic.....	3,957,911	91.2%	2	2904.90.15	Brazil.....	14,440,723	96.6%
* D	0811.20.20	Chile.....	7,267,147	65.8%	2	2905.12.00	Argentina.....	1,727,246	6.6%
*	0811.20.40	Chile.....	492,279	17.1%	2	2905.13.00	Argentina.....	0	0.0%
2	0811.90.10	Costa Rica.....	1,937,324	52.2%	2	2905.22.50	Argentina.....	13,662	0.1%
2	0811.90.50	Costa Rica.....	2,052,040	80.5%	*	2906.11.00	Brazil.....	6,766,805	13.3%
*	0813.10.00	Turkey.....	22,970,106	93.6%	2	2906.14.00	Argentina.....	31,585	4.0%
*	0813.30.00	Argentina.....	3,398,233	43.2%	*	2907.23.00	Brazil.....	221,754	2.5%
*	1005.90.20	Argentina.....	2,628,612	10.7%	2	2909.50.40	Indonesia.....	3,404,857	58.8%
2	1005.90.40	Argentina.....	3,183,161	49.6%	2	2914.12.00	Argentina.....	733,622	11.7%
2	1007.00.00	Argentina.....	405,813	71.1%	2	2914.13.00	Argentina.....	289,809	3.8%
2	1106.30.20	Ecuador.....	47,832	93.7%	2	2921.42.23	Guatemala.....	0	0.0%
2	1301.90.40	Indonesia.....	2,180,000	65.8%	2	2929.10.15	Argentina.....	138,108	12.1%
2	1403.90.40	India.....	937,540	47.4%	2	2932.99.90	Argentina.....	78,927	0.0%
*	1602.50.20	Argentina.....	49,900,767	70.7%	2	2933.40.30	Argentina.....	0	0.0%
*	1604.14.50	Thailand.....	0	0.0%	2	2933.90.55	Argentina.....	3,300	0.0%
2	1604.16.10	Argentina.....	513,229	3.1%	*	2934.90.15	Brazil.....	1,332,198	9.2%
2	1605.90.55	Indonesia.....	924,807	44.3%	2	3209.90.00	Argentina.....	347,650	0.9%
2	1701.11.10	Argentina.....	31,336,873	4.1%	*	3301.12.00	Brazil.....	16,472,999	72.0%
*	1701.11.20	Guatemala.....	43,410,861	43.6%	2	3301.19.10	Argentina.....	1,611	0.1%
*	1701.11.20	Brazil.....	234,651	0.2%	2	3301.90.10	Argentina.....	0	0.0%
*	1701.91.10	Brazil.....	0	0.0%	2	3302.10.10	Argentina.....	197,339	0.5%
*	1701.99.05	Brazil.....	0	0.0%	2	3302.10.20	Argentina.....	315,626	4.9%
*	1701.99.10	Brazil.....	722,560	4.0%	2	3302.90.10	Argentina.....	0	0.0%
2	1702.90.35	Belize.....	1,585,463	33.5%	2	3303.00.30	Argentina.....	32,848	0.0%
2	1702.90.40	Dominican Republic.....	0	0.0%	2	3304.20.00	Argentina.....	0	0.0%
2	1703.10.30	Dominican Republic.....	952,057	60.7%	2	3304.99.50	Argentina.....	35,344	0.0%
*	1806.10.65	Brazil.....	0	0.0%	2	3305.10.00	Argentina.....	4,518	0.0%
2	1806.32.55	Colombia.....	195,900	64.2%	2	3305.90.00	Argentina.....	118,406	0.2%
2	2004.10.40	Colombia.....	7,790	80.8%	2	3307.20.00	Argentina.....	0	0.0%
*	2007.99.48	Argentina.....	0	0.0%	2	3307.49.00	Argentina.....	16,270	0.0%
*	2007.99.50	Brazil.....	445,206	5.0%	2	3401.11.10	Argentina.....	0	0.0%
2	2008.30.10	Dominican Republic.....	162,071	58.5%	2	3504.00.50	Argentina.....	0	0.0%
* D	2008.50.20	Argentina.....	359,984	80.7%	2	3506.99.00	Argentina.....	0	0.0%
2	2008.99.13	Costa Rica.....	6,987,500	68.0%	2	3701.10.00	Argentina.....	652,821	0.3%
2	2008.99.23	Dominican Republic.....	250,732	90.2%	2	3702.10.00	Argentina.....	0	0.0%
2	2106.90.12	Dominican Republic.....	0	0.0%	2	3706.10.30	Argentina.....	0	0.0%
2	2603.00.00	Chile.....	47,938,633	78.5%	2	3707.90.32	Argentina.....	1,689	0.0%

FLAGS: *1=Excluded full year; *2=Excluded July/December; *D=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	3806.30.00	Argentina.....	0	0.0%	*	4107.29.60	Argentina.....	152,467	2.2%
2	3822.00.50	Argentina.....	14,748	0.0%	*	4107.90.60	Argentina.....	274	0.0%
2 D	3824.60.00	Indonesia.....	402,805	91.3%	*	4109.00.70	Argentina.....	0	0.0%
*	3824.90.40	Brazil.....	1,799,691	3.7%	2	4201.00.60	Argentina.....	2,094,726	4.0%
2	3901.90.90	Argentina.....	0	0.0%	*	4203.21.20	Pakistan.....	296,662	1.5%
2	3902.10.00	Argentina.....	0	0.0%	*	4203.21.55	Pakistan.....	388,242	28.7%
2	3902.20.50	Argentina.....	1,529,725	16.5%	*	4203.21.60	Pakistan.....	893,605	16.3%
2	3902.90.00	Argentina.....	4,608,328	9.9%	*	4203.21.80	Pakistan.....	5,408,370	7.0%
2	3903.90.50	Argentina.....	0	0.0%	*	4205.00.60	Argentina.....	19,175	4.5%
*	3904.21.00	Brazil.....	7,780	0.0%	2	4303.10.00	Argentina.....	3,251,907	2.9%
2	3904.40.00	Argentina.....	37,149	0.1%	2	4303.90.00	Argentina.....	241,988	1.1%
2	3906.10.00	Argentina.....	43,217	0.1%	2	4410.11.00	Argentina.....	0	0.0%
2	3906.90.50	Argentina.....	0	0.0%	2	4410.19.00	Argentina.....	144,671	0.0%
2	3907.30.00	Argentina.....	0	0.0%	2	4411.11.00	Brazil.....	25,460,275	46.0%
2	3907.60.00	Argentina.....	0	0.0%	2	4411.11.00	Argentina.....	1,798,280	3.2%
2	3907.99.00	Argentina.....	0	0.0%	2	4411.19.20	Brazil.....	3,575,958	50.7%
2	3909.10.00	Argentina.....	0	0.0%	*	4411.19.40	Brazil.....	3,446,802	6.1%
2	3909.50.50	Argentina.....	0	0.0%	*	4411.21.00	Brazil.....	0	0.0%
2	3913.90.20	Argentina.....	2,098,511	2.4%	*	4411.29.60	Brazil.....	12,959	0.3%
2 D	3920.59.80	Dominican Republic.....	645,455	51.8%	*	4411.29.90	Brazil.....	0	0.0%
2	3921.90.50	Argentina.....	517,861	0.6%	*	4412.13.05	Indonesia.....	7,521,123	51.5%
2	3923.90.00	Argentina.....	334,822	0.1%	*	4412.13.25	Indonesia.....	0	0.0%
*	3926.20.30	Pakistan.....	620,045	13.2%	*	4412.14.30	Brazil.....	0	0.0%
*	4006.10.00	Brazil.....	47,128	13.9%	*	4412.14.30	Indonesia.....	27,195,257	20.9%
*	4011.10.10	Brazil.....	65,759,886	5.4%	*	4412.14.55	Brazil.....	37,301,130	28.8%
2	4011.10.10	Argentina.....	2,705,096	0.2%	*	4412.14.55	Indonesia.....	479,538	4.6%
*	4011.10.50	Brazil.....	712,813	2.3%	2	4412.22.40	Colombia.....	1,188,954	11.4%
*	4011.20.10	Brazil.....	35,411,373	4.0%	2	4412.92.50	Indonesia.....	0	0.0%
*	4011.20.50	Brazil.....	311,243	0.2%	2	4412.99.55	Colombia.....	180,530	17.3%
*	4016.99.30	Thailand.....	769,662	3.5%	2	4421.90.50	Brazil.....	0	0.0%
*	4016.99.35	Thailand.....	5,777,218	36.2%	*	4421.90.60	Brazil.....	0	0.0%
*	4104.21.00	Argentina.....	3,157,283	11.5%	2	4602.10.23	Indonesia.....	0	0.0%
*	4104.22.00	Brazil.....	522,519	9.4%	2	4802.52.10	Argentina.....	0	0.0%
*	4104.22.00	Argentina.....	285,987	5.1%	*	4823.20.10	Brazil.....	0	0.0%
*	4104.29.50	Argentina.....	271,425	10.2%	2 D	4823.90.20	Philippines.....	6,733,320	52.8%
*	4104.29.90	Argentina.....	33,108	0.1%	* D	5701.10.13	Pakistan.....	208,083	70.6%
*	4104.31.50	Argentina.....	1,628,698	4.1%	*	5702.10.10	Pakistan.....	70,640	14.2%
*	4104.31.60	Argentina.....	231,585	0.8%	2 D	5702.49.15	India.....	413,946	44.9%
*	4104.31.80	Argentina.....	2,818,677	3.1%	*	5702.91.20	Pakistan.....	12,000	25.9%
*	4104.39.50	Argentina.....	9,256	0.1%	*	5805.00.20	Pakistan.....	0	0.0%
2 D	4104.39.50	India.....	2,979,418	43.3%	*	6304.99.10	Pakistan.....	1,668	27.0%
*	4104.39.60	Argentina.....	3,529,009	29.9%	*	6304.99.40	Pakistan.....	2,330,399	0.7%
*	4104.39.80	Argentina.....	542,887	1.3%	*	6406.10.65	Brazil.....	4,264,753	21.3%
*	4105.20.60	Argentina.....	910	0.0%	*	6406.99.60	Argentina.....	0	0.0%
*	4106.12.00	India.....	88,657	3.6%	*	6702.90.65	Thailand.....	404,251	5.0%
* D	4106.19.30	Pakistan.....	338,723	73.6%	*	6908.10.20	Thailand.....	1,770,065	4.6%
*	4106.20.30	India.....	516,444	26.0%	*	6910.10.00	Brazil.....	65,101	0.0%
*	4106.20.60	India.....	1,526,968	28.8%	*	6910.90.00	Brazil.....	887,058	0.7%
* D	4106.20.60	Pakistan.....	2,869,807	54.2%	2	6910.90.00	Argentina.....	12,725	0.0%
*	4107.21.00	Argentina.....	0	0.0%	*	6911.90.00	Brazil.....	0	0.0%
*	4107.29.30	Argentina.....	628,248	14.2%	*	6912.00.44	Brazil.....	81,020	0.0%

FLAGS:***=Excluded full year; '2'=Excluded July/December; '0'=0e minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE	IMPORTS	SHARE	HTSUS	PARTNER	IMPORTS	SHARE
2	7007.11.00	Argentina.....	329,016	0.2%	8409.99.91	Brazil.....	45,065,424	14.9%		
*	7103.99.10	Thailand.....	23,059,054	22.7%	8409.99.91	Argentina.....	2,123,537	0.7%		
*	7106.92.50	Chile.....	0	0.0%	8409.99.99	Brazil.....	32,745,735	13.3%		
2 D	7109.00.00	Peru.....	2,309,735	85.5%	8412.10.00	Russia.....	43,095,129	97.6%		
*	7113.11.20	Thailand.....	0	0.0%	8413.30.10	Brazil.....	73,125,879	32.9%		
*	7113.19.21	Peru.....	9,630,657	31.0%	8413.91.90	Argentina.....	1,540,926	0.3%		
2	7113.19.50	Dominican Republic..	73,377,969	3.9%	8414.30.80	Brazil.....	44,248,394	12.8%		
*	7113.19.50	Thailand.....	0	0.0%	8419.90.20	Brazil.....	12,704	0.0%		
2	7114.11.60	Argentina.....	0	0.0%	8422.30.90	Argentina.....	330,610	0.1%		
*	7115.90.30	Argentina.....	0	0.0%	8429.11.00	Brazil.....	18,589,154	13.2%		
*	7115.90.40	Argentina.....	6,172	0.1%	8429.20.00	Brazil.....	23,107,850	39.1%		
*	7116.10.10	Thailand.....	0	0.0%	8429.30.00	Brazil.....	13,955,223	69.9%		
*	7116.20.05	Thailand.....	7,466,443	37.1%	8431.49.10	Argentina.....	42,234,153	4.7%		
*	7116.20.15	Thailand.....	1,260,543	8.1%	8431.49.90	Brazil.....	12,966	0.0%		
2	7202.21.50	Argentina.....	3,820,399	3.8%	8471.49.29	Thailand.....	1,467,186	0.1%		
*	7202.30.00	Brazil.....	0	0.0%	8477.51.00	Thailand.....	0	0.0%		
2	7202.30.00	Argentina.....	0	0.0%	8479.20.00	Argentina.....	126,125	6.7%		
2	7308.90.95	Argentina.....	143,013	0.1%	8480.30.00	Argentina.....	0	0.0%		
2	7315.90.00	Argentina.....	938,357	7.5%	8481.30.20	Argentina.....	0	0.0%		
*	7402.00.00	Chile.....	77,163,421	27.7%	8481.80.30	Argentina.....	1,810,987	0.5%		
2 D	7403.12.00	Peru.....	4,425,209	89.2%	8481.80.90	Argentina.....	1,066,054	0.1%		
*	7403.12.00	Chile.....	0	0.0%	8481.90.30	Argentina.....	73,737	0.1%		
*	7403.13.00	Chile.....	187,197	1.2%	8503.00.65	Argentina.....	0	0.0%		
*	7403.19.00	Chile.....	43,132,179	33.1%	8517.80.10	Indonesia.....	68,914,282	27.5%		
*	7403.21.00	Chile.....	0	0.0%	8524.31.00	Argentina.....	511,900	0.5%		
*	7403.22.00	Chile.....	21,466	0.9%	8524.32.00	Argentina.....	46,784	0.0%		
*	7403.23.00	Chile.....	0	0.0%	8524.52.10	Argentina.....	682,873	7.2%		
*	7403.29.00	Chile.....	2,985,156	2.6%	8524.60.00	Argentina.....	0	0.0%		
*	7407.21.90	Brazil.....	0	0.0%	8524.91.00	Argentina.....	23,120	0.0%		
2	7409.11.50	Argentina.....	548,219	1.5%	8524.99.60	Argentina.....	0	0.0%		
2	7409.21.00	Argentina.....	26,697	0.0%	8524.99.90	Argentina.....	6,380,352	8.0%		
2	7419.99.50	Argentina.....	0	0.0%	8528.12.04	Indonesia.....	56,513,217	96.3%		
*	7604.10.30	Venezuela.....	0	0.0%	8531.20.00	Thailand.....	59,251,788	7.9%		
*	7604.29.30	Venezuela.....	0	0.0%	8535.40.00	Dominican Republic..	513,312	1.3%		
*	7605.11.00	Venezuela.....	0	0.0%	8536.90.40	Argentina.....	0	0.0%		
2	7614.90.50	Venezuela.....	0	0.0%	8536.90.80	Argentina.....	7,495	0.0%		
*	7615.19.10	Thailand.....	0	0.0%	8538.90.80	Argentina.....	0	0.0%		
2	7901.11.00	Argentina.....	0	0.0%	8708.39.50	Brazil.....	67,157,354	5.0%		
2	7901.12.50	Argentina.....	0	0.0%	8708.60.80	Argentina.....	15,183	0.0%		
2	7905.00.00	Peru.....	18,841,383	75.6%	8708.70.60	Argentina.....	0	0.0%		
*	8104.11.00	Russia.....	21,849,770	56.2%	8708.99.80	Argentina.....	13,784,087	0.4%		
2	8108.90.60	Russia.....	29,128,513	52.7%	8716.90.50	Argentina.....	338,084	0.3%		
*	8112.11.60	Kazakhstan.....	0	0.0%	9003.90.00	Argentina.....	0	0.0%		
2	8112.30.60	Russia.....	10,103,484	58.9%	9006.62.00	Thailand.....	9,558,738	86.5%		
2	8207.20.00	Argentina.....	0	0.0%	9018.11.60	Argentina.....	0	0.0%		
2 D	8211.92.60	Pakistan.....	1,910,454	54.8%	9018.90.10	Argentina.....	648,704	65.7%		
*	8408.20.20	Brazil.....	82,583	0.0%	9018.90.80	Pakistan.....	17,723,328	2.3%		
*	8408.20.90	Brazil.....	107,552	0.5%	9025.11.20	Brazil.....	710,409	32.6%		
*	8409.91.50	Brazil.....	22,299,582	1.9%	9025.11.20	India.....	937,372	43.0%		
2	8409.91.50	Argentina.....	2,891,874	0.2%	9105.19.10	Brazil.....	0	0.0%		
2	8409.91.99	Argentina.....	2,867,863	1.1%						

FLAGS: * = Excluded full year; '2' = Excluded July/December; 'D' = De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	9105.19.40	Brazil.....	1,712	0.0%
2	9113.10.00	Argentina.....	3,470	0.0%
2	9113.20.60	Argentina.....	0	0.0%
*	9401.30.40	Croatia.....	0	0.0%
*	9401.30.40	Slovenia.....	0	0.0%
*	9401.61.40	Croatia.....	0	0.0%
2	9401.69.40	Indonesia.....	8,030,345	57.0%
2	9403.20.00	Argentina.....	199,463	0.0%
2	9403.50.90	Argentina.....	649,660	0.1%
2	9403.60.80	Argentina.....	2,306,239	0.1%
*	9405.60.80	Thailand.....	0	0.0%
*	9405.30.00	Thailand.....	11,391,279	2.9%
* D	9506.61.00	Philippines.....	5,010,511	66.7%
*	9506.62.80	Pakistan.....	2,215,813	2.8%
*	9506.91.00	Pakistan.....	188,229	0.0%

FLAGS: !*=Excluded full year; ?1=Excluded July/December; ?D=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS
1997 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER

PARTNER	IMPORTS	COUNT
Argentina.....	201,881,787	148
Belize.....	1,585,463	1
Brazil.....	604,662,710	54
Chile.....	176,204,124	15
Colombia.....	454,168	4
Costa Rica.....	27,458,614	5
Croatia.....	0	2
Dominican Republic..	79,859,507	9
Ecuador.....	47,832	1
Guatemala.....	47,907,986	5
India.....	10,021,359	8
Indonesia.....	186,381,520	14
Kazakhstan.....	0	1
Pakistan.....	33,145,669	17
Peru.....	50,907,636	7
Philippines.....	11,743,831	2
Russia.....	104,176,896	4
Slovenia.....	0	1
Thailand.....	120,419,128	18
Turkey.....	22,970,106	1
Venezuela.....	0	4
TOTAL.....	1,679,828,336	321

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. 301-117]

**Initiation of Section 301 Investigation
and Request for Public Comment:
Intellectual Property Laws and
Practices of the Government of
Paraguay**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated a Section 301 investigation with respect to certain acts, policies and practices of the Government of Paraguay that deny adequate and effective protection of intellectual property rights. USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on Tuesday, February 17, 1998. Written comments from the public are due on or before noon on Monday, March 23, 1998.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Intellectual Property, (202) 395-6864; Kellie Meiman, Director for Southern Cone Affairs, (202) 395-5190; or GERALYN S. Ritter, Assistant General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: Section 182 of the Trade Act (19 U.S.C. 2242) requires the USTR to identify foreign countries that deny adequate and effective protection of intellectual property rights or that deny fair and equitable market access to persons that rely on intellectual property protection. Accordingly, on January 16, 1998, the USTR identified Paraguay as a Priority Foreign Country under that provision. In identifying Paraguay as a Priority Foreign Country, the USTR noted deficiencies in Paraguay's acts, policies and practices regarding intellectual property, including a lack of effective action to enforce intellectual property rights, as evidenced by the alarming levels of piracy and counterfeiting within the country and along its borders with Argentina and Brazil. The USTR also observed that the Government of Paraguay has failed to enact adequate and effective intellectual property legislation covering patents, copyrights and trademarks.

Investigation and Consultations

Section 302(b)(2)(A) of the Trade Act (19 U.S.C. 2412(b)(2)(A)), requires the USTR to initiate an investigation of any act, policy or practice that was the basis of the identification of a country as a Priority Foreign Country under section 182(a)(2) of the Trade Act, unless such acts, policies and practices are already subject to investigation or action under the Section 301 chapter of the Trade Act, or the investigation is not in the national economic interest. The purpose of the investigation initiated under Section 302 is to determine whether such act, policy or practice is actionable under Section 301 of the Trade Act.

As required by Section 303(a) of the Trade Act, the USTR has requested consultations with the Government of Paraguay regarding the issues under investigation. USTR will seek information and advice from appropriate representatives provided for under Section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Within 6 months after the date on which this investigation was initiated, (i.e., on or before August 16, 1998), pursuant to Section 304 of the Trade Act, the USTR must determine on the basis of the investigation and the consultations, whether any act, policy or practice described in Section 301 of the Trade Act exists. If that determination is affirmative, the USTR must decide what action, if any, to take under Section 301 of the Trade Act. The deadline for making these determinations may, however, be extended to 9 months after the date of initiation of this investigation if the USTR determines that certain conditions are met.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of the Government of Paraguay which are the subject of this investigation; the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices; and the determinations required under Section 304 of the Trade Act regarding whether they are actionable under Section 301 and, if affirmative, the appropriate action to take in response. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20,593) and must be filed on or before noon on Monday, March 23, 1998. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the

Section 301 Committee, Room 416, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, D.C. 20508.

Comments will be placed in a file (Docket 301-117) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301-117) may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 98-4680 Filed 2-23-98; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

**Reports, Forms and Recordkeeping
Requirements Agency Information
Collection Activity Under OMB Review**

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of a currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 2, 1997 (62 FR, 63745).

DATES: Comments must be submitted on or before March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Richard Weaver, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202-366-2811.

SUPPLEMENTARY INFORMATION:

Maritime Administration

Title: Port Facility Conveyance Information.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133-0524.

Affected Public: Eligible port entities.

Abstract: Public Law 103-160 authorizes the Department of Transportation to convey to public entities surplus Federal property needed for development or operation of a port facility. The information collection will allow the Maritime Administration to approve the conveyance of property and administer the port facility conveyance program.

Need and Use of the Information: The information collection is necessary for MARAD to determine whether (1) the community is committed to the redevelopment/reuse plan, (2) the redevelopment/reuse plan is viable and is in the best interest of the public, and (3) the property is being used in accordance with the terms of the conveyance and applicable statutes and regulations.

Estimated Annual Burden Hours: 2200 hours.

Estimated Annual Responses: 20 responses.

Address: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention DOT 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 February 18, 1998.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98-4586 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Aviation Proceedings, Agreements Filed During the Ending February 13, 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-1998-3482.

Date Filed: February 13, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS-*AFR* 0036 dated February 3, 1998 r1-10; PTC12 NMS-*AFR* 0037 dated February 3, 1998 r11-25; Minutes-PTC12 NMS-*AFR* 0038 dated Feb. 10, 1998; Tables-PTC12 NMS-*AFR* Fares 0018 dated February 6, 1998; PTC12-PTC12 NMS-*AFR* Fares 0019 dated February 6, 1998

Intended effective date: May 1, 1998.

Paulette V. Twine,

Federal Register Liaison.

[FR Doc. 98-4629 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Environmental Impact Statement: Los Angeles County, California**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Los Angeles County, California.

FOR FURTHER INFORMATION CONTACT: C. Glenn Clinton, Chief, District Operations—South, Federal Highway Administration, 980-9th Street, Suite 400, Sacramento, CA 95814-2724 Telephone: (916) 498-5037.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation and the City of Santa Clarita, will prepare an environmental impact statement (EIS) on a proposal to construct the extension of Magic Mountain Parkway (State Route 126) from west of San Fernando Road to Via Princessa (2.5 miles) and to construct the extension of Via Princessa from Magic Mountain Parkway to Rainbow Glen Drive (1.7 miles). The proposed project includes constructing a 120-foot wide roadway, an interchange on Magic Mountain Parkway with San Fernando Road including a structure over the Los

Angeles County Metropolitan Transportation Authority Railroad, and widening the existing bridge over the South Fork of the Santa Clara River.

The new roadway will be approximately 4.5 miles in length. These improvements are intended to serve as a major east-west corridor to accommodate the substantial increases in traffic volumes associated with several large existing and planned developments in the area.

Alternatives under consideration include (1) Taking no action; (2) constructing an interchange and a six-lane, uncontrolled access arterial on new location; and (3) alignment variations as appropriate to minimize environmental effects of the project. Within the limits of the study area for this project, various environmental resources and issues are known to exist and include but are not limited to: cultural resources, wetlands, floodway and floodplain, wildlife habitat, growth inducement, economic, business relocation, noise, changes to vehicle traffic patterns, regional air quality, seismic exposure, land use planning, hazardous waste, and irrigation/drain systems.

Per the California Environmental Quality Act (CEQA), a Notice of Preparation on an Environmental Impact Report (EIR) for this project was published on February 12, 1997, and a 45-day public comment period followed from February 12, 1997, to March 31, 1997, including a Public Scoping Meeting held on March 5, 1997. In addition to the comment period and scoping meeting, three public meetings were conducted by the City of Santa Clarita in November 1996. The public and review agencies have had the opportunity to comment on the scope and content of the project. Thus, this Notice serves as additional public notification of the preparation of an EIS. The public and agencies will have further opportunity to comment on the project when the draft EIS has been completed.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. At least one public meeting will be held in the City of Santa Clarita to solicit input from the local citizens on alternatives. In addition, a public hearing will be held. Public Notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Document Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: February 10, 1998.

C. Glenn Clinton,

Chief, District Operations—South Sacramento, California.

[FR Doc. 98-4675 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-5206.

SUPPLEMENTARY INFORMATION: Mr. Walter E. Bull of Prescott, Arizona, submitted a petition dated December 31, 1997, requesting that an investigation be initiated to determine whether early model Ford Explorer sport utility vehicles contain a defect related to motor vehicle safety within the meaning of 49 U.S.C. Chapter 301. The petition alleges that early model Ford Explorer sport utility vehicles develop heavy lateral vibrations at speeds above 55 mph and when encountering bumps at low speeds. The petition further alleges that these vibrations could possibly cause loss of vehicle control.

A review of agency data files, including information reported to the Auto Safety Hotline by consumers, indicates that, in addition to the

petition, there were 22 complaints concerning vehicle vibration, shaking, and shimmy at certain high speeds in model year (MY) 1991-1994 Ford Explorer vehicles, allegedly caused by defective engine mounts. No loss of vehicle control, and no crashes or injuries were reported. Of the 22 complaints, five are MY1994, five are MY1993, ten are MY1992, and two are MY1991 vehicles. Ford Motor Company (Ford) has manufactured approximately 1,137,000 MY1991-1994 Explorers.

The agency interviewed four recent complainants who filed reports about the subject vehicles and confirmed that the drivers felt vibration/shake in the seat and floor at certain speeds but little or no vibration in the steering wheel. They described the severity of vibration as one which would tip over a full cup of coffee when the cup is placed on the floor. One complainant had not fixed the engine mounts as of January 14, 1998, and the other three had sold or traded their Explorers without getting the vibration problems fixed. One sold her vehicle with over 72,000 miles, one sold at about 10,000 miles, one traded at about 8,000 miles, and one still has his vehicle which has about 50,000 miles now.

Ford has issued three Technical Service Bulletins to address the vibration/shake issue on MY1991-1994 Ford Explorers. One bulletin issued on September 1, 1994, BC1431940902, informs dealers of the availability of a new engine mount with revised insulator stiffening to correct a lateral shake problem on the subject vehicles. The other two bulletins, issued on February 12, 1996, Article Nos. 96-4-15 and 96-4-17, address vibration/shake in the seat and/or floor at speeds above 50 mph and peaking near 65 mph on certain MY1991-1994 Explorer vehicles. An "aftershake" condition may also exist when driving over a bump at speeds less than 45 mph. To reduce or eliminate the vibration/shake problem, these latter bulletins advise dealers to install revised LH and RH engine mounts as addressed in the 1994 bulletins and also to install a rear axle-to-frame lateral shock absorber kit.

The vibration/shake in the MY1991-1994 Explorers is apparently caused by inadequately designed engine mounts which allow the engine to move laterally at certain driving speeds. The vibration/shake is primarily limited to the seat and floor. When this occurs, the driver is able to control the vehicle and to either increase or decrease the vehicle's speed to eliminate the vibration. This is evidenced by no reports of loss of vehicle control, crashes, or injuries reported to NHTSA.

For the reasons presented above, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: February 9, 1998.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 98-4626 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: Dr. George Chiang, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-5206.

SUPPLEMENTARY INFORMATION: Mr. and Mrs. Scott Montreuil of Ramsey, Minnesota, submitted a petition dated October 1, 1997, requesting that an investigation be initiated to determine whether 1993 Chrysler Jeep Grand Cherokees contain a defect related to motor vehicle safety within the meaning of 49 U.S.C. Chapter 301. The petition alleges that 1993 Chrysler Jeep Grand Cherokees have a defective viscous coupling that could cause the steering to bind and lock up, and possibly affect the vehicle's braking.

Although not all Jeep Grand Cherokees utilize a viscous coupling, some 1993 through 1995 Jeep Grand Cherokees are equipped with a Quadra-Trac transfer case. An integral part of the Quadra-Trac transfer case is its viscous coupling, a speed-sensitive device that controls torque output between the front and rear drive shafts.

The housing of the viscous coupling contains high viscosity silicone fluid and specially engineered metal plates splined alternately to an inner and outer drum. When there is a difference in front-to-rear axle speed, such as when the rear wheels slip, the resulting friction between the metal plates increases the temperature inside the unit. This causes the fluid to expand, building pressure that moves the plates together. This occurs almost instantaneously in two modes: the "shear" mode, when momentary speed differences occur such as in cornering or tight turns, causing the plates to move near each other, or the "hump" mode, when high-speed differences occur for a longer period of time, such as in deep snow or on off-road trails, causing the plates to lock and the front and rear drive shafts to turn at the same speed for maximum traction. As traction is gained, the fluid cools, and the plates separate.

When the viscous coupling fails, it may remain in one of the above two modes all the time, regardless of whether there is a difference between front-and-rear axle speed. If the coupling fails in the "hump" mode on dry pavement, it may cause vehicle hopping/bucking during turns, resulting in rapid wear of tires.

NHTSA drove a Jeep Grand Cherokee with a simulated failure of the viscous coupling in the "hump" mode on dry pavement at various speeds. Some hopping/bucking was experienced while the vehicle executed turns. However, no steering or braking problems were experienced at any time.

A review of agency data files, including information reported to the Auto Safety Hotline by consumers, indicated that, aside from the petition, there were no other reports concerning failure or malfunction of the viscous coupling in 1993 Jeep Grand Cherokees. There was a report pertaining to transmission lockup when the engine was started, but this was not related to a failure of the viscous coupling.

Chrysler Corporation has received 40 complaints concerning failure or malfunction of the viscous coupling in the transfer case of 1993 Jeep Grand Cherokees. Five of these complaints report handling problems, such as vehicle hopping during turns. The remaining 35 complaints are solely related to financial assistance issues. No crashes or injuries were reported.

The agency has analyzed available information concerning the problem alleged in the petition. Based on its understanding of viscous couplings, NHTSA believes that the failure or malfunction of the viscous coupling in

the subject vehicles cannot cause lockup of the steering or adversely affect the brake system.

For the reasons presented above, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: January 29, 1998.

Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.

[FR Doc. 98-4627 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Contract DTRS-56-96-C-0010]

Quarterly Performance Review Meeting on the Contract "Detection of Mechanical Damage in Pipelines"

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

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection ("smart pig") vendors, and the general public to the next quarterly performance review meeting of progress on the contract "Detection of Mechanical Damage in Pipelines." The meeting is open to everyone, and no registration is required. This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute and Iowa State University. The contract is a research and development contract to develop electromagnetic in-line inspection technologies to detect and characterize mechanical damage and stress corrosion cracking. The meeting will cover a review of the overall project plan, the status of the contract tasks, progress made during the past quarter, and projected activity for the next quarter.

DATES: The next quarterly performance review meeting will be held on March 17, 1998, beginning at 1:00 p.m. and ending around 5:00 p.m.

ADDRESSES: The quarterly review meeting will be held at the Embassy Suites Downtown Salt Lake City, 110

West 600 South, Salt Lake City, Utah. The hotel's telephone number is (801) 359-7800.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366-4556, FAX: (202) 366-4566, e-mail: lloyd.ulrich@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is conducting quarterly meetings on the status of its contract, "Detection of Mechanical Damage in Pipelines" (Contract DTRS-56-96-C-0010), because in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA will continue this practice throughout the life of the contract, which may be three years. The research contract with Battelle is a cooperative effort between the Gas Research Institute (GRI) and DOT, with GRI providing technical guidance. The meetings allow disclosure of the results to interested parties and provide an opportunity for interested parties to ask Battelle questions concerning the research. Attendance at this meeting is open to all and does not require advance registration or advance notice to RSPA.

We specifically want that segment of the pipeline industry involved with in-line inspection to be aware of the status of this contract. To ensure that a cross section of industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association. Each has named an engineering/technical representative who, along with the GRI representative providing technical guidance, form the Industry Review Team (IRT) for the contract.

The original objective was to open each quarterly performance review meeting to the public. The first quarterly meeting was conducted on October 22, 1996, in Washington, DC. However, preparing for a formal briefing each quarter takes a considerable amount of time and resources on Battelle's part that could be better used to conduct the research. Therefore, Battelle requested and RSPA concurred that future public meetings would be conducted semiannually. The Salt Lake City meeting is the first of these semiannual meetings. Conducting public meetings semiannually will provide all interested parties with a sufficient update of

progress in the research. Only the IRT and RSPA staff involved with the contract will be invited to the quarterly performance review meetings held between the public semiannual meetings.

Another objective is to conduct each semiannual meeting at the same location and either before or after a meeting of GRI's Nondestructive Evaluation Technical Advisory Group to enable participation by pipeline technical personnel involved with nondestructive evaluation. This meeting is being held in Salt Lake City to dovetail with a meeting of the GRI Nondestructive Technical Advisory Group. Each of the future semiannual meetings will be announced in the **Federal Register** at least two weeks prior to the meeting.

II. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. Although SCC is not very common on pipelines, it usually appears in high stressed pipe, low population density areas under a limited set of environmental conditions. Several attempts have been made to develop an in-line inspection tool for SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used to detect metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or by using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the

contract. Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

A Task 3 is being considered for an option year to the contract. Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will (1) extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations and maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range

objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, D.C., on February 18, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98-4580 Filed 2-23-98; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 575]

Review of Rail Access and Competition Issues

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: At the request of Congress, the Surface Transportation Board (Board) is commencing a review of access and competition issues in the rail industry. The Board is requesting comments on these matters. One or more oral hearings will also be held.

DATES: An oral hearing will be held beginning on April 2, 1998. Written notices of intent to participate as parties of record *and* requests to speak at the oral hearing are due by March 3, 1998. Shortly thereafter, we will issue a preliminary service list and will request written corrections to the list by letter or FAX. We will issue a corrected service list if necessary. Written comments are due by March 26, 1998. By March 27, 1998, a scheduling order for the hearing will be served and published on our web page (www.stb.dot.gov). To facilitate our communication with the parties, we encourage everyone to submit FAX and E-mail addresses in their notices of intent to participate.

ADDRESSES: Send an original and 10 copies of notices of intent to participate and comments, referring to "STB Ex Parte No. 575," to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, D.C. 20423. The comments must be served on the persons identified as "parties of record" on the service list.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: The Chairman of the Senate Committee on Commerce and the Chairman of the Subcommittee on Surface Transportation and Merchant Marine

have requested that the Board hold hearings and develop a record on access and competition issues in the rail industry, stating in their request that, "[t]he information obtained through a Board inquiry on rail access and competition could be very useful as Congress conducts proper oversight of the rail industry and works to address rail service issues." See the attached copy of their February 12, 1998 letter to Board Chairman Linda Morgan. Accordingly, we are commencing this examination of rail access and competition and other proposals related to those issues.

We will hold a public hearing beginning at 10:00 A.M. on April 2,

1998, at the Board's offices at 1925 K Street N.W., Washington, D.C., to provide interested persons an opportunity to testify on these issues. The hearings may be continued on April 3, 1998, if necessary. We encourage parties with similar interests or positions to file joint statements and to designate a single spokesperson to provide oral testimony. The Board will group speakers and allocate times as necessary to expedite the hearing. To meet the responsibility entrusted to us by Congress, we invite comments, data, studies, and proposals for legislative action.¹ Following the initial hearing,

¹ As noted in the letter from Senators McCain and Hutchison, the Board has ongoing proceedings

and any subsequent hearings we may decide to hold, we will take further action based upon the record made in the comments and at the hearing(s).

Decided: February 20, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

BILLING CODE 4915-00-M

_____ specifically addressing the rail service problems in the western United States. Thus, parties are urged to focus their submissions in the proceeding we are initiating here on the broader issues of rail access and competition generally, rather than on the specific existing service problems in the West.

JOHN MCCAIN, ARIZONA, CHAIRMAN

TED STEVENS, ALASKA
 CONRAD BURNS, MONTANA
 SLADE GORTON, WASHINGTON
 TRENT LOTT, MISSISSIPPI
 KAY BAILEY HUTCHISON, TEXAS
 OLYMPIA J. SNOWE, MAINE
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 SPENCER ABRAHAM, MICHIGAN
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ERNEST F. HOLLINGS, SOUTH CAROLINA
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JOHN RAIDT, STAFF DIRECTOR
 IVAN A. SCHLAGER, DEMOCRATIC CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
 AND TRANSPORTATION

WASHINGTON, DC 20510-6125

February 12, 1998

The Honorable Linda Morgan
 Chairman
 Surface Transportation Board
 1925 K Street, N.W.
 Washington, D.C. 20423-0001

Dear Chairman Morgan:

As Chairman of the Senate Committee on Commerce, Science, and Transportation and Chairman of the Subcommittee on Surface Transportation and Merchant Marine, we consider reauthorization of the Surface Transportation Board (STB) to be a very important Committee priority for this session of Congress, and one that the Committee must proceed with expeditiously.

In this effort, the Committee will be carefully reviewing the Board's staffing and authorization levels. During reauthorization hearings, we will be seeking your views, as appropriate, on these and other matters.

In addition, you can expect that we will consider a number of other rail service and rail shipper concerns. In particular, service problems throughout the West and pending consolidation proposals in the East will likely be raised. These are serious matters, but specific issues and cases we believe are best resolved by the Board. The Congress established the STB as an independent non-political authority and we believe the Board must continue to fulfill its statutory responsibilities independently.

We fully support the deregulatory approach provided by the Staggers Rail Act of 1980 and recognize its critical importance to the economic viability of the rail industry. However, we are facing serious issues which must be reviewed, including, complaints by some smaller shippers who believe their rail service needs are not adequately fulfilled. Others are not satisfied with the federal process available to seek relief from unreasonable rates and practices.

While we would not support efforts to "re-regulate" the rail industry, Congress has the responsibility to examine proposals that would appropriately and effectively remedy legitimate

CHAIRMAN MORGAN

FEB 11 10 10 AM '98

Supervisor

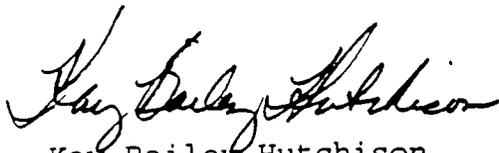
The Honorable Linda Morgan
February 12, 1997
Page 2

transportation problems. Some believe that providing open access, forced access, or competitive access in the rail industry would stimulate competition and help to address the concerns of shippers in general, and small shippers in particular. Since competition generally serves the public interest, we believe we should have a thorough review of the relevant views and issues on pro-competitive proposals and their impact on the rail industry.

It is our understanding that the Board would be agreeable to conducting hearings on rail access and competition issues. We urge you to hold these hearings. The information obtained through a Board inquiry on rail access and competition could be very useful as Congress conducts proper oversight of the rail industry and works to address rail service issues.

Thank you for your time and attention to these matters. Please do not hesitate to contact us if you have any questions or if we can be of any assistance.

Sincerely,



Kay Bailey Hutchison
Chairman
Surface Transportation &
Merchant Marine Subcommittee



John McCain
Chairman

DEPARTMENT OF THE TREASURY**Submission for OMB Review;
Comment Request**

February 11, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 1998 to be assured of consideration.

**Departmental Offices/Community
Development Financial Institutions
(CDFI) Fund**

OMB Number: 1505-0153.

Form Number: Form CDFI-0002.

Type of Review: Extension.

Title: Bank Enterprise Award Program Application, Final Reporting Form, Regulations, NOFA.

Description: The Bank Enterprise Award (BEA) Program Application will be used by regulated financial institutions to voluntarily apply for awards given in this program. Information collected will be used to determine eligibility for an award, according to relevant law and regulation.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 75.

Estimated Burden Hours Per

Respondent: Initial Application: 10 hours; Final Report: 7 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,240 hours.

ADDRESSES:

Clearance Officer: Lois K. Holland, (202) 622-1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 98-4676 Filed 2-23-98; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY**Submission for OMB Review;
Comment Request**

February 13, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 1998 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535-0096.

Form Number: PD F 1993.

Type of Review: Extension.

Title: Reinvestment Application.

Description: The form is used to request that proceeds of matured Series H Savings Bonds be reinvested in Series HH Savings Bonds.

Respondents: Individuals or households.

Estimated Number of Respondents: 270,000.

Estimated Burden Hours Per

Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 67,500 hours.

ADDRESSES:

Clearance Officer: Vicki S. Thorpe, (304) 480-6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106-1328.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 98-4677 Filed 2-23-98; 8:45 am]

BILLING CODE 4810-40-P

Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 1998 to be assured of consideration.

**Bureau of Alcohol, Tobacco and
Firearms (BATF)**

OMB Number: 1512-0025.

Form Number: ATF F 2 (5320.2).

Type of Review: Extension.

Title: Notice of Firearms

Manufactured or Imported.

Description: The National Firearms Act requires licensed importers and manufacturers to notify ATF when firearms are imported or manufactured. This action registers the firearms in the National Firearms Registration and Transfer Record and makes their possession of the firearms lawful. Tax otherwise due under 26 U.S.C. 5821 does not apply.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 590.

Estimated Burden Hours Per

Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,900 hours.

Clearance Officer: Robert N. Hogarth, (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 98-4678 Filed 2-23-98; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY**Submission for OMB review; comment
request**

February 13, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the

submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 26, 1998.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512-0115.
Form Number: ATF F 2140 (5220.4).
Type of Review: Extension.
Title: Monthly Report—Export Warehouse Proprietor.
Description: Proprietors who are qualified to operate export warehouses that handle untaxpaid tobacco products are required to file a monthly report. This report summarizes all transactions by the proprietor handling receipts, dispositions and on-hand quantities. The form is used for product accountability and is examined by regional office personnel.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 221.

Estimated Burden Hours Per Respondent: 48 minutes.

Frequency of Response: Monthly.
Estimated Total Reporting Burden: 2,148 hours.

OMB Number: 1512-0184.
Form Number: ATF F 5400.4.
Type of Review: Extension.
Title: Explosives Transaction Record.
Description: This form is used to verify the qualification and identification of unlicensed persons wishing to purchase explosive materials from licensed dealers, as well as the location in which the explosives are intended for storage and/or use. ATF uses the information in its investigations and inspections to establish leads and determine compliance.

Respondents: Business or other for-profit, Individuals or household, Farms.

Estimated Number of Respondents/Recordkeepers: 1,140.

Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes.

Frequency of Response: Other (whenever sales are made).
Estimated Total Reporting/Recordkeeping Burden: 7,227 hours.

OMB Number: 1512-0188.
Form Number: ATF F 5100.1.
Type of Review: Extension.
Title: Signing Authority for Corporate Officials.

Description: ATF 5100.1 is substituted instead of a regulatory requirement to submit corporate documents or minutes of a meeting of the Board of Directors to authorize an individual or office to sign for the corporation in ATF matters. The form identifies the corporation, the individual or office authorized to sign, and documents the authorization.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 250 hours.

OMB Number: 1512-0198.
Form Number: ATF F 5110.28.

Recordkeeping Requirement ID Number: ATF REC 5110/03.

Type of Review: Extension.
Title: Distilled Spirits Plant Monthly Report of Processing.

Description: The information collected is necessary to account for and verify the processing of distilled spirits in bond. It is used to audit plant operations, monitor industry activities for efficient allocation of personnel resources and the compilation of statistics.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 134.

Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours.

Frequency of Response: Monthly.
Estimated Total Reporting/Recordkeeping Burden: 3,886 hours.

Clearance Officer: Robert N. Hogarth, (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98-4679 Filed 2-23-98; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR-200-76]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR-200-76 (TD 8069), Qualified Conservation Contributions (§ 1.170A-14).

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:
Title: Qualified Conservation Contributions.

OMB Number: 1545-0763.
Regulation Project Number: LR-200-76.

Abstract: Internal Revenue Code section 170(h) describes situations in which a taxpayer is entitled to a deduction for a charitable contribution for conservation purposes of a partial interest in real property. This regulation requires a taxpayer claiming a deduction for a qualified conservation contribution to maintain records of (1) the fair market value of the underlying property before and after the donation and (2) the conservation purpose of the donation.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Recordkeepers: 1,000.

Estimated Time Per Recordkeeper: 1 hour, 15 minutes.

Estimated Total Annual Recordkeeper Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4546 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9356

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9356, Application for Software

Developers to Participate in the 1040PC Format for Individual Income Tax Returns.

DATES: Written comments should be received on or before April 27, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Software Developers to Participate in the 1040PC Format for Individual Income Tax Returns.

OMB Number: 1545-1250.

Form Number: Form 9356.

Abstract: Form 9356 is completed by software developers and submitted to the IRS as an application for producing software for the Form 1040PC.

Current Actions: On Form 9356 new item 10, E-Mail or Internet address, was added to expedite testing and communication with software developers.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4547 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS-260-82]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS-260-82 (TD 8449), Election, Revocation, Termination, and Tax Effect of Subchapter S Status (§§ 1.1362-1 through 1.1362-7).

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election, Revocation, Termination, and Tax Effect of Subchapter S Status.

OMB Number: 1545-1308.

Regulation Project Number: PS-260-82.

Abstract: Section 1362 of the Internal Revenue Code provides for the election, termination, and tax effect of subchapter S status. Sections 1.1362-1 through 1.1362-7 of this regulation provides the specific procedures and requirements necessary to implement Code section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 133.

Estimated Time Per Respondent: 2 hours, 25 minutes.

Estimated Total Annual Burden Hours: 322.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4549 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 1041-T**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries.

DATES: Written comments should be received on or before April 27, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation of Estimated Tax Payments to Beneficiaries.

OMB Number: 1545-1020.

Form Number: 1041-T.

Abstract: This form allows a trustee of a trust or an executor of an estate to make an election under Internal Revenue Code section 643(g) to allocate any payment of estimated tax to a beneficiary(ies). The IRS uses the information on the form to determine the correct amounts that are to be transferred from the fiduciary's account to the individual's account.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 1 hr., 2 min.

Estimated Total Annual Burden Hours: 1,030.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4550 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 4970**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4970, Tax on Accumulation Distribution of Trusts.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax on Accumulation Distribution of Trusts.

OMB Number: 1545-0192.

Form Number: 4970.

Abstract: Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 3 hr., 19 min.

Estimated Total Annual Burden Hours: 99,300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a

matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4551 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1066 and Schedule Q (Form 1066)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return, and Schedule Q (Form 1066), Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson,

(202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return (Form 1066) and Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation Schedule Q (Form 1066).

OMB Number: 1545-1014.

Form Number: Form 1066 and Schedule Q (Form 1066).

Abstract: Form 1066 and Schedule Q (Form 1066) are used by a real estate mortgage investment conduit (REMIC) to figure its tax liability and income and other tax-related information to pass through to its residual holders. IRS uses the information to determine the correct tax liability of the REMIC and its residual holders.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,917.

Estimated Time Per Respondent: 149 hr., 52 min.

Estimated Total Annual Burden Hours: 736,862.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4552 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120-POL

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Certain Political Organizations.

OMB Number: 1545-0129.

Form Number: 1120-POL.

Abstract: Certain political organizations file Form 1120-POL to report the tax imposed by Internal Revenue Code section 527. The form is used to designate a principal business campaign committee that is subject to a lower rate of tax under Code section 527(h). IRS uses Form 1120-POL to determine if the proper tax was paid.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 6,527.

Estimated Time Per Respondent: 39 hr., 38 min.

Estimated Total Annual Burden Hours: 258,730.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4553 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8831

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8831, Excise Taxes on Excess Inclusions of REMIC Residual Interests.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Excise Taxes on Excess Inclusions of REMIC Residual Interests.

OMB Number: 1545-1379.

Form Number: 8831.

Abstract: Form 8831 is used by a real estate mortgage investment conduit (REMIC) to figure its excise tax liability under Internal Revenue Code sections 860E(e)(1), 860E(e)(6), and 860E(e)(7). IRS uses the information to determine the correct tax liability of the REMIC.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 31.

Estimated Time Per Respondent: 7 hr., 39 min.

Estimated Total Annual Burden Hours: 237.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4554 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 1099-MISC**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099-MISC, Miscellaneous Income.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue

Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Miscellaneous Income.

OMB Number: 1545-0115.

Form Number: 1099-MISC.

Abstract: Form 1099-MISC is used by payers to report payments of \$600 or more of rents, prizes and awards, medical and health care payments, nonemployee compensation, and crop insurance proceeds, \$10 or more of royalties, any amount of fishing boat proceeds, certain substitute payments, golden parachute payments, and an indication of direct sales of \$5,000 or more.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government, and state, local or tribal governments.

Estimated Number of Responses: 59,399,714.

Estimated Time Per Response: 14 min.

Estimated Total Annual Burden Hours: 13,661,934.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

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

Approved: February 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4555 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 8390**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8390, Information Return for Determination of Life Insurance Company Earnings Rate Under Section 809.

DATES: Written comments should be received on or before April 27, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Return for Determination of Life Insurance Company Earnings Rate Under Section 809.

OMB Number: 1545-0927.

Form Number: 8390.

Abstract: Life insurance companies are required to provide data so the Secretary of the Treasury can compute the: (1) Stock earnings rate of the 50 largest stock companies and (2) average mutual earnings rate. These factors are used to compute the differential earnings rate which will determine the tax liability for mutual life insurance companies.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time Per Respondent: 64 hr., 43 min.

Estimated Total Annual Burden Hours: 9,706.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4556 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5227

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5227, Split-Interest Trust Information Return.

DATES: Written comments should be received on or before April 27, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Split-Interest Trust Information Return.

OMB Number: 1545-0196.

Form Number: 5227.

Abstract: Form 5227 is used to report the financial activities of a split-interest trust described in Internal Revenue Code section 4947(a)(2), and to determine whether the trust is treated as a private foundation and is subject to the excise taxes under Chapter 42 of the Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 53,303.

Estimated Time Per Respondent: 62 hr., 13 min.

Estimated Total Annual Burden Hours: 3,316,513.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4557 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1139

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1139, Corporation Application for Tentative Refund.

DATES: Written comments should be received on or before April 27, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Corporation Application for Tentative Refund.

OMB Number: 1545-0582.

Form Number: 1139.

Abstract: Form 1139 is filed by corporations that expect to have a net operating loss, net capital loss, or unused general business credits carried back to a prior tax year. IRS uses Form 1139 to determine if the amount of the loss or unused credits is proper.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 39 hr., 1 min.

Estimated Total Annual Burden Hours: 117,030.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

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

Approved: February 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4558 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Form 4466**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax.

DATES: Written comments should be received on or before April 27, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax.

OMB Number: 1545-0170.

Form Number: 4466.

Abstract: Section 6425(a)(1) of the Internal Revenue Code provides that a corporation may file an application for an adjustment of an overpayment of estimated income tax. Form 4466 is used for this purpose. The IRS uses the information on Form 4466 to process the claim, so the refund can be issued.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 16,125.

Estimated Time Per Respondent: 4 hr., 3 min.

Estimated Total Annual Burden Hours: 65,306.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1998

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98-4559 Filed 2-23-98; 8:45 am]

BILLING CODE 4830-01-U

UNITED STATES INFORMATION AGENCY**Culturally Significant Objects Imported for Exhibition Determinations**

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1979), and Delegation Order No. 85-5 of June

27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit, "Alexander Calder: 1898-1976." (See list ¹), imported from abroad for the temporary

¹ A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619-5030, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547-0001.

exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery of Art from on or about March 29, 1998 to September 1, 1998 and at the San Francisco Museum of Modern Art, San

Francisco, California from on or about September 4, 1998, to December 1, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: February 18, 1998.

Les Jin,

General Counsel.

[FR Doc. 98-4699 Filed 2-23-98; 8:45 am]

BILLING CODE 8230-01-M

Corrections

Federal Register

Vol. 63, No. 36

Tuesday, February 24, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98-1440-000]

Central Vermont Public Service Corporation; Notice of Filing

Correction

In notice document 98-3811 appearing on page 7779, in the issue of Tuesday, February 17, 1998, make the following correction:

On page 7779, in the first column, in the second document, the Docket No. should be as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Zinc

Correction

In rule document 97-28015 beginning on page 55161, in the issue of Thursday, October 23, 1997, make the following correction:

On page 55161, in the third column, in the EFFECTIVE DATE section, "October 15, 1997" should read "October 23, 1997".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

Correction

In notice document 98-4194 beginning on page 8480 in the issue of

Thursday, February 19, 1998, make the following correction:

On page 8481, in the second column, under **II. Current Actions**, in the entry for *Estimated Total Burden Hours* "846,400" should read "946,400".

BILLING CODE 1505-01-D

LEGAL SERVICES CORPORATION

45 CFR Part 1643

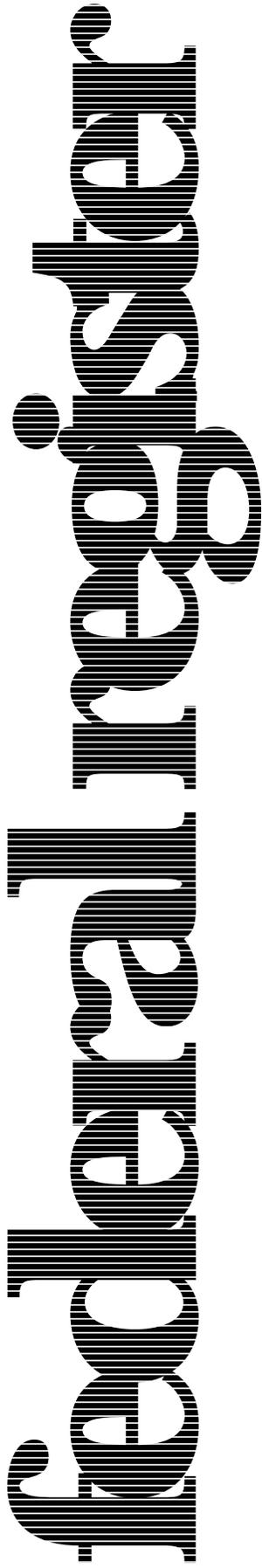
Restriction on Assisted Suicide, Euthanasia, and Mercy Killing

Correction

In rule document 97-33875 beginning on page 67746, in the issue of Tuesday, December 30, 1997, make the following correction:

On page 67749, in the second column, in the fifth line, "CS" should be removed.

BILLING CODE 1505-01-D



Tuesday
February 24, 1998

Part II

**Office of Personnel
Management**

**SES Positions That Were Career
Reserved During 1997; Notice**

**OFFICE OF PERSONNEL
MANAGEMENT**

**SES Positions That Were Career
Reserved During 1997**

AGENCY: Office of Personnel
Management.

ACTION: Notice.

SUMMARY: As required by the Civil
Service Reform Act of 1978, this gives

notice of all position in the Senior
Executive Service (SES) that were career
reserved during 1997.

FOR FURTHER INFORMATION CONTACT:
Charles Vaughn, Office of Executive
Resources, (202) 606-1927.

SUPPLEMENTARY INFORMATION: Below is a
list of titles of SES positions that were
career reserved any time in calendar
year 1997 whether or not they were still
career reserved on December 31, 1997.

Section 3132(b)(4) of title 5, United
States Code, requires that the head of
each agency publish the list by March
of the following year. OPM is publishing
a consolidated list for all agencies.

Office of Personnel Management.

Janice R. Lachance,
Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997

Agency/organization	Career reserved positions
Advisory Council on Historic Preservation: Ofc of the Exec Director	Executive Director. Executive Director.
Department of Agriculture: Ofc of the Inspector General	Deputy Inspector General. Asst. Inspector General for Investigations. Dep Asst Inspector General for Investigation. Asst Inspector General for Audit. Dep Assistant Inspector General for Audit. Dep Asst Inspector General for Audit. Asst Inspector Gen for Pol Dev & Res Mgmt. Dep Asst Insp Gen for Invest Immediate Office. Dir, Ofc of Risk Assessment & Cost-Benefit Anl. Chairperson.
Office of the Chief Economist	Director, USDA Program Outreach Division.
World Agricultural Outlook Board	Deputy Chief Information Officer.
Office of Chief Information Officer	Director, Office of Operations.
Office of Operations	Deputy Chief Financial Officer.
Office of the Chief Financial Officer	Director, Applications System Division.
National Finance Center	Dir, Info Resources Management Division.
	Director, Financial Services Division.
	Dir, Thrift Savings Plan Division.
Rural Housing Service	Controller.
	Asst Controller.
	Deputy Administrator for Operations & Mgmt.
	Director, Centralized Servicing Center.
Rural Business Service	Asst Admr Fin Prog.
	Deputy Administrator for Business Programs.
Agricultural Marketing Service	Deputy Administrator, Management.
	Director, Fruit & Vegetable Division.
	Director, Cotton Division.
	Director, Dairy Division.
	Director, Livestock Division.
	Director, Tobacco Division.
	Agricultural Marketing Svc, Dir Poultry Div.
	Director, Compliance Staff.
	Director.
	Director.
Grain Inspection, Packers & Stockyards Administration	Dir, Field Management Division.
Animal & Plant Health Inspection Service	Deputy Administrator for Management & Budget.
	Dep Admr, Regulatory Enforcement/Animal Care
Veterinary Services	Director, Northern Region.
	Dir, S.E. Region, Veterinary Services.
	Director, Western Region.
	Director, South Central Region.
	Dep Admr, Animal Damage Control.
	Dir, Operational Support, Veterinary Services.
	Dir, Natl Ctr for Veterinary Epidemiology
Plant Protection & Quarantine Service	Dep Admr, International Services.
	Director, Northeastern Region.
	Director, South Central Region.
	Director, Western Region.
	Director, Southeastern Region.
	Director, Operational Support PPQ
Organization Abolished	Director, Science and Technology.
Food Safety and Inspection Service	Asst Deputy Admin Technical Services.
	Dep Admr-Administrative Mgmt.
	Dir, Northeast Region, Phila., PA.
	Regl Director, Atlanta, Georgia.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	Dir, North Central Region, Des Moines, Iowa. Director, Southwestern Region, Dallas, Texas. Asst Dep Admr Comp & Staff Operations. Asst Dep Admin (Admin Mgt). Asst Deputy Administrator. Regional Director. Associate Deputy Administrator. Associate Administrator. Deputy Administrator. Deputy Administrator. Director. Deputy Administrator. Deputy Administrator. Deputy Director. Dir Animal Production Food Safety Staff. Deputy Administrator. U.S. Coordinator for Codex Alimentarius. Director. Associate Deputy Administrator. Assistant Deputy Administrator. Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Deputy Administrator. Associate Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Asst Deputy Administrator. Assistant Deputy Administrator. Director. Deputy Administrator. Director. Assistant Deputy Administrator. Assistant Deputy Administrator. Assistant Deputy Administrator. Deputy Admin for Financial Management. Deputy Admr for Management.
Food and Consumer Service	Director, Budget Division.
Farm Service Agency	Assistant Manager for Administration. Controller. Assistant Dep Administrator for Mgmt. Director, Management Services Division. Director, Budget Division.
Foreign Agricultural Service	Dir. Grain & Feed Div.
Risk Management Agency	Assistant Deputy Administrator Management. Asst Manager for Research & Development. Director, Insurance Services Division.
Agriculture Research Service	Dep Admr for Adm Mgmt. Assoc Dep Admin for Administrative Management. Asst Administration for Technology Transfer. Global Change Research Staff Assistant. Assistant Administrator for Genetic Resources. Dep Admin for Admin & Financial Mgmt. Associate Deputy Admin Financial Management.
National Program Staff Office	Deputy Administrator, National Program Staff. Assoc Dep Admr. Associate Dep Administrator, Animal Sciences. Assoc Deputy Administrator, for Animal PPV&S. Associ Dep Admin for Natural Resources & SAS.
Beltsville Area Office	Director, Beltsville Area Office. Assoc Dir, Beltsville Area. Assoc Dep Admr. Natural Resources/Systems. Associate Deputy Admin Genetic Resources. Associate Deputy Administrator. Supervisory Research Chemist. Dir, U.S. National Arboretum. Dir, Beltsville Human Nutrition Research Ctr. Director, Plant Sciences Institute. Dir, Livestock & Poultry Sciences Institute. Dir, Natural Resources Institute.
North Atlantic Area Office	Director, Eastern Regl Research Center.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
South Atlantic Area Office	Director, North Atlantic Area. Assoc Dir, North Atlantic Area. Director, Plum Island Animal Disease Center. Director, North Atlantic Area. Res Leader-Plant Physio & Photosynthesis Res. Associate Dir, South Atlantic Area. Director, Russell Research Center. Supervisory Research Geneticist. Director, South Atlantic Area. Dir, Center for Medical A & V Entomology. Dir, Midwest Area.
Midwest Area Office	Assoc Dir, Midwest Area. Supervisory Veterinary Medical Officer. Supervisory Research Chemist. Supervisory Research Geneticist (Plants). Dir, Natl Ctr for Agri Utilization. Dir, Southern Regional Res Center, New Orlean. Director, Mid-South Area. Associate Director, Mid South Area.
Midsouth Area Office	Dir, Natl Animal Disease Center. Director, Southern Plains Area. Assoc Dir, Southern Plains Area. Dir, Subtropical Agricultural Res Laboratory. Research Leader F & F Safety Res Laboratory. Director, Northern Plains Area. Associate Director, Northern Plains Area Ofc. Dir R.L. Hruska U.S. Meat Animal Res Center. Supervisory Soil Scientist.
Central Plains Area Office	Director, Western Regional Research Center. Dir, Western Human Nutrition Research Center. Director, Pacific West Area Office. Director, Plant Gene Expression Center. Associate Director, Pacific West Area Office. Dir, Western Cotton Research Laboratory. Supervisory Soil Scientist. Supervisory Soil Scientist.
Southern Plains Area Office	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.
Northern Plains Area Office	Director, Pacific West Area Office. Director, Plant Gene Expression Center. Associate Director, Pacific West Area Office. Dir, Western Cotton Research Laboratory. Supervisory Soil Scientist. Supervisory Soil Scientist.
Pacific West Area Office	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.
Cooperative State Res Education, & Extension Service	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.
Economic Research Service	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.
National Agricultural Statistics Service	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.
Natural Resources Conservation Service	Deputy Admin Management. Assoc Administrator for Grants & Program Sys. Deputy Administrator Partnerships. Deputy Admin for Rural, Economic & Social Dev. Deputy Administrator Special Programs. Special Asst to the Administrator, CSREES. Deputy Admini Communication Tech Distance Edu. Admr. Economic Research Service. Associate Administrator-Economic Rsch Svc. Dir. Natural Res & Environment Division. Director, Information Services Division. Director, Commercial Agriculture Division. Budget Coordinator and Strategic Planner. Dir, Food & Consumer Economics Division. Admr. National Agricultural Statistics Serv. Dir, Estimates Div. Dir. Systems & Information Division. Director, Office of Energy. Director, Survey Management Division. Deputy Administrator for Field Operations. Associate Administrator. Director, Engineering Division. Dir, Ecological Sciences and Technology Divisi. Deputy Chief for Management. Dir, Conserv Planning and App. Dir, Community Asst & Rural Development Div. Associate Deputy Chief for Management. Dir, Soils (Soil Scientist). Dir, South National Technical Center. Associate Deputy Chief for Technology Sci Tec. Director, Strategic Planning Division. Dir, Biological Conservation Sciences Division. Dir, Quality Management & Prog Eval Division. Spec Asst Strategic Nat'l Resources Issues. National Information Res Mgmt Leader. Dir, Conservation Operations Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Forest Service	Dep Chief for Mgmt & Strategic Planning. Special Asst to the Chief for Soil Science. Dep Chf for Administration.
Research	Associate Deputy Chief-Administration. Dir, Forest Pest Mgmt Staff. Dir, Fiscal & Accounting Services. Associate Deputy Chief for Administrator. Director, Fire and Aviation Staff.
Nat'l Forest System	Director, Timber Mgmt Research Staff. Dir, Insect and Disease Research Staff. Dir, Forest Environment Research Staff. Director, Forest Resource Economics Staff. Dir, Forest Prod & Harvesting & Research Staff. Dir, Forest Fire & Atmos Sciences Res Staff. Dir, Range Management Staff. Dir, Recreation, Mgmt Staff. Dir, Timber Management Staff. Director, Engineering Staff. Director, Lands Staff.
State & Private Forestry	Dir, Land Management Planning Staff. Dir, Wildlife & Fisheries Mgmt Staff. Dir, Minerals & Geology Staff. Director, Watershed & Air Management Staff. Dir, Ecological Management.
Field Units	Dir, Cooperative Forestry.
International Forest System	N.E. Area Dir, State & Private Forestry, U DARB. Dir, N. Eastern Forest Experiment Station. Dir, North Central Forest Exp Station. Dir, Pacific N.W. Forest & Range Exp Station. Dir, Pacific S.W. For & Range Exper Sta. Director, Rocky Mt Forest & Range Exper Stat. Dir, S. Eastern Forest Experiment Station. Dir, S. Forest Experiment Station, New Orlean. Director, Forest Products Laboratory. Dep Dir, Forest Products Lab. Dep Regional Forester, Pacific N.W. Region.
Organization Abolished	Associate Deputy Chief. Dir, International Institute of Ropical Forest.
Organization Abolished	Director, Economics Management Staff. Director, Resources & Technology Division. Director, Rural Economy Division.
American Battle Monuments Commission:	Deputy Administrator for Operations.
Office of Executive Director	Executive Director.
Department of Commerce:	
Office of the General Counsel	Asst General Counsel for Finance & Litigation. Director, Office of Intelligence Liaison.
Assistant Secy Legislative & Intergovernmental AFFS	Dep Admin for Legislative & Internal Affairs.
Director, Human Resources Management	Director, Human Resources Management. Dep Dir of Human Resources Management.
Director, Financial Management	Dir, Financial Management.
Office of Budget Mgmt & Info & Chief Information Offcr	Director, Office of Budget.
Director, Executive Budgeting & Assistance Mgmt	Dir, Federal Asst & Management Support.
Office of Security and Administrative Services	Director, Procurement & Admin Services. Director, Office of Security. Deputy Director for Procurement.
Office of Inspector General	Asst Inspect Genrl for Compliance Admin. Asst Inspector General for Syst Evaluation.
Office of Counsel to the Inspector General	Counsel to the Inspector General.
Office of Compliance and Audit Resolution	Asst Insp Gen for Compl & Audit Resolution.
Office of Inspections and Resource Management	Asst Insp Gen for Plng, Eval & Inspections.
Office of Audits	Assistant Inspector General for Auditing. Dep Asst Inspector General for Auditing. Deputy Assistant Inspector Gen for Auditing.
Office of Investigations	Asst Inspector General for Investigations.
Office of the Director	Assoc Dir for Field Operations. Assistant Director for Decennial Census. Chief, Marketing Services Office. Chief, Decennial Sys & Contracts Magnt Office. Principal Assoc Dir and Chief Financial Offc. Principal Associate Director for Programs. Principal Assoc Dir, & Chief Financial Officer.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Associate Director for Administration/Comptroller	Principal Associate Director, for Programs. Chief, Policy & Statistic Planning Division. Chief, Field Division. Assistant to the Director. Associate Director for Administration Comptroller.
Administrative and Customer Services Division	Chief, Human Resources Management. Assoc Dir for Admin/Comptroller
Associate Director for Information Technology	Chief Admin & Customer Services Division. Assoc Dir for Information Technology. Assoc Dir for Information Technology.
Data Preparation Division	Chief, Data Preparation Division.
Associate Director for Economic Programs	Associate Director for Economic Programs. Assistant Director for Economic Programs.
Economic Planning and Coordination Division	Chf, Economic Planning & Coordination Div.
Economic Statistical Methods and Programming Division	Chf, Economic Statistical M & P Division.
Agriculture and Financial Statistics Division	Chief, Agriculture Div. Chief Financial & Admin Systems Division.
Services Division	Chief, Services Division.
Foreign Trade Division	Chf, Foreign Trade Div.
Governments Division	Chf, Government Div.
Manufacturing and Construction Division	Chf, Manufacturing & Construction Division.
Associate Director for Decennial Census	Associate Director for the Decennial Census. Associate Director for Decennial Census. Asst to the Assoc Dir for Decennial Census. Asst to the Assoc Dir for Decennial Census.
Decennial Management Division	Chief, Decennial Management Division. Chief, Decennial Management Division.
Geography Division	Chf, Geography Div.
Decennial Statistical Studies Division	Chief, Decennial Statistical Studies Div.
Associate Director for Demographic Programs	Associate Dir for Demographic Progs. Chf, Population Div. Chief, Demographic Surveys Division.
Housing & Household Economic Statistics Division	Chf, Housing & Household Econ Statistics Div.
Demographic Statistical Methods Division	Chief, Statistical Methods Division.
Associate Director for Methodology & Standards	Assoc Dir for Statistical Standards & Method. Assoc Dir for Methodology & Standards.
Statistical Research Division	Chief, Statistical Research Division.
Bureau of Economic Analysis	Associate of Economic Analysis.
Office of the Director	Director. Dep Dir. Bur of Economic Analysis. Chief Economist. Chf Statistician.
Associate Director for Regional Economics	Assoc Dir for Regional Economics.
Associate Director for International Economics	Assoc Dir for International Economics.
Assoc Director for Natl Income, E & W Accounts	Assoc Dir for Natl Inc. Exp. Wealth Accounts. Chf, Natl Income & Wealth Div. Chief, International Investment Division. Chief, Computer Systems and Services Division.
Director of Administration	Director of Administration.
Office of the Asst. Secretary for Export Enforcement	Dep Asst Secy for Xort Enforcement.
Office of Chief Counsel	Dep. Director for Program Operations.
Office of Consumer Goods	Director Office of Consumer Goods.
Office of Under Secretary	Director, Information Systems Office (ISO).
Office of International Affairs	Chief, Financial Officer/Admin Officer.
NOAA Coastal Ocean Program Office	Dir, NOAA Coastal Ocean Program Office.
Office of Finance and Administration	Dir for Human Resources Management. Dir for Procurement, Grants & Adm Services.
Office of High Performance Computing and Communications	Dir for High Performance Computing Commun.
Advanced Weather Interactive P/S (AWIPS) Program	Chf/AWI Interactive Processing System/1990's. Dep Chf Fin Ofcr/Chf Adm Officer (CF/AO).
National Ocean Service	Senior Scientist for Ocean Services. Dir, Office of National Geodtic Survey (NGS).
Strategic Environmental Assessments Division	Chf, Strategic Environmental Assessments Div.
Coastal Monitoring and Bioeffects Assessment Division	Chief Costal Monitoring Bioeffects Asses Div.
Hazardous Materials Response and Assessment Division	Chf, Hazardous Materials R & A Division.
Office of Assistant Administrator, Weather Services	Dir, Ofc of Aeronautical Charting/Cartography. Deputy Assistant Administrator for Operations.
Management and Budget Office	Chief, Management and Budget Staff.
Office—Fed Coordinator—Meteorology	Chf, Ofc of the Fed Coordinator for Meteorolg.
Office of Meteorology	Dir, Office of Meteorology.
Service Division	Chief, Operations Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Hydrology Hydrologic Operations Division Hydrologic Research Laboratory Office of Systems Development	Director, Office of Hydrology. Chief, Hydrologic Services Division. Chief, Hydrologic Research Laboratory. Director, Office of Systems Development. Dep Dir, Office of Systems Development.
Integrated Systems Laboratory Techniques Development Laboratory Office of Systems Operations Systems Integration Division Systems Operations Center Engineering Division WSR-88D Operational Support Facility National Data Buoy Center Eastern Region Southern Region Central Region Western Region Alaska Region National Centers for Environmental Prediction	Chief, Integrated Systems Laboratory. Chief, Techniques Devel Laboratory. Dir, Office of Systems Operations. Chief, Systems Integration Division. Chief, Systems Operations Center. Chief, Engineering Division. Dir, NEXRAD Operational Support Facility. Director, NOAA Data Buoy Office. Dir, Eastern Region NWS. Dir, Southern Region, Ft Worth. Director Central Region. Dir, Salt Lake City Region. Dir, Alaska Region, Anchorage. Director, National Meteorological Center. Dir, Nat'l Severe Storms Lab. Chief, Automation Division. Director, Aviation Weather Center (AWC). Chief, Development Div. Chf, Meteorological Operations Division. Dir, Climate Prediction Ctr (CPC). Director, Storm Prediction Center. Dir, Tropical Prediction Ctr/Natl Hurricane Ct. Dir, Ofc of Sustainable Fisheries (SF). Director, Office of Habitat Protection. Chief, Intergovernmental & Recreational F & M. Dir, Ofc of Science & Technology. Science & Research Dir Northeast Region. Senior Advisor For International Relations. Science & Research Dir. Science & Research Dir. Science & Research Dir Southwest Region. Science and Research Director. Sr Sci for Environ Satel, D & I Serv (NESDIS). Satellite Systems Program Manager. Senior Advisor for Data Systems. Systems Program Director.
NCEP Central Operations Environmental Modeling Center Hydrometeorological Prediction Center Climate Prediction Center Storm Prediction Center Tropical Prediction Center National Marine Fisheries Service	Director, National Climatic Data Center. Dir, Natl Oceanographic Data Center. Dir, National Geophysical Data Center. Dir Ofc of Sys Development. Program Director for Weather Research. Dep Asst Admr for Extramural Research. Dir, Program Development & Coordination Staff. Director, National Sea Grant College Program. Director, Aeronomy Laboratory. Director Air Resources Laboratory. Dir, Atlantic Oceanographic & Meteorological. Director. Dir, Great Lakes Environmental Research Lab. Dir, Pacific Marine Environmental Lab. Dir, Space Environment Laboratory. Director. Director, Forecast Systems Laboratory. Dir, Climate Monitoring & Diagnostics Lab. Assoc Admr for Telecommunications Science. Deputy Dir for Systems & Networks. Group Director 110. Group Director 120. Group Director—130. Group Director 150. Deputy Group Director—110. Group Director—180. Deputy Group Dir 150.
Office of Fisheries Conservation and Management Office of Protected Resources Northeast Fisheries Science Center Southeast Fisheries Science Center Northwest Fisheries Science Center Southwest Fisheries Science Center Alaska Fisheries Science Center Office of Asst Administrator Satellite, Data Info Serv	Administrator for Search & Information Res. Dep Asst Comm for Patent Process Services. Deputy Group Director—1300. Group Director for 260.
Director, NPOESS Integrated Program National Climatic Data Center National Oceanographic Data Center National Geophysical Data Center Office of Systems Development Ofc of Asst Administrator Ocean & Atmospheric Research	Director, Office of Hydrology. Chief, Hydrologic Services Division. Chief, Hydrologic Research Laboratory. Director, Office of Systems Development. Dep Dir, Office of Systems Development. Chief, Integrated Systems Laboratory. Chief, Techniques Devel Laboratory. Dir, Office of Systems Operations. Chief, Systems Integration Division. Chief, Systems Operations Center. Chief, Engineering Division. Dir, NEXRAD Operational Support Facility. Director, NOAA Data Buoy Office. Dir, Eastern Region NWS. Dir, Southern Region, Ft Worth. Director Central Region. Dir, Salt Lake City Region. Dir, Alaska Region, Anchorage. Director, National Meteorological Center. Dir, Nat'l Severe Storms Lab. Chief, Automation Division. Director, Aviation Weather Center (AWC). Chief, Development Div. Chf, Meteorological Operations Division. Dir, Climate Prediction Ctr (CPC). Director, Storm Prediction Center. Dir, Tropical Prediction Ctr/Natl Hurricane Ct. Dir, Ofc of Sustainable Fisheries (SF). Director, Office of Habitat Protection. Chief, Intergovernmental & Recreational F & M. Dir, Ofc of Science & Technology. Science & Research Dir Northeast Region. Senior Advisor For International Relations. Science & Research Dir. Science & Research Dir. Science & Research Dir Southwest Region. Science and Research Director. Sr Sci for Environ Satel, D & I Serv (NESDIS). Satellite Systems Program Manager. Senior Advisor for Data Systems. Systems Program Director. Director, National Climatic Data Center. Dir, Natl Oceanographic Data Center. Dir, National Geophysical Data Center. Dir Ofc of Sys Development. Program Director for Weather Research. Dep Asst Admr for Extramural Research. Dir, Program Development & Coordination Staff. Director, National Sea Grant College Program. Director, Aeronomy Laboratory. Director Air Resources Laboratory. Dir, Atlantic Oceanographic & Meteorological. Director. Dir, Great Lakes Environmental Research Lab. Dir, Pacific Marine Environmental Lab. Dir, Space Environment Laboratory. Director. Director, Forecast Systems Laboratory. Dir, Climate Monitoring & Diagnostics Lab. Assoc Admr for Telecommunications Science. Deputy Dir for Systems & Networks. Group Director 110. Group Director 120. Group Director—130. Group Director 150. Deputy Group Director—110. Group Director—180. Deputy Group Dir 150.
National Sea Grant College Program Aeronomy Laboratory Air Resources Laboratory Atlantic Ocean Meteorology Laboratory Geophysical Fluid Dynamics Laboratory Great Lake Environmental Research Laboratory Pacific Marine Environmental Research Laboratory Space Environment Center Environmental Technology Laboratory Forecast Systems Laboratory Climate Monitoring and Diagnostics Laboratory Institute for Telecommunication Sciences ITS, Systems Networks Division Chemical Patent Exam Groups	Administrator for Search & Information Res. Dep Asst Comm for Patent Process Services. Deputy Group Director—1300. Group Director for 260.
Office of Asst Commissioner for Patents	Administrator for Search & Information Res. Dep Asst Comm for Patent Process Services. Deputy Group Director—1300. Group Director for 260.
Electrical Patent Exam Groups	Group Director for 260.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Mechanical Patent Exam Groups	Group Director 210. Group Director for 220. Group Director—230. Group Director 240. Group Director 250. Deputy Group Director—250. Deputy Group Director—260. Deputy Group Director—230. Group Director—310. Group Director—320. Group Director—330. Group Director—340. Group Director—350.
Office of Asst Commissioner for Trademarks	Chairman, Trademark Trial & Appeal Board. Deputy Asst Commissioner for Trademarks.
Office of Quality Programs	Director, Trademark Examining Operation. Director for Quality Programs.
Program Office	Dep Dir, Ofc of Quality Programs. Director, Program Office.
Office of International and Academic Affairs	Deputy Director, Information Tech Laboratory. Dir, International & Academic Affairs.
Office of the Director for Technology Services	Chief Financial Officer. Deputy Director, Technology Services.
Manufacturing Extension Partnership Program	Senior Policy Advisor for Standards & Technol. Assoc Dir for National Programs.
Office of the Director for Technology Partnerships	Dir, Manufacturing Extension Partnership Prog. Associate Director for Program Quality.
Office of the Director's Office, Measurement Services	Dep Dir, Manufacturing Ext Partnership Prog. Dir, Office of Technology Commercialization.
Office of the Director's Office, Technology Innovation	Director, Office of Measurement Services. Dir, Ofc of Technol Evaluation & Assessment.
Ofc of the Director's Ofc, Advanced Technology Program	Dir Information Technology Laboratory. Dir. Chemical & Biomedical Technol Office.
Electronics and Electrical Engineering Laboratory Ofc	Assoc Dir for Tech & Business Assessment. Dep Director, Advanced Technology Program.
Semiconductor Electronics Division	Director, Advanced Technology Program. Dir, Materials & Manufacturing Technology Ofc.
Manufacturing Engineering Laboratory Office	Dir, Electronics & Photonics Tech Office. Dir, Electronics & Electrical Eng Laboratory.
Precision Engineering Division	Deputy Director. Dir, Office of Microelectronics Programs.
Automated Production Technology Division	Senior Research Scientist. Manager for Industrial Relations.
Intelligent Systems Division	Dep Dir, Manufacturing Engineering Laboratory. Dep Dir, Manufacturing Engineering Laboratory.
Manufacturing Systems Integration Division	Chief, Precision Engineering Division. Chief, Automated Production, Technology Div.
Chemical Science and Technology Laboratory Office	Chief, Intelligent Systems Division. Chief, Factory Automation Systems Division.
Surface and Microanalysis Science Division	Dir, Chemical Sci & Technology Laboratory. Dep Dir, Chemical Sci & Technol Laboratory.
Physical and Chemical Properties Division	Chf, Surface & Microanalysis Science Division. Chief, Physical & Chemical Properties Div.
Analytical Chemistry Division	Chief, Analytical Chemistry Division. Director, Physics Laboratory.
Physics Laboratory Office	Mgr, Fundamental Constants Data Center. Coordinator of Radiation Measurement Services.
Electron and Optical Physics Division	Deputy Director, Physics Laboratory. Group Leader for Far Ultraviolet Physics.
Atomic Physics Division	Chief, Electron & Optical Physics Division. Chief, Quantum Metrology Division.
Time and Frequency Division	Chief, Atomic Physics Division. Chief, Time and Frequency Division.
Quantum Physics Division	Senior Scientist & Fellow of JILA. Senior Scientist & Fellow of JILA.
Materials Science and Engineering Laboratory Office	Dir, Materials Sci & Eng Laboratory. Dep Dir, Materials Sci & Eng Lab.
Ceramics Division	Chief, Film & Fiber Technology. Chief, Ceramics Division.
Materials Reliability Division	Chief Materials Reliability Div. Chief, Polymers Division.
Polymers Division	Chief, Polymers Division. Chief, Reactor Radiation Division.
Reactor Radiation Division	Chief, Reactor Radiation Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Building and Fire Research Laboratory Building Materials Division Building Environment Division Fire Science Division Computer Systems Laboratory Office Advanced Network Technologies Division Computer Security Division Computing and Applied Mathematics Laboratory Office	Group Leader Neutron Condensed Matter Science. Chief, Reactor Operations. Dir, Building & Fire Research Laboratory. Dep Dir, Building & Fire Research Laboratory. Asst Dir, Building & Fire Research Laboratory. Chief, Fire Safety Engineering Division. Chf, Building Materials Div. Chief, Building Environment Division. Chief, Fire Science Division. Associate Director for Program Implementation. Chief, Advanced Network Technologies Div. Chief, Computer Security Division. Dep Dir, Computing & Applied Mathematics Lab. Associate Director for Computing. Chief, High Perf Systems & Services Division.
Applied and Computational Mathematics Division Statistical Engineering Division National Technical Information Service Organization Abolished	Chief, Mathematical Computational Science Div. Chief, Statistical Engineering Division. Deputy Director, Natl Technical Info Service. Dir, NOAA Data Buoy Ofc.
Commodity Futures Trading Commission: Office of the General Counsel	Deputy General Counsel (Opinions & Review). Deputy General Counsel (Litigation). Deputy General Counsel (Reg & Adm). Deputy General Counsel.
Office of the Executive Director	Dep Exec Dir. Dir, Ofc in Information Resources Mgmt.
Division Economic Analysis	Dep Chf Economist. Chief Counsel.
Division of Enforcement	Associate Director for Surveillance. Deputy Director (Western Operations). Deputy Director (Eastern Operations).
Division of Trading and Markets	Associate Director. Associate Director. Associate Director. Deputy Director (Contract Markets). Chief Counsel.
Consumer Product Safety Commission: Ofc of Executive Dir	Asst Exec Dir for Compliance & Enforcement. Associate Executive Dir for Field Operations. Asst Exec Director for Information Services. Executive Assistant.
Office of Hazard Identification & Reduction	Asst Exec Dir for Hazard I & R. Associate Executive Director for Economics.
Corporation for National and Community Service: Department of the Chief Financial Officer	Associate Director for Management & Budget. Asst Dir for Financial Management.
Ofc Secy of Defense: Office of the Secretary	Asst to the Secy of Defense (Intel Oversight). Dep Asst to the Secy of Defense.
Office of Assistant Secretary (SOLIC)	Dep Asst Secy of Defense (Forces & Resources). Director for Budget and Execution. Director for Requirements & Programs.
Joint Activities	Director, DESA.
Director, Operational Test and Evaluation	Dep Dir for Resources & Administration. Dep Dir for Live Fire Test & Evaluation.
Ofc of Inspector General	Deputy Inspector General. Asst Inspector General for Investigations. Dep Asst Inspector Gen for Investigations. Dep Asst Inspector General for Inspections. Asst Insp Gen for Adm & Info Management. Dep Asst Inspector Gen for Adm & Info Mgmt.
Director, Operational Test and Evaluation	Dir, Audit Planning & Technical Support.
Director, Operational Test and Evaluation	Director, Logistics and Support. Director, Contract Management. Director, Financial Management.
Ofc of Inspector General	Deputy Asst Inspector General for Auditing. Asst Inspector General for Auditing. Dir for Investigative Operations.
Ofc of Inspector General	Dep Asst Inspector Gen for Program Evaluation. Director, Readiness & Operational Support.
Ofc of Inspector General	Director, Acquisition Management Directorate. Asst Inspector General for Policy & Oversight.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Assistant Secy of Defense (Force Mgmt Policy)	Director, Audit Followup Directorate. Dept Asst Insp Gen for Criminal Invest P & O. Dept Asst Inspect General Audit Policy Oversight. Director, Office of Departmental Inquiries. Deputy Inspector General for Intelligence.
Department of Defense Education Activity	Director, Staffing & Career Management. Spec Asst DASD (CPP)/Dir, Def Cpms. Chief of Educational Support Policy & Legisl.
Office Assistant Sec Health Affairs	Dep Dir Dep of Defense Dependents School. Assoc Dir for Financial, Logistl, & Info Mgmt.
Uniformed Serv. University of the Health Sciences	Executive Dir, Def Medical Info Mgmt. Scientific Director, AFRR1.
Office of Asst Secy of Def for Public Affairs	Dir, Freedom of Information & Security Review. Dir, AFIS/Dir, AFR & Television Service.
Deputy Comptroller (Program Budget)	Dir, Armed Forces Radio & Television Service. Dir, Policy and Support.
Deputy Comptroller (Management Systems)	Dir, Prog & Fin Control. Dep Dir for Program & Financial Control.
Washington Headquarters Services	Dir, Contract Audit & Analysis. Deputy Chief, Financial Officer.
Office of the General Counsel	Director of Personnel and Security. Director, Real Estate and Facilities.
Ofc of Under Secy of Def for ACQ & Technology	Dep Dir, Real Estate & Facilities. Dep Dir, Personnel and Security.
	Deputy General Counsel (IG). Dir, Def Ofc of Hearings & Appeals.
	Director for Defense Procurement. Dep Dir, Naval Warfare.
	Deputy Dir, Cost Pricing & Finance. Dep Dir, Munitions.
	Sr Staff Special for Air Superiority Systems. Dep Dir, Contract Pol & Administration.
	Dep Dir, Land Warfare. Executive Director, Defense Science Board.
	Dir, Computer Aided Logistics Support Office. Director, Pacific Armaments Cooperation.
	Dep Dir, Acquisition Resources. Dep Dir, Def Syst Procurement Strategies.
	Dir, Planning & Analysis. Dep Dir, Foreign Contractor.
	Dep Dir, Mayor Policy Initiatives. Staff Spec for Spec Tech Program.
	Special Asst Concepts & Plans. Deputy Director, Defensive Systems.
	Dir, OSD Studies & FFRDCA. Asst Dep Under Secy Def (Cruise Missile Def).
	Princ Dep Dir, Strategic & Tactical Systems. Dir, Prog Acquisition Strategies Improvement.
	Deputy Director Air Warfare. Dep Dir, Arms Control Implementation Compl.
	Asst Dep Dir, Arms Control I & C. Deputy Dir, Information Management.
	Director, Ind Capabilities & Assessments. Dep Dir (Test & Evaluation).
	Asst Dep Under Secy of Def (ACQ P & P). Princ Asst Dep U.S. of Def (Advanced Technol).
	Asst Dep Under Secy of Defense SSA. ADUSD (Space Systems & Architectures).
	Special Asst to the USD (A&T). Dep Dir, Test Facilities & Resources.
	Special Asst to DUSD (ES). ADUSD (Continuous ACQ & Life Cycle Support).
	Information Managemnet Executive. Deputy Director, (Resources & Ranges).
	Deputy Director, (System Assessment). Sr Staff Spec for Air Weapons Def Supp Sys.
Organization Abolished	Prin DASD (NCB). Senior Policy ADV/DAS Def (NCB).
Nuclear & Chemical & Biological Defense Programs (NCB)	DAS of Def (Nuclear Treaty Programs). Dir, for Infor Tech.
Ofc of the Dir, Defense Research & Engineering	Staff Specialist for Vehicle Propulsion. Dir, Environmental & Life Sciences.
Ofc of DD (Research and Advanced Tech)	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Ofc of DD (Tactical Warfare Progs) PD/Deputy Asst Secy of Defense (Strategic & Tactical C3) Deputy Assistant Secretary of Defense (Intelligence)	Dir, Balanced Technology Initiative. Dep Dir Electronic Warfare. Director CIA Planning & Strategics. Dep Dir, Counterintelligence. Deputy Dir, Def Air Borne Reconnaissance Ofc. Dir, Weapons Technology. Director, Sensor & Electronics Technology. Deputy Director, ASTO. Deputy Director, Management. Dir, Electronic Systems Technology Office. Dir, Sensor Technology Officer. Dep Dir, Micro Electronics Technology. Dir, Maritime Systems Technology. Executive Dir, Defense Science Office. Special Asst, Information Technology. Assistant Director, Intelligence & Targeting. Dep Dir for Warfare Info Technology. Deputy Director, DARPA. Dep Dir, (Battlefield Awareness). Prog Manager (Joint Applications Study Group). Program Manager (Acquisition Innovation).
Ofc of Emergency Operations Office of Under Secy Def (ACQ & Tech)/DDR&E Advanced Research Projects Agency (ARPA)	Assistant Director for Material Sciences. Dir, Contracts Management Office. Dep Dir for Wargaming, Simulation & Analysis. Assoc Deputy for I & C Technology. Deputy for Program Operations. Director, Contracts Directorate. Dir, Battle Magt Command Control & Commun. Deputy for Technology Operations. Principal Dep for Acquisition Theater Mis Def. Asst Dep for Theater Air & Missile Defense. Deputy for System Integration. Chief, Architect/Engineer. Deputy Chief, Architect/Engineer. Asst Deputy Technical Operations.
Defense Sciences Office Contracts Management Office Office of the Joint Chiefs of Staff Ballistic Missile Defense Organization	Director, DCAA. Deputy Director, DCAA. Assistant Director, Operations. Asst Dir, Policy & Plans. Director, Field Detachment. Deputy Regional Director, Western Region. Regional Director, Eastern. Regional Director, Northeastern. Regional Director, Central. Regional Director, Western. Regional Director, Mid-Atlantic. Dep Regional Director, Eastern Region. Deputy Regional Director, Northeastern Region. Deputy Regional Dir, Central Region. Dep Reg Dir, Mid Atlantic Region.
Defense Contract Audit Agency	Special Asst for Integrity in Contracting. Dir, Defense Manpower Data Center. Chief Actuary. Dep Gen Counsel (Acquisition & Contract Mgmt). Dep Commander Defense Industrial Supply Ctr. Dep Dir, Civilian Personnel Mgmt Service. Director, CPMS. Deputy Commander Defense Distribution Center. Exe Dir, Resource, Planning & Performance Dir. Executive Dir, Contract Mgmt Pol Acquisition. Exec Dir, OPL Assessment & Programming ACQ. Assoc Director, Acquisition (Acquisition).
Regional Managers	Dep Commander, Def Construction Supply Ctr. Staff Dir, Small & Disadv Busin Utilization. General Counsel, DLA. Deputy General Counsel (Administration). Comptroller.
Defense Logistics Agency	Executive Director, Human Resources. Logistics Mgmt Advr, DLA Chair (ICAF). Director Defense Automated Printing Service. Admin, Defense Automated Printing & Supp Ctr. Executive Director, Procurement.
Office of Deputy Director, Acquisition	
Directorate of Quality Assurance	
Ofc of Staff Dir-Small & Disadvantaged Business Util	
Office of General Counsel	
Office of the Comptroller	
Office of Deputy Director, Corporate Administration	
Office of Deputy Director, Material Management	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Defense Personnel Support Center Defense Training & Performance Data Center Defense Contract Management Defense Information Systems Agency	Deputy Commander, Defense Genral Supply Ctr. Deputy Commander (Defense R & M Services). Executive Director, Logistics Management. Executive Dir, Business Management. Executive Dir, Info Systems & Technology Dir. Principal Executive Director, Material Mgmt. Deputy Commander, DPSC. Dep Commander, Def Fuel Supply Center. Deputy Dir, Defense Manpower Data Center. Executive Director, Program Integration. Dep Director for Strategic Plans & Policy. Special Assistant for Liaison Activities. Professor of Information Science. Special Asst/Infrastructure & Info Assurance. Principal Advisor for DII COE & Shade.
Office of the Director Directorate for Strategic Plans and Policy	Deputy Commander Center for Syst Engineering. Deputy Manager National Commun Systems. Inspector General. Chief, Information Officer. Tech Adviso, Strategic Plans, Program & Policy. Asst Mgr, Plans & Operations. Chief, Plans Policy Cust Svcs & Info Assurance. Chief, Technology & Standards Division. Chief, Current Network Operations Division. Assoc Dep Cmdr, Center for Software. Assoc D/D, Functional Info Mgmt Support Dept. Dep Commander, Center for Info Syst Security. Deputy Commander Center for Standards. Chf, Operational R & S Technology Management. Dep Comm Ctr for Computer Systems Engineering. Deputy Commander for OPS, DISA Westhem.
National Communications System DISA (Field Activity)	Dep Dir for Switched Network Engineering. Dir, Center for Systems Intero & Integration. Dep Dir, Joint (IEO). Tech Dir, Joint Intero & Eng Comm (JIEO). Dir, Center for Engineering. Assoc Dir, Center for Standards. Associate Deputy Director, C4I Programs. Deputy Dir, C4I Integration Support Activity. Tech Dir, Adv Info Tech Services Joint Prog. Dep Dir for C4I Programs. Dep Dir for C4I Modeling, Simulation & Assess. Associate Deputy Commander, CTR for Standards. Assoc Deputy Director, DCS Data Systems. Asst Deputy Dir for Operations. Chief, Operational Requirement Customer Servic. Technical Dir, Space Information Syst Office. Dir Defense Information Systems. Dep Dir, for Procurement & Logistics. Chief Management Support Operations DISA West. Dep Dir for Personnel & Manpower. Assoc Dir for Technical & Management Support. Deputy Director for Testing. Assoc Deputy Director for C4I modeling, S & A.
Directorate for C4 & Intelligence Programs. Directorate for Operations	Director, Technical Integration Office. Deputy Director for Joint R A & I. Comptroller. Director for Electronics and Systems. Director for Weapons Effects. Chief, Weapons Lethality Division. Chief, Atmospheric Effects Division. Chief, Electronics Technology Division. Dir, Acquisition Management. Deputy Director, Operations Directorate. Deputy Director. Director for Information Systems. Chief, Simulation and Test Division. Deputy for Nuclear Matters. Director for Programs. Prog Dir, Hard Target Defeat Program Office. Program Director, Special Programs Office. Dir for Counterproliferation Programs.
Directorate for Operations Directorate DISA, for Logistics, F & S Projects Directorate for Personnel and Manpower Directorate for Engineering & Interoperability Directorate for C4 Modeling, Simulation and Assessment Directorate for Enterprise Integration Comptroller Directorate Defense Special Weapons Agency	Director, Technical Integration Office. Deputy Director for Joint R A & I. Comptroller. Director for Electronics and Systems. Director for Weapons Effects. Chief, Weapons Lethality Division. Chief, Atmospheric Effects Division. Chief, Electronics Technology Division. Dir, Acquisition Management. Deputy Director, Operations Directorate. Deputy Director. Director for Information Systems. Chief, Simulation and Test Division. Deputy for Nuclear Matters. Director for Programs. Prog Dir, Hard Target Defeat Program Office. Program Director, Special Programs Office. Dir for Counterproliferation Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Organization Abolished	Deputy Director. Director, Planning & Analysis. Director, Procurement. Assoc Director, Requirements & Operations. Dir, Requirements & Pol Integration Dir. Assoc Dir, Technology & Information. Spec Asst to the Dep Director, Corp Affairs. Assoc Dir, Contract Production Division. Chief, Geospatial IPT Office.
Organization Abolished	Deputy Director for Systems Development.
Defense Finance & Accounting Service	Deputy Director, Cleveland Center.
Defense Investigative Service	Dir, Defense Investigative Service. Deputy Director, (Investigations). Dep Dir, (Industrial Security). Deputy Director, Dis. Special Asst to the Director. Deputy Director for Policy. Dir/Investigations Ctrl & Industrial Clearance. Chief, Operating Officer.
Defense Commissary Agency	Executive Director for Operations.
Department of Air Force:	
Office of Administrative Assistant to the Secretary	Administrative Assistant. Associate Director, Operations Support. Director, Human Resources. Director, Acquisition & Technology. Asst Dir, Customer Support/Modeling & Simulat. Assoc Dir, Eng & Maintenance Support Division. Assoc Dir, Interoperability Division. Assoc Director, Program Management Division. Associate Director, Support Staff. Asst Dir, Data Generation Div Eastern Office. Associate Director, Customer Services Div. Assoc Director, Data Generation Division. Director, Operations Group. Associate Dir, Customer Support Division. Assoc Director, International Operations Div. Associate Director, OG Support Staff. Associate Dir, Source Management Division. Asst Dir, Source Mgmt Div Eastern Office. Asst Dir, Source Mgmt Div Western Office.
Office of Small & Disadvantaged Business Utilization	Dir. Ofc of Small & Disadv Bus Utilization.
Office of the Inspector General	Dep Asst Inspector Gen/Spec Investigations.
Office of ASAF for Financial Management & Comptroller	Principal Dep Asst Secy (Financial Mgmt).
ODAS Budget	Deputy for Budget. Director of Budget Investment. Director of Budget Management & Execution.
ODAS Cost & Economics	Dep Asst Secy (Cost & Economics).
Office of ASAF for Acquisition	Principal Das (Acquisition & Mgmt).
Centralized RFP Support Team Office	Dir. Centralized RFP Support Team.
ODAS Science, Technology & Engineering	Das (Research & Engineering). Das (Science, Technology & Engineering).
ODAS Management Policy & Program Integration	Dep Asst Secy (Mgmt Pol & Prog Integration).
ODAS Contracting	Assoc Dep Asst Secy (Contracting).
Air Force Program Executive Office	Program Exec Officer, Info Systems. Prog Exec Ofcr, Conventional Strike. Prog Executive Officer Logistics Systems. Program Executive Officer Space. Dir, Depot Maintenance.
Joint Logistics Systems Center	Dir, Depot Maintenance.
OFC of ASAF for Manpower, Reserve Affairs, Install & Env	Dep for Air Force Review Boards.
Air Force Base Conversion Agency	Dir, Air Force Base Conversion Agency.
Office of the Chief of Staff	Air Force Historian.
Test and Evaluation	Deputy Dir, Test & Evaluation.
Deputy Chief of Staff, Communications & Information	Director of CIO Support, AFCIC.
Civil Engineer	Deputy Civil Engineer.
Services	Dir of Res Mgmt & Dep Dir for MWR & Services.
Maintenance	Associate Director of Maintenance.
Logistics Support & Integration	Director of Plans & Integration.
Supply	Chief, Modification & O&M Programs Division. Chief, Combat Support Division.
Field Operating Agencies	Dir, AF Center for Environmental Excellence.
Deputy Chief of Staff, Plans & Programs	Asst Deputy Chief of Staff Plans & Programs.
Manpower, Organization & Quality	Deputy Director for Manpower, ORG & Quality.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Programs Strategic Planning Deputy Chief of Staff, personnel	Associate Director of Programs & Evaluation. Dep Dir of Strategic Planning. Asst Deputy Chief of Staff Personnel.
Field Operating agencies	Dir, Civil Personnel Policy & Personnel Plans.
Deputy Chief of Staff, Air and Space Operations	Dir, Air Force Personnel Operations Agency. Assoc DCS/Personnel & Chief AFPOA.
Personnel	Dep Dir of Operational Requirements.
Contracting	Assoc Dir, Modeling Simulation & Analysis. Associate Director of Operations.
Logistics	Director, Personnel.
Engineering & Technical Management	Deputy Director Contracting.
Financial Management & Comptroller	Deputy Director, Logistics.
Communications & Information	Director, Engineering & Technical Mgmt.
Plans & Programs	Dep Director, Financial Mgmt & Comptroller.
Space and Missile Systems Center	Director, Communications & Information.
Phillips Laboratory	Deputy Director, Plans & Programs.
Geophysics Directorate	Executive Director.
Electronic Systems Center	Director, Contracting. Deputy Director.
Plans and Programs Directorate	Dir, Space Physics Division.
Command, Control and Communications Directorate	Executive Director.
Standard Systems Center	Prog Dir for Air Base Decision Systems.
Aeronautical Systems Center	Director, Engineering & Program Management. Director, Plans & Advanced Programs.
Development Planning	Prog Dir, Strategic & Nuclear Deterrence C2.
Engineering Directorate	Dir, Plans & Programs.
Directors of Engineering	Dir, Command Control Communications.
Systems Program Offices	Director, Standard Systems Center.
Wright Laboratory	Executive Director.
Air Force Research Laboratory	Director, System Management.
Air Vehicles Directorate	Dir, Financial Management & Comptroller.
Space Vehicles Directorate	Dir, Advanced Systems Analysis.
Information Directorate	Dir, Systems Engineering.
Directed Energy Directorate	Director of Engineering F-16.
Materials and Manufacturing Directorate	Dir of Engineering F-22.
Sensors Directorate	Dir of Engineering C-17.
Human Effectiveness Directorate	Director of Engineering Propulsion.
Human Systems Center	Director of Engineering Joint Strike Fighter.
Arnold Engineering Development Center	Dir, Program Integration & Analysis.
Air Force Development Test Center	Prog Dir, Joint Air-to Surface Standoff Miss.
Air Force Flight Test Center	Dir, Manufacturing Technology.
Air Logistics Center, San Antonio	Dir, Plans & Programs Directorate.
Air Logistics Center, Oklahoma City	Executive Director, AFRL.
Air Logistics Center, Warner Robins	Director, Plans & Programs.
	Assoc Dir for Investment Strategy.
	Director, AFRL Washington Office.
	Director, Propulsion.
	Assoc Dir for Air Platforms.
	Director, Space Vehicles.
	Assoc Dir for Space Vehicles.
	Dir, Information.
	Director, Directed Energy.
	Director, Materials & Manufacturing.
	Assoc Dir for Manuf Tech & Affordability.
	Director, Sensors.
	Associate Director for Sensors.
	Director, Human Effectives.
	Executive Director.
	Director, Financial Management.
	Product Group Manager, Propulsion Systems.
	Dir, Privatization & Realignment.
	Executive Director.
	Director, Financial Management.
	Director, Commodities Management.
	Director, Contracting.
	Executive Director.
	Director, Financial Management.
	Director, Technology & Industrial Support.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Air Logistics Center, Ogden	Director, Contracting. Executive Director.
	Director, Financial Management. Director, Technology & Industrial Support.
Air Logistics Center, Sacramento	Director, Contracting. Executive Director.
	Director, Financial Management. Director, Technology & Industrial Support.
Air Force Audit Agency	Director, Contracting Auditor General of the Air Force.
	Asst Aud Gen (Materiel & Systems Audits). Asst Aud Gen (Field Activities).
	Asst Aud Gen (Operations). Asst Aud Gen (Financial & Support Audits).
Air Education & Training Command	Provost, Air University.
Air Mobility Command	Principal Dep Dir of Operations for Transport.
Air Force Reserves	Assistant Vice Commander. Director, Plans.
	Technical Director (Aerospace Systems). Air Commander, 4th Air Force.
	Air Commander, 10th Air Force. Air Commander, 22nd Air Force.
AF Space Command	Sr Scientist & Tech Advisor for AF Space Com.
AF Operational Test & Eval Ctr	Technical Director.
U.S. Central Command	Scientific Advisor.
U.S. Strategic Command	Assoc Dir for Strategic Planning. Dep Dir, Comd Ctrl Comm Computer & Intel Sys.
U.S. Transportation Command	Dir, Program Analysis & Financial Mgmt.
Shape Technical Centre	Deputy Director.
Department of Army:	
Office of the Secretary	Special Asst to the Under Secretary. Director of Operations.
Office Deputy Under Secretary of Army (OPS Research)	Dir, Single Agency Mgr for Pentagon Info Tech. Spec Asst for Air & Missil Defense.
	Special Asst for Forces & Program Evaluation. Asst Dep Under Secy of the Army for Oper Res.
	Special Assistant for Electronic Systems. Dir, Test and Evaluation Management Agency.
Office Under Secretary of the Army (Intl Affairs)	Dir. U.S. Army Model I & S Management Agency. Dir of International Dev & Security Asst.
Office Administrative Asst to the Secy of Army	Adm Asst to the Secy of the Army. Dep Admin Asst to the Secy of the Army.
Office of the General Counsel	Deputy General Counsel (Ethics & Fiscal). Deputy ASA (Management & Budget).
Ofc Asst Secretary Army (Civil Works)	Das of the Army (Policy & Legislation). Assistant Deputy ASA for Army Budget.
Ofc Asst Sec Army (Financial Management & Comptroller)	Deputy for Cost Analysis. Dir of investment.
	Das of the Army (Financial Operations). Spec Adv for Economic Pol & Productivity Prog.
Ofc Asst Sec Army (Manpower & Reserve Affairs)	Director for Business Resources. Director for Civilian Personnel Mgmt & Ops.
Ofc Asst Sec Army (Research, Development & Acquisition)	Deputy Asst Secy of the Army (ARBA). Deputy Asst Secy of the Army (Procurement).
	Das for Res & Tech/Chief Scientist. Dep Asst Secy for Plans & Programs.
	Director for Research. Director for Technology.
	Director for Assessment & Evaluation. Dep Prog Mgr for Chem Demiliarization Oper.
HQDA Army Acquisition Executive	Deputy PEO, Armored Systems Modernization. Dep Prog Exec Ofcr, Command & Control Systems.
	Deputy Prog Executive Officer, Comm Systems. Program Executive Officer, STAMIS.
	Prog Exec Ofcr, Field Artillery Systems. Dep Program Executive Officer for Aviation.
	Dep PEO, Intelligence & Electronic Warfare. Prog Exec Ofcr, Tactical Wheeled Vehicles.
	Prog Executive Ofcr, Tactical Missiles. Deputy Prog Executive Ofcr, Missile Defense.
	Program Manager, National Missile Defense. Dep Prog Executive Ofcr, Tactical Missiles.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Ofc of Dir of Info Sys for Comm, Contl, Comms/Computers	Prog Manager for Chemical Demi Operations. Vice Director to the DISC4.
Army Audit Agency	Dir of Army Information. The Auditor General. Deputy Auditor General.
Operations Test & Evaluation Command (OCSA FOA)	Director, Logistical & Financial Audits. Dir, Acquisition & Force Mgmt.
U.S.A. Space & Strategic Def Comm Huntsville, AL (OCSA FOA) ..	Dir, Audit Policy Plans and Resources. Tech Dir, Test & Exper Command. Dir, Evaluation Analysis Center.
Army Center of Military History (OCSA FOA)	Prin Assistant Resp for Contracting. Assistant Director for Discrimination.
Office, Assistant Chief of Staff for Installation Mgmt	Dir, Advanced Technology Directorate. Director, Weapons Directorate.
Office, Deputy Chief of Staff for Logistics	Dir, Miss Def Battle Integration Ctr. Chief Historian.
Office, Dep Chf of Staff for Operations & Plans	Dep Asst Chief of Staff for Installation Mgmt. Asst Dir for Maintenance Mgmt.
Office, Dep Chief of Staff for Personnel	Asst Dir for Transportation. Asst Dir for Energy & Troop Support.
Army Research Institute (DCSPER FOA)	Director for Resources and Management. Executive Director, Strategic Logistics Agcy.
U.S. Total Army Personnel Command (DCSPER FOA)	Chief, Aviation Logistics Office. Tech Adv to the DCSOPS.
National Guard Bureau	Dir, U.S. Army Nuclear & Chemical Agency. Director of Manprint.
Walter Reed Army Institute of Research	ADCSPER (Army Civilians). Dir. U.S. Army Res Inst & Chief Psychologist.
Training and Doctrice Command (TRADOC)	Dir, Manp & Pers Res Lab & Assoc Dir, ARI. Director, Army Declassification Activity.
TRADOC Analysis Center	Program Manager, Res Comp Auto Sys. Chief, Dept of Pharmacology.
National Simulations Center	Scientific Advisor to CG. Asst Deputy Chief of Staff for Resources Mgmt.
Military Traffic Mgmt Command	ADCOS for Training Policy Plans and Programs. Deputy to the Commanding Gen, CASCOS.
U.S. Army Forces Command	Asst Dep Chief of Staff for Base OPS Support. Asst Dep Chief of Staff for COMBAT Develop.
U.S. Army Signal Command	Director. Director of Operations.
U.S. Army Corps of Engineers	Director of Operations. Technical Director, National Simulations Ctr.
Directorate of Research & Development	Deputy to the Commander. Special Asst for Transportation Engineering.
Directorate of Civil Works	Deputy Director, Resource Management. Asst DCS for Pers & Inst Mgmt.
Directorate of Military Programs	Deputy Chief of Staff for Resources Management. Technical Director/Chief Engineer.
Directors of Programs Management	Dir of Real Estate. Director of Human Resources.
Directorate of Research & Development	Director, Resource Management. Director, U.S. Army Center for Public Works.
Directorate of Civil Works	Principal Asst Responsible for Contracting. Dep to the Commander for Prog & Tech Mgmt.
Directorate of Military Programs	Asst to Chf of Eng for R & D & Dir, R & D Dir. Asst Dir for Research & Dev (Civil Works Prog).
Directors of Programs Management	Asst Dir, Research & Dev (Military Prog). Deputy Director, Civil Works.
Directors of Programs Management	Chief, Programs Management Division. Chief, Planning Division.
Directors of Programs Management	Chief, Engineering Division. Chf, OPS, Construction & Readiness Division.
Directors of Programs Management	Chief, Policy Review & Analysis Division. Deputy Director, Military Programs.
Directors of Programs Management	Chief, Construction Division. Chief, Engineering Division.
Directors of Programs Management	Chief, Programs Management Division. Chief, Environmental Restoration Division.
Directors of Programs Management	Dir, Programs Management, LMVD Dir, Programs Management, NAD.
Directors of Programs Management	Dir, Programs Management, NPD. Dir, Programs Management, ORD.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Directors of Engineering & Technical Services	Dir, Programs Management, POD. Dir, Programs Management, SAD. Dir, Programs Management, SPD. Dir, Programs Management, SWD.
Engineer Waterways Experiment Station, COE	Dir, Engineering & Technical Services, LMVD. Dir, Engineering & Technical Services, MRD. Dir, Engineering & Technical Services, NAD. Dir, Engineering & Technical Services, NAD. Dir, Engineering & Technical Services, NPD. Dir, Engineering & Technical Services, ORD. Dir, Engineering & Technical Services, POD. Dir, Engineering & Technical Services, SAD. Dir, Engineering & Technical Services, SPD. Dir, Engineering & Technical Services, SWD. Dir, Waterways Experiment Station. Director, Geotechnical Laboratory. Director, Hydraulics Laboratory. Director, Environmental Lab. Director, Structures Laboratory. Director, Coastal Engineering Research Center. Director.
Engineer Topographic Laboratories, C of Engineers	Associate Director of Technology. Director.
Construction Engineering Res Lab Champaign, IL	Director.
Cold Regions Research & Engineering Lab Hanover, NH	Director.
U.S. Army Materiel Command	Dep to Cmd for Business Mgmt & S P.
Office of DCS for Logistics & Operations	Asst Dep Chief of Staff for Logs & Operations. Exec Director, Logistics Support Activity.
Special Analysis Office	Chief, Special Analysis Office.
Office Deputy Commanding General	Principal Deputy for Logistics. Principal Deputy for Acquisition. Principal Deputy for Technology.
Army Research Office (AMC)	Director. Dir, Electronics Division. Director, Materials Science Division. Dir, Physics Div. Dir, Mathematical & Computer Sciences Div. Dir, Eng & Environmental Sciences Division. Dir, Research & Technology Integration. Dir, Chem & Bio Sci Div. Director, Engineering Sciences Directorate. Director, Physical Sciences Directorate. ADCS for Res, D&E for Technol & Eng. Dir for Missile Guidance.
Office of DCS for Research Dev and Engineering	Asst Deputy Chief of Staff for Ammunition.
Office of Deputy Chief of Staff for Ammunition	Asst Dep Chf of Staff for ACQ & Contract.
Office of Deputy Chief of Staff for Personnel	Dep Chief of Staff for Personnel.
Office of the Deputy Chief of Staff for Res Management	Deputy Chief of Staff for Resource Management. ADCS for Resource Mgmt/Exec Dir for Busin.
U.S.A. Security Assistance Command	Deputy.
U.S. Army Industrial Operations Command	Dir, U.S. Army Def Ammunition Center & School. Deputy to the Commander.
U.S. Army Chemical & Biological Defense Command	Deputy to the Commander.
U.S. Army C&B Def Command (CBDCOM)-Edgewood RD&E Center.	Director, Engineering Directorate. Dir, Res & Technology Directorate. Technical Director.
U.S. Army Aviation & Troop Command (ATCOM)	Deputy to the Commander. Exec Dir-U.S. Army Aviation RD&E Center. Director of Engineering. Dir of Aeroflight Dynamics. Executive Director, Acquisition Center. Dir of Advanced Syst/Assoc Dir for Technol. Assoc Dir for Tech Appl/Dir of Spec Prog. Exec Dir, Integrated Materiel Mgmt Center.
U.S. Army Soldier Systems Command	Deputy to the Commander.
Natick Research Development & Engineering Center	Director, Natick RD&E Center. Dir, Individual Protection Directorate. Director, Soldier Science Directorate.
U.S. Army Communications Elect Comd (CECOM)	Deputy to the Commander. Dir, CECOM Acquisition Center—Washington. Comptroller. Director, C3I Acquisition Center.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
CECOM Research, Development & Engineering Center	Dep to CMD Business Mngt & Strategic Planning. Director/Army Systems Engineer. Dir, Space & Terrestrial Comm Directorate. Dir, I&E Warfare Directorate. Dir, Software Engineering Directorate. Dir for C4I Log & Readiness Center.
U.S. Army Research Laboratory	Assoc Tech Dir, Resech Devel & Engineering Ctr. Director, U.S. Army Research Laboratory. Director, Sensors Directorate. Dir, Information Sci & Technology Directorate. Dep Dir, Info Sci/Tec/Dir of Atmospherics Res.
Advanced Concepts & Plans Directorate	Dir, Advanced Concepts & Plans Directorate.
Electronics & Powers Sources Directorate	Director.
Battlefield Environment Directorate	Director.
Survivability/Lethality Analysis Directorate	Director.
Vehicle Structures Directorate	Chief, Ballistic Vulnerability Division.
Advanced Computing & Information Sciences Directorate	Director.
U.S. Army Weapons Technology Directorate (ARL)	Director.
Human Research and Engineering Directorate (ARL)	Chief, Terminal Effects Division.
U.S. Army Materials Directorate (ARL)	Chief, Weapons Concepts Division.
U.S. Army Missile Command (MICOM)	Director, Human R & E Directorate.
	Director.
	Deputy to the Commander.
	Director, Acquisition Center.
	Dir, Integrated Materiel Mgmt Center.
	Deputy Executive Director for TMDE.
Research Development & Engineering Center (RDEC)	Tech Dir for M&D, Res, Dev & Eng Center.
	Dir for System Engineering & Production.
	Director for Propulsion.
	Dir for Systems Simulation & Development.
	Associate Director for Systems.
	Assoc Director for Product Assurance.
	Director for Weapons Sciences.
Tank-Automotive and Armaments COMD (TACOM)	Director, Command, Ctrl & Syst Integration Dir.
	Deputy to the Commander.
	Director of Acquisition Center.
	Director, Integrated Materiel Mgmt Center.
Tank-Automotive Res, D&E Center (TARDEC)	Dir U.S. Army Armament & Chemical A&L Act.
	President/Director.
	Vice President for Research.
	Vice President for Customer Engineering.
	Vice President for Product Development.
U.S. Army Armament Research, D & E Center (ARDEC)	Technical Director for Armament.
	A/Tech/Dir/(Systems Concepts & Technology).
	A/Tech/Dir (Sys Development & Engineering).
	Assoc Tech Dir (Producib & Process Technol).
Armament Engineering Directorate	Dir, We & Combat Support Armaments Center.
	Chf, Energetics & Warheads Division.
Fire Support Armaments Centers	Dep Director, Fire Support Armaments Center.
Close Combat Armaments Center	Deputy Director, Close Combat Armament Ctr.
U.S. Army Simulation, Training & Instrumentation Command	Deputy to the Commander.
U.S. Army Test and Evaluation Command, (TECOM)	Dir, Redstone Technical Test Center.
	Tech Dir & Chf Sci.
	Dir for Test and Assessment.
	Dir, Joint Prog Ofc for Test & Evaluation.
U.S. Army Materiel Systems Analysis Activity	Director.
	Chief, Combat Integration Division.
	Chief, Combat Evaluation Division.
	Chief, Reliability Analysis Division.
Headquarters, U.S. Army, Europe	Asst Dep Chf of Staff, Personnel (Civ Pers).
	Asst Dep Chief of Staff Eng for Eng & Housing.
	Asst Deputy Chief of Staff Res Mangnt.
	Asst Dep Chf Staff for Eng (Intl Affairs).
U.S. Army Special Operations Command	Dir of Force Development & Integration.
NATO ACISA	Asst Dir, Command, Control and Comms Syst.
National Defense University	Dir, Information Resources Management College.
U.S. Southern Command	Spec Asst for Technology & Requirements Integ.
Department of Navy:	
Office of the Under Secretary of the Navy	Assistant for Administration.
Office of the Auditor General	Auditor General of the Navy.
Naval Audit Service	Eastern U.S. Audit Services Facilitator.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Ofc of the Asst Secy of Navy (Manpwr & Res Affs)	Director, Plans and Policy. Dir, Naval Audit Service Western Region. Dir, Naval Audit Service Capital Region. Dir, Program & Financial Audits Directorate. Dir, Human Resources Operations Center. Associate Director (OCPM-20)
Organization Abolished	Director, Plans, Programs & Diversity. Dep A/S of the Navy (Civilian Persnl P/EEO). Dir, Civilian Personnel Programs Division. Dir, Ofc of Civilian Personnel Management.
OAS of the Navy (Research, Dev & Acquisition)	Director, Navy Acquisition R & S Improvement. Director, Procurement Policy. Head, Contract Policy.
Program Executive Officers	Dir, Intl Agreements, TTSARB & Special Proj. Director, Acquisition Career Management. DASN Plann & Programming & Resource. Director for AAW & Strike Air Programs. Dep Dir, Navy International Programs Office. Chief Systems Engineer, Theater Air Defense. Dep Prog Exec Ofcr for Tactical Air Progs. Director, Plans & Programs Division. Chf Engr. Asst for Fire Control & Guidance Systems. Branch Engr, Ship Installation & Design Br. Branch Head, Reentry Systems Branch. Dep P/E Officer for Unmanned Aerial Vehicles. Dep Prog Exec Officer for Theater Air Defense. Technical Plans Officer. Head, Res Branch & DE Dir, Plans & Progs Div. Assistant for Missile Engineering Systems. Dep P/E Officer for Cruise Missiles Program. Prog Manager for Comm Satellite Programs. Dep Prog Officer, Submarines. Prog Exec Officer, Undersea Warfare. Asst for Systems Integration & Compatibility. Dep Prog Exec Ofcr for ASW, A/S Mission Prog. Dep Prog Exec Ofcr for Tactical Air Programs. Deputy PEO, Mine Warfare. Dep Prog Exec Ofc for Unmanned Aerial Vehicles. Prog Exec Officer for Space Comms & Sensors. AEGIS Deputy Program Manager. Prog Exec Officer, ASW Assault & Spec Miss Pro. Chief Engineer, PEO, SCS. Program Manager Ship Self Defense.
Ofc of the Asst Secy of Navy (Fin Mgmt Comptroller)	Assoc Dir, Budget & Reports/Fiscal Manag Div. Asst General Counsel (Financial Management). Dir, Investment & Dev Div. Dir, Financial Mgmt POL & Systems Division. Dir, Budget Evaluation Group. Dir, Resource Allocation & Analysis Division. Director, Financial Management Division. Director, Civilian-Contractor Manpower Div.
Naval Center for Cost Analysis	Dir, Naval Center for Cost Analysis.
Office of the Naval Inspector General	Deputy Naval Inspector General.
Office of the General Counsel	Asst Gen Coun (Res, Dev & Acquisition). Special Counsel for Litigation. Asst General Counsel (Install & Environment).
Naval Criminal Investigative Service	Asst Gen Coun (Manpower & Reserve Affairs). Dir, Naval Criminal Invest Service. Asst Dir of Counterintelligence. Special Agent in Charge, Norfolk Field Ofc. Special Agent in Charge.
Chief of Naval Operations	Deputy Director, NCIS. Asst Dep Chf of Naval Operations (Logistics). Dep Dir of Naval Training. Asst Dep Chief, Naval Oper Res Warfare. Asst Dep Chf of Naval Oper Manpower/Personnel. Head, Studies & Analysis Branch. Associate Director, Assessment Division. Tech Dir, Submarine & SSBN Security Program. Technical Director. Advisor for Research & Development Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Bureau of Naval Personnel Bureau of Medicine & Surgery Military Sealift Command	Dep Dir, Supportability, M & M Division. Deputy Director for Programming. Head, Assessment & Affordability Branch. Assoc Dir, Expeditionary Warfare Division. Dir, Naval History/Dir, Naval Historical Ctr. Head, Deep Submergence Systems Branch. Exe Director, Shore Installation Mgmt Div. Dep Dir, Envir Protection Safety Occup Heal Div. Director, Strategic Sealift Division. Asst for Educational Resources. ACNP for MPN Financial Management. Dep Commander for Fin Mgmt & Comptroller. Counsel. Comptroller.
Naval Oceanography Command Ofc of Commander in Chf/Allied Forces/Southern Eur	Asst Dep Comdr for Business Operations. Technical/Deputy Director. Dir, Joint Train Analysis & Simulation Ctr. Dep Dir, Fleet Maintenance. Deputy Director, Shore Activities Readiness. Dir, Warfare Programs & Readiness. Chief, Research & Analysis.
Ofc of the Commander-in-Chief, U.S. Pacific Command CINCPACFLT	Deputy Director, Fleet Maintenance. Deputy Director, Shore Installation Management. Associate Director, Resources Req & Assessment. Comptroller.
Ofc of the Chief of Naval Education and Training Naval Air Systems Command Headquarters	Standards Improvement Executive. Executive Dir, Corporate Operations. Federal Quality Consultant. Deputy Commander for Acquisition & Operations. Executive Director for Logistics. Executive Director for Contracts. Deputy Comptroller.
Naval Air Warfare Center Aircraft Division Lakehurst Naval Air Warfare Center Aircraft Division Organization Abolished	Counsel, Naval Air Systems Command. Assoc Director, Weapons Sys Eng Division. Deputy Head, Avionics Dept. Deputy Head, Air Vehicle Dep. Dep. Head, Logistics Management. Head, Tactical A & M Contracts Department. Head, Aircraft Support Dept. Head, Cost Department. Deputy Acquisition Executive. Executive Director for Engineering. Dir, Industrial Operations. Head, Concepts Analysis Evaluation Plan Dept. Head, Propulsion & Power Systems Dept. Dep Head, Aircraft Sys Engineering Department. Head, Logistics Support Department. Deputy Commander, Naval Air Sys Command. Head, Cruise M & U Aerial Vehicles Dept. Dir, Budget Formulation Justification Exe Div. Deputy Counsel, NAVAIR. Executive Dir for Industrial Capabilities. Dir, Naval Aviation Science & Tech Office. Asst Commander for Corporate Operations. Dir, Technology Maturation Directorate. Head, Air ASW Assault & Special Mission Prog. Special Asst for Navy Test & Evaluation.
Naval Air Warfare Center Weapons Div. Pt. Mugu, CA	Director, Engineering & Research. Hd, Supp Equip Aircraft Launch & Recovery Dept. Exec Dir, T & E Group NAWC-Aircraft Div. Head, Air Vehicle Department. Head, Avionics Department. Dir of Atlantic Ranges & Facilities Dept. Dep Commander, NAWC-Aircraft Division.
Naval Air Warfare Center Weapons Div. Pt. Mugu, CA	Head, Systems Engineering Depart. Head, Program Management Competency. Head, Test Evaluation Engineering Department. Head, Syst Engineering Department. Director for Test & Evaluation.
Naval Air Warfare Center Weapons Div, China Lake, CA	Head, Threat/Target Syst Depart. Head, Res and Technology Division. Head, Pacific Ranges & Facilities Depart.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Naval Training Systems Center Space & Naval Warfare Systems Command	Head, Avionics Dept. Head, Weapons Engineering Dept. Dir, Aircraft Weapons Systems Directorate. Dir for Eng, NAWC-Weapons Division. Director of Corporate Operations. Executive Director. Dir of ACQ, Analysis, Engineering & Research. Exec Dir, Contracts. Deputy Comptroller. Counsel, Space & Naval Warfare Systems Com. Technical Director. Chief, Eng Comms Sys Program Directorate. Chief, Engineer Command Sys Prog Directorate. Executive Dir, Space Tech Systems Prog Dir. Exec Dir, Undersea Surveillance Prog Dir. Exec Dir, Intelligence S & R System Prog Dir. Dir of Tech Head Engineering Tech Group. Dir, Naval Space & Electronic Warfare/C4ISR. Prog Dir, Command C & C System Program Dir. Chief, Eng SPAWAR. Executive Director, NWSAED. Prog Dir, I & E Warfare Syst Program Dir. Asst Comdr for Pol, OPS & ACQ Support Direct. Deputy Commander. Deputy Chief Engineer.
Space and Naval Warfare Systems Center	Head, Surveillance Dept. Executive Director. Head, Marine Sciences & Technology Dept. Head, Navigation & Applied Sciences Dept. Head, Command and Control Department. Dep Exec Dir, Sci Tech Engineering. Head, Communication Department. Executive Director. Senior Executive for Public Works Support. Director, Navy Crane Center. Counsel, Naval Facilities Engineering Command. Deputy Comptroller. Director for Contracts Support. Chief Engineer. Dir of Real Estate Support. Dir of Base Closure. Director of Environment.
Space and Naval Warfare Systems Center, Charleston Naval Facilities Engineering Command	Executive Director. Senior Executive for Public Works Support. Director, Navy Crane Center. Counsel, Naval Facilities Engineering Command. Deputy Comptroller. Director for Contracts Support. Chief Engineer. Dir of Real Estate Support. Dir of Base Closure. Director of Environment.
Naval Sea Systems Command	Executive Director. Counsel, Naval Sea Systems Command. Asst Dep Commander for Contracts. Executive Director/Deputy Comptroller. Prog Mgr, Mine Warfare Ship Program. Director, Reactor Materials Divisions. Director, Secondary Plant Components Division. Head, Advanced Reactor Branch. Dir, Naval Architecture Group. Dep Dir, Surface Ship Design & Sys Eng Group. Director, Cost Estimating & Analysis Division. Dir, Shipbuilding Contracts Division. Exec Dir, Naval S & S M & F Activity Supp Dir. Executive Director, Surface Ship Directorate. Exec Dir, Submarine Directorate. Director, Warfare Systems Group. Director, Corporate Operations. Dep Commander for Fleet Log S/Chief Info Ofcr. Dep Prog Mgr/Techn Dir, New Attack Submarines. Dep Prog Manager, Tech Dir Attack Subm Prog. Dep Program Mgr. Surface Ship Prog Mgmt Ofc. Dep Prog Manager, Aircraft Carrier Prog Ofc. Director, Environmental & Auxiliary Syst Group. Dir, Reactor Plant Components Auxil Equip Div. Dep Dir/Advanced Submarine Reactor S&SF Mgmt. Dir, Surface Ship Systems Division. Deputy Director, Nuclear Components Div. Dir, Reactor Plant Safety & Analysis Divison. Dir, Ship S&S Integrity Group. Dir, Power Systems Group.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	Director, Materials Engineering Office. Dir, Electrical Engineering Group. Exec. Dir, Anti-Air & Surface Warfare Systems. Exec. Dir, Ship Design & Engrng Directorate. Prog Mgr, Amphibious W & S Sealift Program. Program Manager for Commissioned Submarines. Command Asst for Human Resources Prog & Dir. Dir, Surface Systems Contracts Division. Assoc Director for Regulatory Affairs. Dep CDR SSD/DEP PEO for CLW & Auxiliary Ships. Director, Office of Resource Management. Dir, Reactor Refueling Division. Deputy Counsel, Naval Sea Systems Command. Dir Environmental Protection Office. Director, Ship Signatures Group. Director, Auxiliary Systems Group. Dir, Combat Systems Desighn & Eng Group. Program Manager, Strategic Sealift Prog Ofc. Dir, Ship Availability Plnng & Eng Center.
Naval Ordnance Center	Deputy Commander, Naval Ordnance Center.
Norfolk Naval Shipyard	Naval Shipyard Nuclear Engineering & P Lan Mgr. Naval Shipyard Nuclear Eng Mgr Puget Nal Ship.
Naval Surface Warfare Center	Technical Director.
Naval Undersea Warfare Center	Technical Director.
Naval Surface Warfare Center, Crane Division	Executive Director.
Naval Undersea Warfare Center Div, Keyport, WA	Executive Director.
Naval Surface Warfare Center, Pt. Hueneme Division	Executive Director.
Naval Surface Warfare Center, Indian Head Division	Director.
Coastal Systems Station	Executive Director. Head, Coastal Sci, Technology & Analysis Dept. Head, Coastal Warfare Systems Department.
Naval Surface Warfare Center, Carderock Division	Director. Assoc Dir for Hydromechancis/Head, HD. Assoc Dir for Business OPS/HBD. Assoc Dir for Syst/P & H Ship S/P Directorate. Assoc Dir for Ship A/E S/H S/Directorate. Assoc Dir for SS & M/HHS & M Directorate. Assoc Dir for Mise/HMIS Eng Directorate.
Naval Surface Warfare Center, Dahlgren Division	Exec Director. Head, Strategic & Space Systems Department. Head, Weapons Systems Department. Head, Combat Systems Department. Head, Ship Defense Systems Department. Deputy Executive Director. Head Strategic & Strike Systems Dept. Head, Systems Res & Technology Department. Head Joint Warfare Applications Dept. Head Warfare Analysis & Systems Dept.
Naval Undersea Warfare Center Division, Newport, RI	Head, Submarine Sonar Department. Executive Director. Head Test and Evaluation Dept. Superintendent Underwater Sound Ref Div. Director for Submarine Combat Systems. Director, Submarine Warfare Systems. Director, Surface Undersea Warfare. HD, Submarine Electromagnetic Sys Dept. Head Combat Control Systems Department. Head Combat Systems Analysis Department. Head, Torpedo Systems Department.
Naval Supply Systems Command Hdqtrs	Dir, Plans Programs & Resources Counsel. Dir, Defense Printing Serv/Dep Comdr, Navsup. Asst Dep Comdr for Fin Mgmt/Comp. Competition Advocate Gen/Adc, Contracting Mgr. Director of Contracting for Special Programs. Executive Director Office of Special Projects. Assistant Commander for Fleet Logistics Ops. Joint Eng Data Mgmt I & C Syst Prog Manager. Executive Director.
Naval Inventory Control Point	Executive Dir, Acquisition & Strategic Plnng. Vice Commander.
Navy Fleet Material Support Office	Exec Dir, ADP System Planning and Development.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
U.S. Marine Corps Headquarters Office	Dep Dir, Facilities & Services Division. Dir, Contracts Division. Counsel for the Commandant. Deputy Counsel for the Commandant. Director of Administration and Resources. Asst Dep Chf for Prog & Resourc Fiscal Div. Asst Dep Chf of Staff for Installations & Log. Asst to the Dep Chf of Staff for M & R Affs. Asst Dep Chf of Staff for Requirements & Prog.
Marine Corps Systems Command	Executive Director.
Marine Corps Logistics Base, Albany, GA	Deputy for Financial Management.
Office of Naval Research	Deputy Commander for Logistics Operations.
	Dir, Ship Structures & Systems S&T Div.
	Dir, Mechanics & Energy Conversion S&T Div.
	Director, Marine Corps Science & Technology.
	Dep Chief, Nav Res & Tech Dir Ofc of Nav Res.
	Head Special Programs Department.
	Executive Dir for Acquisition Management.
	Dir, Financial Management Comptroller.
	Deputy Counsel (Intellectual Property).
	Counsel, Office of Naval Research.
	Head Engineering.
	Dir Strike Technology Division.
	Dir Math Computer & Information Science Div.
	Director, OAS Sci & Technol M & P Division.
	Dir, Science & Technology Directorate.
	Dir, OAS at Sensing & Systems Division.
	Head Industrial Programs Department.
	Director, Physical Sciences S&T Division.
	Dep Dir, Science & Technology Directorate.
	Dir, Congitive & Neural Science & Tech Div.
	Head Personnel Optimization Bio Sci & Tec Dep.
	Dir, Biological & Biomedical Science & Tech DV.
	Head Info Electronics & Surveil Sci Tech Dept.
	Dir of Surveillance Communications Electronic.
	Director, Electronics Division.
	Head Ocean Atmosphere Space Sci Tech Dept.
	Associate Technical Director.
	Dir, Reliance Sci Opportunities Prog Intell.
	Dir, Materials Sci and Technology Division.
	Assoc for Integration OAS St Sensing Sys Div.
NATO SACLANT ASW Research Center	Director, NATO SACLANT ASW Research Centre.
Naval Research Laboratory	Superintendent, Chemistry Division.
	Superintendent, Optical Sciences Div.
	Supt, Materials Sci and Tech Division.
	Superintendent, Plasma Physics Div.
	Supt, Condensed Matter & Radiation Sci Div.
	Assoc Dir of Res for Matl Sci & Comp Technol.
	Superintendent, Info Technol Div.
	Chf Sci, Lab for Structure of Matter.
	Dir of Research.
	Superintendent Space Science Div.
	Supt, Radar Div.
	Supt, Acoustics Div.
	Superintendent, Electronics Technology Div.
	Supt, Tactical Electronic Warfare Div.
	Chief Scientist Lab for Compt Phy Fluid Dynam.
	Chf Scientist & Head, Solar Physics Program.
	Superintendent, Remote Sensing Division.
	Assoc Dir of Res for Business Operations.
	Chief Sci & Head, Beam Physics Program.
	Superintendent, Marine Meteorology Division.
	Mgr, Joint Space Systems Technology Programs.
	Assoc Dir Res for Ocean & Atmospheric Sci Tec.
	Superintendent Ctr Bio/Molecular Science Eng.
	Head Elect Warfare Strategic Planning Org.
	Assoc Dir of Res for Warfare Sys & Senors Res.
	Superintendent, Space Syst Development Dep.
	Superintendent, Oceanography Division.
	Superintendent, Spacecraft Engineering Dep.
	Dir, Naval Center for Space Technology.
	Superintendent, Marine Geosciences Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Defense Nuclear Facilities Safety Board:	Asst Dir for Sys Analysis & Integration. Asst Dir for Operational Safety. Asst Dir for Engineering Develop & Technology. Asst Dir for Standards Develop & Implement. Dep Gen Counsel for Pol & Litigation. Chief Radiation & Environmental Safety. Deputy General Manager. Asst Dir for Process Engineering. Tech Adv for Hazards Anal & Health Physics. Technical Advisor for Technical Studies. Technical Advisor for Chemical Processing. Technical Advisor for Standards.
Department of Education:	Director, Grants and Contracts Service. Dep Chf Fin Ofcr/Dir Financial Services. Director, Fin Rep & Systems Operations. Dir Admin Resource Management Service. Chairperson, Education Appeal Board. Dir, Human Resources Group. Assistant Inspector General for Audits. Asst Insp Gen for Policy Plng & Mgmt Serv. Asst Inspector General for Investigation. Dep Asst Insp Gen for Audit Operations. Dep Asst Inspector Gen for Techn Audit Svc. Associate Inspector General. Dep Asst Inspector General for Investigation. Counsel to the Inspector General. Deputy Inspector General. Asst Inspector General for Operations. Asst Inspec General for Operations East Area. Asst Inspec Gen for Investigation Services. Asst Inspector General for Audit Services. Asst Gen Coun for Busin & Adm Law. Asst General Counsel for Educational Equity. Asst Gen Counsel for Regulations. Asst Gen Coun for Div of Legislative Counsel. Asst Gen Coun for Postsecondary Ed & Ed Res. Assoc Commr/Surveys & Cooperative Syst Group. Assoc Commr for Data D & L Studies Group. Assoc Commr for Stat Std & Methodology Div. Assoc Commissioner Assessment Group.
Chief Financial Officer	
Office of Management	
Inspector General	
General Counsel	
National Center for Education Statistics	
Department of Energy:	Dir Ofc of Budget. Dep Dir Ofc of Budget. Director, Budget Analysis Division. Dir Ofc of Headquarters Accounting Operations. Director, Budget Operations Division. Dir Ofc of Dep Accounting & Fin Sys Dev. Dir Ofc of Financial Policy. Dir Ofc Compliance and Audit Liaison. Deputy Controller. Controller. Assoc Dep Asst Secy for Military Application. Nuclear Weapons Complex Project Manager. Assoc Das for Human & Administrative Res. Assoc Das for Program A & F Management. Dir of Sm and Disadv Bus Utilz. Dir, Geothermal Division. Dir, Photovoltaic Energy Technology Div. Director, Waste Material Management Division. Dir, Wind/Hydro/Ocean Technology Division. Dir Ofc Solar Energy Conversion. Assoc Dep Asst Secretary for Utility Tech Dir Ofc of Waste Reduction Tech. Manager, Golden Field Office. Dir, Nuclear Safety Enforcement Division. Dep Dir, Invest Nuclear Safety Enforcement Div. Dir, Nuclear Operations & Analysis. Dir, Office of Environmental Compliance. Deputy Director Ofc of ES&H Evaluations. Dir, Office of Enforcement & Investigations.
Office of Chief Financial Officer	
Asst Secy for Defense Programs	
Office of Economic Impact & Diversity	
Asst Secy for Energy Efficiency & Renewable Energy	
Asst Secy for Environment, Safety & Health	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Energy Information Administration	Dir, Ofc of Nuclear Safety Policy & Standards. Director, EIA-ADP Services Staff. Dir, Ofc of Oil and Gas. Dir, Ofc of Coal Nucl Elec & Altern Fuels. Director, Ofc of Energy Markets & End Use. Director Economics & Statistics Division. Dir, Ofc of Statistical Standards. Director, Quality Assurance Division. Dir, Reserves and Natural Gas Division. Director, Petroleum Marketing Division. Dir, Ofc of Integration Nal & Forecasting. Dir, EEUISD. Dir, Energy Supply & Conversion Div. Dir, Analysis & Systems Div. Dir, Energy Markets & Contingency Info Div. Dir, Survey Mgmt Div.
Asst Secy for Environmental Management	Director, Information Technology Group. Director, Office of Research & Development. Assoc. DAS for Oversight & Self-Assessment.
Office of Energy Research	Director, Office of Acquisition Management. Dir, Chem Sci Div. Dir, Adv Egy Proj Div. Chf Processes and Tech Br. Dir, High En Physics Div. Director, Human Health & Assessment Div. Deputy Dir for Management. Dir, Health Effects & Life Sci Research Div. Deputy Dir for Nuclear Safety Safeguard. Dir, Office of Assessment & Support. Assoc Dir, Ofc of Computational & Tech Research.
Office of Fossil Energy	Director, Ofc of Resource Management.
Associate DS for Field Management	Dir, Ofc of Resource Management & Services.
Albuquerque Operations Office	Dir, Weapons Quality Division. Dir, Transportation Safeguards Div. Dir, Production Assurance & Ops Division. Dir, Weapons Programs Div. Dir, of Emergency Plans & Operations. Asst Manager for Management & Administration. Carlsbad Area Office Manager. Chief Financial Officer.
Chicago Operations Office	Director, Ops Management Division. Acquisition & Asst Group Manager. Area Manager, Batavia Area Office. Asst Mgr for Laboratory Management. Chief Financial Officer.
Idaho Operations Office	Assistant Manager for Administration. Chief Financial Officer.
Nevada Operations Office	Asst Mgr Ofc of Program Execution. Asst Manager for Applied E&T Transfer. Chief Counsel.
Ohio Field Office	Assistant Manager for Administration. Asst Manager for Business & Financial Service. Manager Ohio Field Ofc.
Oakland Operations Office	Deputy Manager, Ohio Field Office. Field Chf Fin Officer and Business Manager.
Oak Ridge Operations Office	Assoc Manager for Site Management. Asst Manager for Administration.
Rocky Flats Office	Chief Financial Officer. Manager, Rocky Flats Field Office. Deputy Manager, Rocky Flats Field Office.
Richland Operations Office	Asst Manager for Government Operations. Dep Asst Mgr for Matl Stabilization & Disp. Asst Mgr Business Mgmt & Chief Fin Ofcr. Source Evaluation Board Advisor.
Savannah River Operations Office	Asst Manager for Business & Logistics.
Office of Hearings & Appeals	Dep Dir for Legal Analysis. Dep Dir for Financial Analysis. Dep Dir for Econ Analysis.
Asst Secy for Human Resources & Administration	Dir Ofc of Industrial Relations. Dir Hq Personnel Operations Div. Dir Ofc of Admin Svcs. Associate Dir, Office of Resource Mgmt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Inspector General	Dep Dir of Administrative Services (Wash, DC). Dir, Ofc of Organization & Management. Dep Dir of Personnel. Dir, Ofc of Contractor Mgmt & Admin. Dir, Ofc of Clearance & Support. Dir, Ofc Policy. Dir, Ofc of Special Proj & Mgmt Systems. Dir, Ofc of Executive & Technical Resources. Dir, Ofc of Mgmt Sys (Competition Advocate). Director Ofc Contract & Resource Management. Executive Assistant to the Director. Dir, Headquarters & Executive Personnel Serv. Asst Inspector General for Investigations. Manager, Western Regional Audit Office. Director, Audit Policy, Plans & Programs. Manager, Eastern Regional Audit Office. Dir, Capitol Regional Audit Office. Deputy Asst Inspector Gen for Investigations. Spec Asst for Policy and Planning. Counsel to the Inspector General. Dir, Office of Contractor Employee Protection. Asst Inspector General for Resource Mgmt. Principal Deputy Inspector General. Assistant Inspector General for Audits. Deputy Inspector General for Inspections. Deputy Inspector General for Audits. Deputy Director.
Office of Fissile Materials Disposition	Deputy Director.
Office of Nuclear Energy, Science & Technology	Dir, Submarine Systems Div. Dir, Instrumentation & Control Div. Asst Program Manager for Surface Ships. Deputy Director for Naval Reactors. Sr. Naval Reactors Rep. (NWPT News). Senior Naval Reactors Rep (Pearl Harbor). Director Nuclear Technology Div. Dir, Reactor Engineering Division. Head, Core Manufacturing Branch. Dep Director, Reactor Materials Division. Director, Fiscal Division. Asst Manager for Operations. Program Manager for Shipyard Matters. Dir, Nuclear Components Division. Senior Naval Reactors Representative. Manager, Idaho Branch Office. Prog Manager for Advanced Submarines. Dir, Ofc of Techn Deployment & Strategic Plng. Dir, Isotope Production & Distribution Prog. Asst Manager for Operations. Prog Mgr for Analysis & Regulatory Matters. Director, Acquisition Division. Director for Submarine Refuelings. Senior Naval Reactors Representative. Dep Program Mgr for Commissioned Subs. Prog Mgr Prototype & Moored Training Ship. Assoc Dir., Ofc of Isotope P & D.
Office of Nonproliferation and National Security	Special Asst to the Ast Secretary. Dir, Ofc of Classification & Technology. Dir, Ofc of Security Affairs. Dep Dir, Ofc of Security Affairs.
Western Area Power Administration	Asst Admr for Mgmt Svcs. Chief Administrative Officer. Chief Financial Officer.
Environmental Protection Agency: Office of Small and Disadvantaged Business Utilization	Deputy Dir, Ofc of Small & Disadv Busin Util.
Office of the Chief Financial Officer	Deputy Chief Financial Officer.
Office of the Comptroller	Dir, Ofc of the Comptroller. Dir, Financial Mgmt Div. Deputy Comptroller. Director, Budget Division.
Office of Planning, Analysis & Accountability	Director, Office of Planning Analy & Account.
Ofc of the Asst Admr for Admin & Resources Management	Director, Ofc of Pol & Resource Mgmt. Principal Dep Asst Admr for Amd & Res Mgmt.
Office of the Comptroller	Assoc Dir, Financial Management Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Administration	Dir, Ofc of Administration. Deputy Dir Ofc of Administration. Dir, Facilities & Support Services Division.
Office of Information Resources Management	Dir, Sfty, Health & Environmental Mgmt Div. Dir, Ofc of Information Resources Management. Dep Dir, Ofc of Information Resources Magnt. Director Enterprise Systems Division.
Ofc of Administration & Resources Mgmt—Cincinnati, OH	Dir, Ofc of Admin and Resources Management.
Office of Administration & Resources Mgmt—RTP, NC	Director Office of Administration & Res Mgmt.
Ofc of Human Resources and Organizational Services	Director, Office of Data Processing. Dir, Office of Human Resources & Org Services. Assoc Dir for Integration & Innovation. Dep Dir, Ofc of Human Resources & Org Services. Assoc Director for Reengineering & Automation. Dir, Exec Resources & Special Programs Staff. Director, Org & Management Consulting Serv. Dir, Strategic Planning & Policy Systems.
Office of Acquisition Management	Dir, Superfund/RCRA Procurement Ops Division. Director, Office of Acquisition Management. Dep Dir, Office of Acquisition Management.
Office of Grants and Debarment	Dir, Grants Admin Div. Director, Office of Grants & Debarment.
Office of the Asst Admr for Enf & Comp Assurance	Director, OFC of Environmental Justice.
Office of Federal Activities	Dir, International Enforcement Program Div.
Office of Regulatory Enforcement	Director, Office of Regulatory Enforcement. Dep Dir, Office of Regulatory Enforcement.
Office of Criminal Enforcement, Forensics & Training	Dir, Air Enforcement Division. Dir, Natl Enforcement Training Institute.
Office of Compliance	Dir, Ofc of Criminal Enforce Forensics Train. Director, Office of Compliance. Dir, Enforcement Planning, T & D Division. Dep Dir, Enforcement Planning, T & D Division. Dir, Manufacturing, E & T Division. Deputy Director, Office of Compliance. Dir, Import Export Program.
Office of Site Remediation Enforcement	Director, Ofc of Site Remediation Enforcement. Dep Dir, Ofc of Site Remediation Enforcement.
Federal Facilities Enforcement Office	Dir, Federal Facilities Enforcement Office.
Office of the Inspector General	Deputy Inspector General.
Office of Investigations	Assist Inspector Gen for Investigations. Dep Asst Inspector General for Investigations.
Office of Audit	Asst Inspector General for Audits. Dep Asst Insp Gen for Acq & Asst Audits. Principal Dep Asst Insp Gen for Audit. Prin Dep Asst Inspector General for A&E Audits. Dep Asst Inspector General for External Audits.
Office of Management	Assistant Inspector General for Management.
Office of Wastewater	Director, Permits Division. Director, Municipal Support Division.
Office of Science and Technology	Deputy Director, Municipal Support Division. Dir, Standards & Applied Science Division.
Office of Wetlands, Oceans and Watersheds	Dir, Health & Ecological Criteria Division. Dir, Assessment & Watershed Protection Div.
Office of Ground Water & Drinking Water	Dir, Oceans & Coastal Protection Division. Director, Wetlands Division. Dir, E & P Implementation Division.
Ofc of the Asst Admr for Solid Waste and Emgy Resp	Director, Drinking Water Standards Division. Dir, Implementation & Assistance.
Office of Solid Waste	Dir, Permits & State Prog Div Osw AA For SW&ER. Director, Waste Management Division. Dir, Municipal & Industrial Solid Waste Div. Dir, Hazardous Waste Identification Division.
Office of Emergency and Remedial Response	Dir, Emergency Response Div.
Office of Air Quality Planning and Standards	Dir, Emission Standards Division. Dir, Air Quality Strategies & Standards Div. Dir, Emissions Monitoring & Analysis Division. Deputy Dir, Ofc of Air Quality Planning & Stds.
Office of Mobile Sources	Dir, Advanced Technology Support Division. Dir, Fuels & Energy Division.
Office of Radiation & Indoor Air	Dir, Vehicle Programs & Compliance Division. Director, Indoor Environments Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Atmospheric Programs	Dir, Atmospheric Pollution Prevention Division. Director, Acid Rain Division.
Office of the Asst Admr for Prevention P & T Substances	Dir, Ofc of Program Management Operations.
Office of Pesticide Programs	Dir—Registration Division. Director—Program Support Division.
	Dir, Biological & Economic Analysis Division.
	Dir, Spec Review & Reregistration Division.
	Dir, Envir Fate and Effects Division.
	Dir, Policy & Special Projects Staff.
Office of Pollution Prevention and Toxics	Dir, Health & Environmental Rev Div.
	Director, Environmental Assistance Division.
	Dir, Economics Exposure and Technology Div.
	Director, Chemical Control Division.
	Director, Information Management Division.
	Dir, Pollution Prevention Div.
	Dir, Chemical Screening & Risk Assesment Div.
	Dir, Chemical Management Division.
	Dir, Health Effects Division.
	Director, of Risk Assessment Division.
Office of Resources Management and Administration	Dir, Ofc of Resources Mgnt & Admin.
Office of Science Policy	Director, Office of Science Policy.
Office of Research and Science Integration	Dir, Ofc of Research & Sci Integration.
	Dep Dir, Ofc of Research & Science Integration.
National Health & Environmental Effects Res Lab (RTP)	Dir, Natl Health & Envir Effects Res Lab (RTP).
	Assoc Dir for Health NHEERL (RTP).
	Associate Director for Ecology NHEERL (RTP).
Western Ecology Division—Corvallis	Dir, Western Ecology Division Corvallis.
Gulf Ecology Division—Gulf Breeze	Dir, Gulf Breeze Ecology Division.
National Exposure Research Laboratory (RTP)	Dir, Natl Exposure Res Laboratory (RTP).
	Dep Dir for Management NERL (RTP).
	Assoc Dir for Ecology NERL (RTP).
Environmental Sciences Division—Las Vegas	Dir, Environmental Sciences Division.
Ecosystems Research Division—Athens	Dir, Ecosystems Res Div Athens.
National Risk Mgmt Research Laboratory (Cincinnati)	Dir, Natl Risk Mgmt Lab (Cinn).
	Dep Dir for Mgmt NRML (Cinn).
	Assoc Dir for Health NRML (Cinn).
Air Pollution Prevention and Control Division—RTP	Dir, Air Pollution Prevention & Control Div.
Subsurface Processes and Systems Division—Ada	Dir, Sub—Surface Process & Systems Division.
National Center for Environmental Assessment	Dir, Natl Ctr for Environmental Assessment.
	Associate Director for Health, NCEA.
	Associate Director for Ecology NCEA.
National Center for Environmental Assessment—Washington	Dir, Natl Ctr Environ Assessment.
National Center for Environmental Assessment—RTP	Dir, Natl Ctr Environ Assessment.
National Center for Environmental Assessment—Cincinnati	Dir, Natl Ctr for Environmental Assessment.
Natl Center for Environmental Res & Quality Assurance	Deputy Dir for Mgmt (NCERQA).
	Peer Review Compliance Executive.
	Dir, Environmental Engineer Research Division.
	Associate Director for Science (NCERQA).
	Dir, Natl Ctr for Env Res & Quality Assurance.
Region I—Boston	Regional Counsel.
	Dir, Ofc of Ecosystem Protection.
	Dir, Ofc of Site Remediation Restoration.
	Dir, Ofc of Environmental Stewardship.
	Asst. Regional Administrator.
	Dir, Ofc of Administration & Resources Mgmt.
	Special Assistant to Regional Administrative.
Region II—New York	Director, Environmental Services Division.
	Director, Water Management Division.
	Asst Regl Admr for Policy and Management.
	Dir, Air & Waste Management Division.
	Regional Counsel.
	Dir, Office of Emergency & Remedial Response.
	Dir, Div of Environmental Plnng & Protection.
	Dir, Div of Enforcement & Compliance Asst.
	Dir, Div of Environmental Science & Assessment.
Region III—Philadelphia	Director, Water Management Division.
	Regional Counsel.
	Director, Hazardous Waste Mgmt Div.
	Asst Reg Admin for Policy & Management.
	Dir, Air Management Division.
Region IV—Atlanta	Dir, Chesapeake Bay Program Office.
	Dir, Water Management Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Region V—Chicago	Asst Regional Admin for Policy and Mgmt. Regional Counsel. Director, Waste Management Division. Director, Air Management Division Director, Environmental Services Division. Director, Water Management Division. Director, Resources Management. Regional Counsel. Dir, Waste Pesticides & Toxics Division. Dir, Great Lakes Natl Prog Ofc.
Region VI—Dallas	Director, Superfund Division. Asst Regional Admr for Management. Regional Counsel. Director, Compliance A & E Division. Dir, Superfund Division. Dir, Water Quality Protection Division. Dir, Multimedia Plann & Permitting.
Region VII—Kansas City	Regional Counsel. Asst Regional Admin for Policy & Management. Dir, Superfund Division. Dir, Air RCRA and Toxics Division. Dir, Water Wetlands & Pesticides Division Dir, Ecosystems Protection & Remediation. Dir, Ofc of Pollution Prevention State Tribal. Dir, Ofc of Tech & Mgmt Services.
Region VIII—Denver	Regional Counsel. Director, Water Management Division. Director, Air Management Division. Regional Counsel. Asst Regional Admr for Policy & Management. Dir, Strategic Planning & Emerging Issues.
Region IX—San Francisco	Director, Water Division. Regional Counsel. Director, Hazardous Waste Division. Asst Regl Admr for Policy & Management.
Region X—Seattle	Asst Regl Admr for Policy & Management.
Equal Employment Opportunity Commission: Office of the Chairman	Inspector General. Director, Field Management Programs (East). District Director (Baltimore). Dist Dir (New York). Dist Dir (Atlanta). District Director (Detroit). Dist Dir (Miami). Dist Dir (Memphis). Dist Dir—(Birmingham). Dist Dir—(New Orleans). Dist Dir—(Charlotte). District Director (Cleveland). Dist Dir—(Philadelphia). Program Manager.
Field Management—East	Program Manager. Dir, Field Management Programs (West). Dist Dir (Houston). Dist Dir (San Francisco). Dist Dir (Dallas). Dist Dir (Chicago). Dist Dir—(St. Louis). Dist Dir—(Indianapolis). Program Manager (Los Angeles). Dist Dir—(Denver). Dist Dir—(Phoenix). District Dir—(San Antonio). District Director (Seattle). District Director (Milwaukee).
Field Management—West	Inspector General. Assoc Managing Director/Human Resources Mgmt. Chief, Spectrum Engineering Division. Assistant Bureau Chief for Technology. Chief, Authorization and Evaluation Division.
Federal Communications Commission: Office of Inspector General	Chief, Enforcement Division. Chief, Competitive Pricing Division. Chief, Accounting & Audits Division.
Office of the Managing Director	Chief, Accounting & Audits Division.
Office of Engineering & Technology	
Compliance and Information Bureau	
Common Carrier Bureau	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Mass Media Bureau	Chief, Audio Services Division. Chief, Video Services Division. Chf, Enforcement Div.
Federal Emergency Management Agency:	
Office of the Director	Chief of Staff.
Office of Financial Management	Chief, Financial Officer. Deputy Chief Financial Officer. Senior Procurement Executive.
Office of Human Resources Management	Director, Ofc of Human Resources Management.
Office of Inspector General	Deputy Inspector General. Asst Inspector General for Auditing. Asst Inspector General for Investigations.
Preparedness, Training and Exercises Directorate	Div Dir, State & Local Preparedness Division.
Response & Recovery Directorate	Div Dir, Human Services Support Division. Div Dir, Infrastructure Support Division.
Federal Insurance Administration	Deputy Administrator.
Federal Energy Regulatory Commission (DOE):	
Ofc of Chief Accountant	Deputy Chief Accountant. Dir, Division of Audits. Director, Division of Accounting Systems. Dir, Div of Dam Safety & Inspections.
Ofc of Hydropower Licensing	
Federal Labor Relations Authority:	
Office of the Chair	Solicitor. Chief Counsel.
Office of Member	Chief Counsel.
Office of Member	Chief Counsel.
Federal Service Impasses Panel	Exec Director, FSIP.
Ofc of the Executive Director	Executive Director.
Ofc of the General Counsel	Deputy General Counsel. Director of Operations & Resources Management.
Regional Offices	Regional Director—Washington, D.C. Regional Director—Boston. Regional Director—Atlanta. Regional Director—Dallas. Regional Director, Chicago, Illinois. Regional Director, San Francisco. Regional Director, Denver.
Federal Maritime Commission:	
Office of the Secretary	Secretary.
Office of the General Counsel	Dep Gen Cnsl for Reports, Opinions & Decisions.
Office of the Managing Director	Dep Managing Dir. Deputy Managing Director.
Bureau of Tariffs, Certification and Licensing	Prog Mgr (Dir, Bur of Tariffs C&L).
Bureau of Administration	Dir, Bureau of Administration.
Bureau of Economics & Agreement Analysis	Prog Manager (Dir, Bur of E&A Analysis). Deputy Director, Bureau of Enforcement.
Bureau of Enforcement	Dir, Bureau of Enforcement.
Federal Retirement Thrift Investment Board:	
	Director of Investments.
	Director of Contracts & Administration.
	Director of Automated Systems.
	Director of Benefits and Program Analysis.
	Director of Accounting.
	Director of Communications.
	Deputy General Counsel.
	Associate General Counsel.
Federal Trade Commission:	
Office of the Inspector General	Inspector General.
Ofc of Executive Director	Deputy Exec Dir for Management. Chief Information Officer.
General Services Administration:	
Office of Management Services and Human Resources	Director of Human Services. Dir of Management Services. Dir, Total Quality Management & Training.
Office of Governmentwide Policy	Deputy Associate Admin for Acquisition Policy. Director, Governmentwide Information Systems. Deputy Assoc Administrator for Real Property. Asst Deputy Assoc Adm for Information Technol. Senior Executive, Blue Pages Project.
Office of Inspector General	Director of Intergovernmental Solutions. Deputy Inspector General. Asst Inspector Gen for Auditing.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of the Chief Financial Officer	Deputy Asst Inspector General for Auditing. Counsel to the Inspector General. Asst Inspector Gen for Investigations. Asst Inspector General for Quality Management. Director of Finance. Director of Budget.
Public Buildings Service	Dir of Financial Management Systems. Assistant Commr for Property Management. Assistant Commr for Fed Protective Service. Dep Asst Commissioner for Property Management. Asst Commr for Portfolio Management. Asst Commr for Business Development. Assistant Commr for Property Disposal. Assistant Commissioner for Property Devel. Asst Commissioner for Strategic Innovations. Asst Commissioner for Financial & Info System.
Federal Telecommunications Service	Assistant Commissioner for Serv Development. Assistant Commissioner for Service Delivery. Asst Commr for Info Technology Integration. Assistant Commissioner for Regional Services. Asst Commissioner for S P & Business Dev. Assistant Commr for Network Applications. Asst Commissioner for Acquisition.
Office of the Chief Information Officer	Assistant Chief Information Officer. Assistant Chief Information Officer.
Federal Supply Service	Asst Commr for Quality and Contract Admn. Asst Commissioner for Acquisition. Asst Comr for Transportation & Property Mgt. Asst Comm for Bus Management & Marketing. Asst Comm for Distribution Mgt. Dep Asst Commissioner for Acquisition. Assistant Commissioner for FSS Info Systems.
New England Region	Asst Reg Admr for Public Bldg Service.
Northeast & Caribbean Region	Asst Reg Admr for Public Blds Service.
Mid-Atlantic Region	Asst Reg Admr for Federal Supply Service.
Mid-Atlantic Region	Asst Reg Admr for Public Blds Service.
National Capital Region	Asst Regl Admr, Federal Supply Service.
National Capital Region	Assistant Regional Administrator, FTS.
Southeast Sunbelt Region	Assistant Regional Administrator, PBS, NCR.
Southeast Sunbelt Region	Regional Counsel for National Capital Region.
Southeast Sunbelt Region	Asst Reg Admr for Public Blds Service.
Great Lakes Region	Assistant Reg Admin for Inform Res Mgmt—R-4.
The Heartland Region	Asst Reg Admr for Federal Supply & Services.
Greater Southwest Region	Asst Reg Admr for Public Blds Service.
Greater Southwest Region	Asst Reg Admr for Public Blds Service.
Rocky Mountain Region	Asst Regional Admin for Info Tech Service.
Pacific Rim Region	Asst Reg Admr for Federal Supply Service.
Pacific Rim Region	Asst Reg Admr for Public Blds Service.
Northwest/Arctic Region	Asst Regl Admr for Public Buildings Services.
Northwest/Arctic Region	Asst Reg Admr for Federal Supply Service.
Northwest/Arctic Region	Asst Regional Administrator, PBS Region 10.
Department of Health and Human Services:	
Office of the Deputy Secretary	Regl Health Administrator.
ODAS for Budget	Dir, Division of OS Budget Analysis.
ODAS for Budget	Dir, Div of Integrity & Organ Review.
ODAS for Finance	Dep Asst Sec, Finance.
ODAS for Finance	Dir, Office of Financial Policy.
ODAS for Finance	Dir, Ofc of Financial Operations.
ODAS for Grants & Acquisition Management	Dep Asst Secy, OGAM.
OAS for Planning and Evaluation	Dep to Deputy Asst Secy for Plann & Evaluat.
OAS for Public Health and Science	Dir, Div of Research Investigations.
OAS for Public Health and Science	Dir, Ofc of HIV/AIDS Policy.
OAS for Public Health and Science	Dep Dir, Ofc of Management.
OAS for Public Health and Science	Reg Health Administrator.
OAS for Public Health and Science	Director, Office of Research Integrity.
Associate General Counsel Divisions	Assoc Gen Coun, Business & Adm Law Division.
Office of the Inspector General	Dep Assoc Gen Counl, Bus & Adm Law Div.
Office of the Inspector General	Principal Dep Inspector General.
Office of the Inspector General	Deputy Inspector General for Mgmt & Policy.
ODIG for Investigations	DEO Inspector General for Legal Affairs.
ODIG for Investigations	Dep Insp Gen for Investigations.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
ODIG for Audit Services	Asst Insp General for Criminal Investigations. Asst Insp Gen for Civil & Adm Remedies. Asst Insp Gen for Investigation P & O. Dep Insp General for Enforcement & Compliance. Dep Inspector General for Audit Services.
ODIG for Evaluation & Inspections	Asst Insp Gen for Adm of C/F & Agin Audits. Asst Inspector Gen for Health Care Fin Audits. Asst Inspector Gen for Audit Pol & Oversight. Asst Insp Gen for Public Health Serv Audits. Dep Insp Gen for Evaluation & Inspections. Asst Insp Gen for Analysis & Inspections.
Program Support Center	Dir, Program Support Center.
Office of Financial Management Service	Director, Financial Management Service.
Office of Program Support	Dir Ofc of Financial Management.
Health Care Financing Administration	Director, Ofc of Internal Customer Support.
Office of Associate Admr for Policy	Dir, Ofc of the Actuary (Chief Actuary).
Office Assoc Admr for Operations & Res Management	Director, Ofc of Medicare & Medicaid Cost Est.
Center for Substance Abuse Prevention	Dir, Bureau of Data Management and Strategy. Dep Dir, Bureau of Data Management & Strategy.
Center for Mental Health Services	Director, Office of Financial & Human Res. Director, Office of Financial Management. Deputy Director, Ofc of Financial Management.
Center for Substance Abuse Treatment	Dir Ofc of Benefits Integrity.
Centers for Disease Control & Prevention	Dir, Div of Comm Prevention & Training. Director, Division of Workplace Programs.
Center for Infectious Diseases	Dir, Div of Demonstration for High Risk Pop.
Nat'l Institute for Occupational Safety & Health	Dir, Div of State & Community Systems Dev. Chief, Retrovirus Branch.
Center for Env Health & Injury Control	Dir, Div of Siste & Community Systems Develop.
Center for Chronic Disease Prevention & Hlth Promotion	Dir, Ofc of Scientific Analysis & Evaluation.
Center for Prevention Services	Director, Financial Management Office.
National Center for Health Statistics	Senior Advisor for Minority Health Education. Asst Dir for Laboratory Science.
Food and Drug Administration	Assistant Director for Science. Executive Officer, NIOSH.
Center for Biological Evaluation & Research	Dir Div of Enviromental Health Lab Sciences.
Center for Drug Evaluation & Research	Director, Office on Smoking and Health. Dir, Div of STD/HIV Prevention.
Center for Drug Evaluation & Research	Assoc Dir for Analysis & Epidemiology. Associate Dir, Ofc of P & E Programs.
Center for Drug Evaluation & Research	Assoc Dir for Research & Methodology. Assoc Dir Ofc of Vital & Health Stats Syst.
Center for Drug Evaluation & Research	Assoc Dir for Internal Statistics. Senior Advisor.
Center for Drug Evaluation & Research	Deputy for Scientific & Medical Affairs. Deputy Chief Counsel for Program Review.
Center for Drug Evaluation & Research	Dep Dir, Ofc of Biological Product Review. Dir, Div of Biostatistics & Epidememiology.
Center for Drug Evaluation & Research	Dir, Ofc of Compliance. Dir, Ofc of Therapeutics Research & Review.
Center for Drug Evaluation & Research	Dir, Ofc of Blood Research & Review. Dir, Center for Drug Evaluation & Research.
Center for Drug Evaluation & Research	Director, Office of Management. Assoc Dir for Med Pol Dir Ofc of Drug Eval I.
Center for Drug Evaluation & Research	Dir, Div of Neuropharmacological Drug Prod. Dir, Div of Medical Imaging S&D Products.
Center for Drug Evaluation & Research	Director, Office of Drug Standards. Director, Office of Generic Drugs.
Center for Drug Evaluation & Research	Dep Dir, Office of Generic Drugs. Associate Director for Drug Monograph.
Center for Drug Evaluation & Research	Dir, Ofc of Over-the-Counter Drug Evaluation. Dir, Office of Epidemiology & Biostatistics.
Center for Drug Evaluation & Research	Dep Dir, Ofc of Epidemiology & Biostatistics. Dir, Div of Biometrics.
Center for Drug Evaluation & Research	Dep Dir, Office of Drug Evaluation II. Dir, Div of Anti-Infective Drug Products.
Center for Drug Evaluation & Research	Director, Office of Compliance. Dir, Div of Scientific Investigations.
Center for Drug Evaluation & Research	Director, Division of Biopharmaceutics. Dep Dir, Office of Research Resources.
Center for Drug Evaluation & Research	Dep Ctr for Pharmaceutical Science. Dir, Ofc of Drug Evaluation V.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Center for Food Safety & Applied Nutrition	Director, Office of Seafood. Director, Office of Toxicological Sciences. Associate Dir for Laboratory Investigations. Dir, Division of Chemical Technology. Dir, Ofc of Premarket Approval. Dir, Ofc of Field Programs. Dir, Ofc of Plant & Dairy Foods & Beverages. Director, Office of Food Labeling. Dir, Ofc of Pol, P&S Initiatives.
Center for Devices & Radiological Health	Dir, Office of Standards & Regulations. Dir, Office of Device Evaluation. Dir, Div of Surgical & Rehabilitation Devices. Dir, Division of Cardiovascular Devices. Dir, Div of General & Restorative Devices. Dir, Office of Compliance. Dep Dir, Ofc of Compliance & Surveillance. Dir, Office of Science and Technology. Dep Dir, Ofc of Science & Technology. Dir, Div of Reproductive Abdominal, Ear, Throat. Dir, Ofc of Sys & Management.
Center for Veterinary Medicine	Director, Office of Science. Director, Office of Surveillance. Dir, Ofc of New Animal Drug Evaluation. Dep Dir for HFSCS. Dep Dir, Therapeutic & Production Drug Review. Dir, Div of Biometrics & Production Drugs.
Office of Regulatory Affairs	Assoc Comr for Regulatory Affairs. Dep Assoc Comr for Regulatory Affairs. Regl Food & Drug Director, NE Region. Regl Food & Drug Director, Mid-Atlantic Region. Regl Food & Drug Director, Southeast Region. Regl Food & Drug Director, Midwest Region. Regl Food & Drug Director, Southwest Region. Regl Food & Drug Director, Pacific Region. Dir, Ofc of Criminal Investigations.
National Center for Toxicological Research	Director, Div of Biometry.
Office of Health Affairs	Director, Med Staff, Ofc of Health Affairs.
Office of Management and Systems	Director, Office of Financial Mgmt.
Office of Management	Dir, Parklawn Computer Center.
Bureau of Health Resources Development	Dep Dir, Bureau of Health Resources Dev.
Office of the Director	Director, Div of Financial Management. Director, Division of Contracts & Grants. Dir, Ofc of Protection From Research Risk. Associate Director for Extramural Affairs. Associate Director for Disease Prevention. Dir, Ofc of Medical Applications of Research. Assoc Dir for Information Resource Mgmt. Director, Acquisitions Management. Associate Director for Administration.
Nat'l Heart, Lung, & Blood Institute	Dir, Div of Lung Diseases. Dir, Div of Blood Diseases & Resources. Dep Director, Div of Extramural Affairs. Director, Division of Extramural Affairs. Assoc Dir for International Programs. Dir, Ofc of Biostatics Research. Deputy Dir, Division of Lung Diseases. Dep Dir, Div of Heart Vascular Diseases. Dep Dir, Div of Epidem & Clinical Application.
Intramural Research	Chf, Lab of Biochemical Genetics. Chf, Lab of Biochemistry. Chief, Molecular Hematology Branch. Chief Lab of Biophysical Chemistry. Chief, Laboratory of Chemical Pharmacology. Sr Res Chemist, Laboratory of Cell Biology. Chief, Macromolecules Section. Chf, Intermediary M & B Section. Chf, Lab of Kidney & Electrolyte Metabolism. Chief, Lab of Cardiac Energetics. Chief, Metabolic Regulation Section.
National Cancer Institute	Assoc Dir for Intramural Management. Assoc Director for Extramural Management.
Division of Cancer Biology, Diagnosis and Centers	Dir, Div of Cancer Biology Diagnosis & Ctrs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Division of Cancer Etiology	Dep Dir, Div of Cancer Biology Diag & Centers. Chief, Lab of Cell Biol, Immun Prog, IRP. Chf, Microbial G & B Section, Lab of Biochem. Chief, Lab of Biochem Intramural Res Prog. Assoc Dir, Extramural Research Program. Chief, Dermatology Br, Intramural Res Prog. Chief, Cell Mediated Immunity Section. Chief, Lab of Tumor & Biol Immunology, IRP. Assoc Dir, Ctrs Training & Resources Prog. Chief, Laboratory of Molecular Biology. Dir Div of Cancer Etiology. Chief, Lab of Biology. Chief, Clinical Epidemiology Branch. Chief, Laboratory of Molecular Carcinogenesis. Chf, Lab of Experimental Pathology. Head, Math Statistics & Applied Mathematics S. Head, in Vitro Carcinogenesis Section. Assoc Dir for Chem & Physical Carcinogenesis.
Division of Cancer Prevention & Control	Dep Dir, Div of Cancer Prevention & Control. Assoc Dir, Cancer Prevention Research Prog. Associate Dir, Surveillance Program, DCPC. Assoc Dir, Early D&C Oncology Program.
Division of Extramural Activities	Dir, Div of Extramural Activities.
Division of Cancer Treatment	Deputy Dir, Div of Extramural Activities.
Natl Institute of Diabetes & Digestive & Kidney Dis	Assoc Dir, Developmental Therapeutics Prog. Chf—Radiation Oncology Br. Assoc Dir, Radiation Research Program. Dir, Div Kidney Urologic & Hematologic Diseases. Dir, Division of Extramural Activities. Assoc Dir, Disease Prevention Technol Transfer.
Intramural Research	Chf, Lab of Molecular & Cellular Biology. Dep Dir for Management & Operations. Chief, Section on Biochemical Mechanisms. Chf, Sect on Biochemistry. Chf, Sect on Metabolic Enzymes. Chf, Sect on Physical Chemistry. Chief, Section on Molecular Structure. Chief, Theoretical Biophysics Section. Chief, Laboratory of Bio-Organic Chemistry. Chief, Oxidation Mechanisms Section L B C. Chief, Laboratory of Biochemistry & Metabolism. Clinical Dir & Chief, Kidney Disease Section. Chief, Section on Molecular Biophysics. Chf, Sec Carbohydrates Lab of Chemistry/NIDDK. Chief, Laboratory of Neuroscience, NIDDK. Chief, Epidemiology & Clinical Research Branch. Chf, Laboratory of Medicinal Chemistry. Chief, Morphogenesis Section.
Natl Inst of Arthr & Musculoskeletal & Skin Diseases	Chf, Lab of Physical Biology. Director, Extramural Program. Deputy Dir. Chief, Laboratory of Skin Biology.
National Library of Medicine	Dep Dir, Natl Lib of Medicine. Dep Dir for Res and Education. Associate Director for Library Operations. Assoc Dir for Extramural Programs. Assoc Dir, Specialized Info Services. Dep Dir, Lister Hill Natl Ctr for Biomed Comms. Director, Information Systems. Dir, Natl Ctr for Biotech Info.
Natl Inst of Allergy & Infectious Diseases	Assoc Dir for Health & Info Prog Development. Dir, Div of Allergy/Immunology/Transplantation. Chf, Lab of Parasitic Diseases. Dir, Div of Microbiology/Infectious Diseases. Chief, Lab of Immunogenetics. Dir, Div of Extramural Activities. Ch. Lab of Microbial Structure and Function. Chief, Lab of Molecular Microbiology. Dir, Div Acquired Immunodeficiency Syndrome. Deputy Dir, Division of Extramural Activities. Chief, Biological Resources Branch. Head, Lymphocyte Biology Section. Chief, Laboratory of Infectious Diseases. Dep Dir, Div of Acquired Immunodeficiency.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Natl Inst on Aging	Head, Epidemiology Section. Chief, Laboratory of Malaria Research. Dir, Div of Intramural Research. Dep Chief, Lab of Imm & Head Lymp Biol Section. Scientific Director Gerontology Rsch Cntr. Clin Director and Chief Clin Physiology Br. Chief, Lab of Molecular Aging. Chief, Lab of Cellular & Molecular Biology. Assoc Dir, Biology of Aging Program. Assoc Dir, Office of Extramural Affairs. Assoc Dir, Epidemi, Demo, & Biometry Program. Assoc Dir, Ofc. of Plnng, A & I Activities. Assoc Dir, Neurosci & Neuropsych of Aging Prog.
Natl Inst of Child Health & Human Development	Chief, Laboratory of Molecular Genetics. Chf, Endocrinology & Reproduction Research Br. Director, Ctr Forres for Mothers & Children. Director, Cntr for Population Research. Chief, Section on Growth Factors. Assoc Dir for Prevention Research. Chief, Laboratory of Mammalian Genes & Develop. Chief, Section on Molecular Endocrinology. Chief, Section Neuroendocrinology. Chief, Section on Microbial Genetics. Chief, Laboratory of Comparative Ethology. Associate Director for Administration.
Natl Inst of Dental Research	Dir, Natl Center for Medical Rehab Research. Chief, Laboratory of Immunology. Dir, Extramural Program. Chief, Bone Research Branch. Chief, Epidemiology Branch.
Natl Inst of Environmental Health Sciences	Chief Neurobiology & Anesthesiology Branch. Chf Lab of Pulmonary Pathobiology. Head Mutagenesis Section. Head Mammalian Mutagenesis Section. Dir, Div of Biometry and Risk Assessment. Senior Scientific Advisor. Dir, Div of Toxicology Research & Testing. Associate Director for Management. Chief Lab of Molecular & Integrative Neurosci. Chief Lab of Molecular Carcinogenesis. Head Statistics Section.
Natl Inst of General Medical Sciences	Dir, Natl Inst of Environmental Health Science. Dir, Environmental Toxicology Program. Dep Dir, Natl Institute of General Med Sci. Dir, Genetics Program. Assoc Dir for Program Activities. Dir, Pharmacology & Biorelated Chemistry Pr Br. Dir, Bio Phys Sciences Program Branch. Dir, Minority Opportunities in Res Prog Br.
Natl Inst of Neurological Disorders and Stroke	Dir, Div of Fundamental Neurosciences. Director, Division of Stroke & Trauma. Associate Director for Administration. Dir, Basic Neurosci Prog/Chf/Lab of Neurochem.
Intramural Research	Chf, Lab of Molecular & Cellular Neurobiology. Chief, Lab of Central Nervous System Studies. Chf, Dev & Metabolic Neurology Branch. Deputy Chief, Lab of Central Nervous Sys Stud. HD Cellular Neuropathology Section. Chief, Neuroimaging Branch. Chf, Lab of Neuropathology & Neuroanatomical S. Chief, Biometry & Field Studies Branch. Chief, Laboratory of Neurobiology. Chief, Laboratory of Neura Control. Chief, Brain Structural Platicity Section. Chf, Lab of Viral & Molecular Pathogenesis. Chief, Stroke Branch.
Natl Eye Institute	Chief Laboratory of Retinal Cell & Mol Biolog. Chief, Lab of Molecular & Dev. Biology. Chief, Laboratory of Sensorimotor Research.
Natl Inst on Deafness & Other Communication Disorders	Assoc Dir, Biometry & Epidemiology Prog. Director, Division of Human Communication. Dir. Div of Intra Res, NID & Other Comm Disor.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
NIH Clinical Center	Dir, Div of Extram Act, NID & Other Comm Diso. Dep Dir, Natl Inst on D & O Communication Dis. Chief Laboratory of Cellular Biology. Assoc Dir for Clinical Care/Dir, Clinical Ctr.
Division of Computer Research & Tech	Associate Director for Planning. Assoc Chf, Position Emission T & R. Deputy Director for Management and Operations. Chief, Computer Center Branch. Chief, Physical Sciences Lab. Deputy Director.
John E. Fogarty Intl Center	Assoc Dir, Ofc of Computing Resources Services.
National Center for Research Resources	Assoc Dir for Intl Advanced Studies. Dir, Natl Center for Research Resources. Dir, Gen Clinical Res Ctr for Res Resources. Dir, Biomedical Engr & Instrumentation Branch. Dep Dir, Natl Center for Research Resources. Associate Director for Referral and Review. Assoc Dir for Statistics & Analysis.
Division of Research Grants	Director, National Cntr for Nursing Research.
National Center for Nursing Research	Deputy Director.
National Center for Human Genome Research	Dir Div of Intramural Res Natl Ctr H G R. Chief Diag Devel Br Natl Ctr Human Gen Res. Chf, Lab of Genetic Dis Res Natl Ctr for Hgr. Assoc Dir for Planning & Resources Management. Dir, Office of Extramural Program Review. Director Division of Clinical Research. Dir, Medications Development Division. Director, Addiction Research Center. Chief, Neuroscience Research Branch.
National Institute of Drug Abuse	Dep Dir, National Institute of Mental Health Associate Director for Special Populations. Associate Director for Prevention. Exec Ofcr, Natl Institute of Mental Health. Dir. Ofc of Legislative Analysis & Coord. Dir. Div of Neuroscience & Behavioral Sci. Director, Division of Extramural Activities. Dir, Div of Intramural Res Programs. Dep Dir Div of Intramural Res Programs. Chief, Neuropsychiatry Branch. Chief, Child Psychiatry Branch. Chief, Biological Psychiatry Branch. Chief, Laboratory of Clinical Science. Chief, Section of Histopharmacology.
National Institute of Mental Health	Dir. Natl Institute on Alcohol A & A Director, Division of Basic Research. Dir. Div of Biometry & Epidemiology. Chief Laboratory of Clinical Studies.
National Institute on Alcohol Abuse & Alcoholism	Dir Ctr for Outcomes & Effectiveness Research. Dir. Ctr for Gen Health Serv Intramural Res. Dir, Ctr Gen Health Svce Extramural Research. Dir, Ofc of Sci & Data Dev/Agcy for HCP & Res.
Agency for Health Care Policy & Research	Assoc Gen Coun for Program Enforcement. Deputy Inspector General. Asst Inspector General for Investigations. Assistant Inspector General for Audit. Asst Inspector General for Management & Pol. Deputy Asst Inspector Gen for Audit Operation. Dep Asst Inspector Gen for P & O. Dep Asst Inspector General for Investigation. Counsel to the Inspector General.
Department of Housing and Urban Development:	Assoc Dep Chief Financial Officer for Account.
Office of the General Counsel	Dep Chief Financial Officer for Accounting. Dep Chief Financial Officer for Finance.
Office of the Inspector General	Deputy Director, Office of Human Resources. Dir. Ofc of Budget. Dep Dir, Ofc of Budget. Director Ofc of Procurements & Contracts. Special Advisor/Comptroller.
Office of the Chief Financial Officer	Director Office of Financial Services. Dir Ofc of Multifamily Asset Management Dispo.
Assistant Secretary for Administration	
Assistant Secy for Housing	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Asst Secy for Fair Housing and Equal Opportunity	Housing/Fed Housing Adm Comptroller. Dir of Multifamily Housing Development. Housing-FHA Deputy Comptroller. Program Systems Project Officer.
Office of Departmental Equal Opportunity	Director, Office of Investigations. Dir, Ofc of Fair Housing I & V Programs.
Asst Secy for Community Planning and Development	Dep Dir Ofc of Equal Employment Opportunity. Dir, Ofc of Departmental Equal Employ Opport.
Government National Mortgage Association	Director, Office of Economic Development. Director, Ofc of Community Viability.
Asst Secy for Public and Indian Housing	Vice President for Finance. Vice President, Ofc of Pol, P & R Management. Vice President Ofc of Customer Service. VP Office of Multifamily Programs.
Asst Secy for Public and Indian Housing	Gen Dep Asst Secy for Public & Indian Housing. Public & Indian Housing-Comptroller. Dep Asst Secy for Public & Asst Housing Oper. Deputy Public & Indian Housing Comptroller. Dep Dir to Dep Asst for Pub Asst Housing. Dir, Ofc of Public Housing Partnership. Director Office of Troubled Agency Recovery.
Department of the Interior:	
Office of the Inspector General	DAssistant Inspector General for Auditing. Asst Inspector General for Investigations. General Counsel.
Office of the Solicitor	Deputy Asst Inspector General for Audits. Deputy Assoc Solicitor, General Law. Asst Solicitor Bureau of Parks and Recreation. Deputy Associate Solicitor—Mineral Resources. Associate Solicitor for Administration. Dep Associate Solicitor—Energy & Resources. Dep Associate Solicitor—Indian Affairs.
Assistant Secretary—Policy, Management and Budget	Asst Dir for Economics. Manager, Science and Engineering. Natural Resource Damage Assessment Prog Mgr. Dir, Ofc of Fin Mgmt & Dep Chf Fin Officer. Chief Div of Budget & Program Review. Chief Div of Budget Admin. Deputy Agency Ethics Staff Officer.
National Park Service	Park Manager—Grand Canyon. Park Manager—Yosemite (Superintendent). Park Manager Everglades. Park Manager—Yellowstone (Superintendent). Asst Dir, Design & Construction (Mgr. DSC). Park Manager—Independence Natl Historic Park. Deputy Regl Director—Atlanta.
Field Offices	Executive Dir Regional Ecosystem Office. Research Director.
U.S. Fish and Wildlife Service	Director, Technical Services Center. Spec Asst to the Dir, Reclamation Serv Center. Project Manager/Arizona Projects Office. Director, Management Services Office.
Field Offices	Chief, National Mapping Division. Assoc Chief Programs & Finances. Associate Chief for Operations.
Field Offices	Chief, Eros Data Center. Chief Mid-Continent Mapping Center. Chief Rocky Mountain Mapping Center. Chief Mapping Applications.
Water Resources Division	Chief Hydrologist. Assoc Chief Hydrologist. Asst Chf Hydrologist for Operations. Chief, Natl Water Quality Assessment (NAWQA). Asst Chief Hydrologist for Tech Support. Asst Chief Hydrologist for Water Information. Chf, Ofc of Hydrologic Research. Chf, National Water Data Exchange Program.
Field Offices	Regional Hydrologist. Regl Hydrologist Southeastern Region. Regional Hydrologist, Western Region. Regional Hydrologist, Northeastern Region.
Geologic Division	Chief Geologist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Biological Resources Division	Chief, Ofc of Scientific Publications. Assoc Chf Geologist. Chf Ofc of Mineral Resources. Assistant Chief Geologist for Programs. Dep Asst Dir—Pol, Budget, & Administration. Asst Dir for Information & Technology Service.
Field Offices	Spec Asst to the Reg Dir Research & Develop. Assistant Director for Inventory & Monitoring. Director National IRM/Center.
Bureau of Land Management	International Tech Asst Program Manager. Helium Program Administrator.
Office of Surface Mining	Regional Director. Regional Director. Regional Director.
Minerals Management Service	Associate Dir for Policy and Mgmt Improvement. Chief, Leasing Management Division. Assistant Assoc Dir for Offshore Minerals Mgt. Special Assistant to the Director
Field Offices	Regional Director, Gulf of Mexico OCS Region. Regional Manager, Alaska OCS Region. Regional Manager, Pacific OCS Region. Dep Associate Dir for Offshore Operations. Dep Assoc Dir for Audit. Dep Assoc Dir for Valuation & Operations. Deputy Assoc Director for Administration. Dep to the Dir Indian Education Programs. Special Assistant (Special Projects Officer).
Bureau of Indian Affairs	Special Assistant (Special Projects Officer).
Field Offices	Special Assistant (Special Projects Officer).
International Development Cooperation Agency:	
Office of the General Counsel	Deputy General Counsel. Asst General Counsel for Ethics & Adm. Asst Inspector General for Security. Asst Inspector General for Investigations. Counsel to the Inspector General. Deputy Inspector General.
Office of the Inspector General	Dir Ofc of Equal Opportunity Programs. Assoc Asst Admr Center for Economic Growth. Senior Deputy Assistant Administrator. Dep Asst Admr Ctr for Pop, H/N BFGP, FS/RES. Associate Assistant Administrator.
Office of Equal Opportunity Programs	Deputy Asst Administrator.
Bureau for Global Programs, Field Support and Research	Deputy Asst Admr Bureau for Management. Chf Fin Ofcr, Office of Financial Management. Dep Director, Office of Financial Management. Dir, Office of Information Resource Management. Deputy Director Ofc of Procurement. Deputy Director, Ofc of Procurement. Director, Office of Financial Mgmt. Deputy Director, Office of Human Resources. Dir, Ofc of Admin Services.
Bureau for Europe and the New Independent States	Deputy Asst Admr Bureau for Management. Chf Fin Ofcr, Office of Financial Management. Dep Director, Office of Financial Management. Dir, Office of Information Resource Management. Deputy Director Ofc of Procurement. Deputy Director, Ofc of Procurement. Director, Office of Financial Mgmt. Deputy Director, Office of Human Resources. Dir, Ofc of Admin Services.
Bureau for Management	Deputy Asst Admr Bureau for Management. Chf Fin Ofcr, Office of Financial Management. Dep Director, Office of Financial Management. Dir, Office of Information Resource Management. Deputy Director Ofc of Procurement. Deputy Director, Ofc of Procurement. Director, Office of Financial Mgmt. Deputy Director, Office of Human Resources. Dir, Ofc of Admin Services.
Department of Justice:	
Office of the Attorney General	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel. Deputy Inspector General. Asst Inspector General for Inspections. Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. General Counsel. Dir, Special Investigational Review. Dir, Exec Ofc for Organ Crime Drug Enfor Task Director, Office of Legal Education. Deputy Director, Financial Management Staff. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration Deputy Asst Attorney General. Dep Asst Attorney Gen Human Res/Admin. Dir, Security & Emergency Plnng Staff. Dir, Library Staff. Dir, Facilities and Administrative SVC Staff. Associate Asst Attorney General Legal Counsel.
Ofc of the Legal Counsel	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel. Deputy Inspector General. Asst Inspector General for Inspections. Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. General Counsel. Dir, Special Investigational Review. Dir, Exec Ofc for Organ Crime Drug Enfor Task Director, Office of Legal Education. Deputy Director, Financial Management Staff. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration Deputy Asst Attorney General. Dep Asst Attorney Gen Human Res/Admin. Dir, Security & Emergency Plnng Staff. Dir, Library Staff. Dir, Facilities and Administrative SVC Staff. Associate Asst Attorney General Legal Counsel.
Office of the Inspector General	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel. Deputy Inspector General. Asst Inspector General for Inspections. Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. General Counsel. Dir, Special Investigational Review. Dir, Exec Ofc for Organ Crime Drug Enfor Task Director, Office of Legal Education. Deputy Director, Financial Management Staff. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration Deputy Asst Attorney General. Dep Asst Attorney Gen Human Res/Admin. Dir, Security & Emergency Plnng Staff. Dir, Library Staff. Dir, Facilities and Administrative SVC Staff. Associate Asst Attorney General Legal Counsel.
Office of the Deputy Attorney General	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel. Deputy Inspector General. Asst Inspector General for Inspections. Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. General Counsel. Dir, Special Investigational Review. Dir, Exec Ofc for Organ Crime Drug Enfor Task Director, Office of Legal Education. Deputy Director, Financial Management Staff. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration Deputy Asst Attorney General. Dep Asst Attorney Gen Human Res/Admin. Dir, Security & Emergency Plnng Staff. Dir, Library Staff. Dir, Facilities and Administrative SVC Staff. Associate Asst Attorney General Legal Counsel.
Justice Management Division	Counsel on Professional Responsibility. Dep Counsel on Professional Responsibility. Special Counsel. Special Counsel. Deputy Inspector General. Asst Inspector General for Inspections. Assistant Inspector General for Audit. Assistant Inspector General for Investigation. Asst Inspector Gen for Management & Planning. General Counsel. Dir, Special Investigational Review. Dir, Exec Ofc for Organ Crime Drug Enfor Task Director, Office of Legal Education. Deputy Director, Financial Management Staff. Correctional Prog Ofcr/Sr Dep Asst Dir Prd. Asst Attorney General for Administration Deputy Asst Attorney General. Dep Asst Attorney Gen Human Res/Admin. Dir, Security & Emergency Plnng Staff. Dir, Library Staff. Dir, Facilities and Administrative SVC Staff. Associate Asst Attorney General Legal Counsel.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	Dir, Telecommunications Services Staff. Associate Assistant Attorney General. Director, Management and Planning Staff. Director, Budget Staff. Senior Management Counsel. Procurement Executive. Senior Policy Advisor. Dep Asst Attorney General, Info Res Mgt. Dir, Procurement Services Staff. Dir, Systems Technology Staff. General Counsel. Dir, Equal Employment Opportunity Staff. Senior Counsel.
Office of the Controller	Dep Asst Attorney General; Controller Dir, Finance Staff.
Office of Human Resources and Administration	Dep Asst Atty Gen for Debt Collection. Asst Dir, Management Planning Staff.
Office of Info & Admin Services	Director, Personnel Staff Director, Ofc of Atty Pers Mgmt
Executive Office for Immigration Review	Director, Computer Services Staff Director, Information Mgmt & Security Staff. Dir, Legal and Informations Systems Staff.
Antitrust Division	Chief Immigration Judge. Assistant to the Director. Associate Director. Chairman, Board of Immigration Appeals. General Counsel. Chief Admin Hearing Officer.
Office of Litigation	Senior Litigator. Executive Officer. Chief, Computers and Finance Section. Senior Litigator.
Civil Division	Dep Dir of Operations. Chief, Competition Policy Section. Director of Management Programs.
Commercial Litigation Branch	Deputy Director, Commercial Litigation Branch. Appellate Litigation Counsel. Spec Litigation Counsel (Foreign Litigation). Spec Litigation Coun, C/L Branch.
Federal Programs Branch	Deputy Branch Director/Commercial Litigation. Deputy Branch Dir, Civil Frauds. Special Litigation Counsel (Federal Programs). Deputy Branch Director.
Torts Branch	Spec Litigation Counsel. Spec Litigation Counsel. Deputy Branch Director. Deputy Branch Director. Deputy Branch Director.
Civil Rights Division	Director, Office of Consumer Litigation. Special Litigation Counsel.
Environment and Natural Resources Division	Executive Officer. Senior Litigation Coun, Attorney-Examiner. Dep Chf, Environmental Enforcement Section.
Office of Environmental Resources	Principal Deputy Chief Environ Enforce Sec. Chief, Civil Trial Section, Southwestern Region. Executive Officer.
Tax Division	Special Litigation Counsel. Sr Trial Attorney. Special Litigation Counsel. Spec Litigation Counsel.
Deputy Assistant Attorney General—I	Asst Commissioner for Detention & Deportation. Asst Commissioner for Adjudication & Natural. Assistant Commissioner for Border Patrol. Asst Comm for Employer & Labor Relations. Director of Internal Audit. Director of Security. Asst Comr, Budget. Regional Director, Central Region. Asst Commissioner, Administration. Chief Patrol Agent. District Director. Chief Patrol Agent
Immigration and Naturalization Service	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Associate Commissioner for Examinations	District Dir, Western Reg, Phoenix District Asst Commissioner Data Systems.
Associate Commissioner for Enforcement	Asst Comm for Inspections.
Executive Associate Commissioner for Management	Assistant Commissioner for Investigations.
	Assistant Comr, Human Resources & Development.
	Asst Commr for Personnel & Training.
Regional Offices—INS	District Director, Newark District.
	District Director, Newark, District.
Community Relations Service	Regl Director, Region IX, San Francisco.
Ofc of the Associate Attorney General	Deputy Associate Attorney General.
	Executive Officer (Principal Assoc Director).
Executive Ofc for U.S. Attorneys	Dir Ofc of Mgnt Information Systems Support.
	Dir, Office of Administration & Review.
	Dep Dir for Operations.
Criminal Division	Deputy Chief, Fraud Section.
	Dir, Ofc of Asset Forfeiture.
	Special Coun for International Programs.
	Senior Counsel.
	Senior Appelleate Counsel.
	Senior Counsel.
	Executive Officer.
	Dir, Intl Criminal Invest Train Asst Program.
	Chief, General Litigation & Legal Advice Sect.
	Senior Counsel for Natl Security Matters.
	Dep Chief Terrorism & Violent Crime Section.
Ofc of Senior Counsels	Sr Counsel for Litigation.
Ofc of Deputy Asst Attorney General I	Counsel to the Office Fraud Section.
Ofc of Deputy Asst Attorney General II	Chf, Public Integrity Section.
	Deputy Chief, Public Integrity Section.
Ofc of Deputy Asst Attorney General III	Dep CHF, Gen Litigation & Legal Advice Sect.
Federal Bureau of Prisons	Asst Dir for Planning and Development.
	General Counsel.
	Assoc Commr, Fed Prisons Industries, UNICOR.
	Dep Assoc Commr, Fed Prison Industries.
	Deputy Associate Commissioner.
	Warden, Ft Worth, Texas.
	Warden, Marianna, FL.
	Asst Director for Human Res Mgmt.
	Asst Director for Program Rev.
	(Warden) Miami, FL.
	Senior Deputy Asst, Dir Health Services Div.
	Assistant Dir, Program Review Division.
	Sr Dep Asst Dir, Federal Prison Industries.
	Regional Director Mid Atlantic Division.
	Correctional Institution Administrator.
	Asst Dir., Community Corrections & Detention.
	Asst Dir, Info, Pol, & Public Affrs Div.
	Warden, Talladega, AL.
	CIA (Warden) FCI, Texarkana, Texas.
	Sen Dep Asst Dir, Health Services Division.
	Correctional Institution Admin (Warden).
	Sr Dep Regl Director, Mid-Atlantic Region.
	Gen Counsel, Fed Prison Industries (UNICOR).
	Warden, Allenwood, Pennsylvania.
	Sr Mgt Counsel, (Federal Bureau of Prisons).
	(Warden) Fort Dix, NJ.
	(Warden) FCC, Floren, CO.
	Correctional Inst Admr (ARD) Scr, Dallas, TX.
	Corrl Inst Admr (SDAD), CC & D Div, Wash, DC.
	Warden, USP, Florence, CO.
	CIA (Warden) Fed Medical Center Carswell, TX.
	CIA (Warden), U.S. Penitentiary, Allenwood, PA.
	(Warden), FTC, Oklahoma, OK.
	Senior Dep Asst Dir (Administration).
	CIA (Warden) Fed Cortl Inst/EI Reno, OK.
	CIA (Warden) Fed Medical Center/Miami, FL.
	Correctional Prog Offcr/Sr Dep Regl Dir.
	Correctional Inst Admr (Warden) Fci.
	Correctional Program Officer.
	Correctional Prog Officer (WFCI, ESTILL, SC).
	Correctional Prog Officer (Warden FED CI, SC).
Office of Correctional Programs	Asst Dir Correctional Programs Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Northeast Region	Regional Director, Northeast Region. Warden, Lewisburg, PA. Warden Danbury, Conn. Warden, McKean, PA. Senior Deputy Regional Director. (Warden), Oakdale, LA. Correctional Institution Admr (Warden). Correctional Institution Admr (Warden, USP).
Southeast Region	Regional Director, Southeast Region. Warden, Atlanta. Warden, Lexington Kentucky. Warden, Butner, North Carolina.
North Central Region	Regional Director, North Central Region. Warden, Leavenworth Kansas. Warden, Springfield, MO. Warden, Marion, IL. Warden, Terre Haute, IN. Correctional Institution Admr. Warden, Fed Correctional Institution. Correctional Institution Admr (Warden).
South Central Region	Regional Director, South Central Region. Warden, El Reno, Okla. Warden, Memphis TN.
Western Region	Regional Director, Western Region. Warden Terminal Island, CA. Warden, Lompoc, CA. Warden, Los Angeles, CA. Warden, Phoenix, AZ. Warden Federal Correctional Institution. Correctional Institution Admr (Warden).
Ofc of Justice Programs	Senior Counsel.
National Institute of Justice	Asst Dir, Ofc of Dev Testing & Dissemination.
Bureau of Justice Statistics	Deputy Dir, Bureau of Justice Statistics. Princl Dep Dir, Bureau of Justice Statistics.
U.S. Marshals Service	Associate Director of Administration. Assistant Director for Inspections. Comptroller. Assistant Director for Human Resources. Special Projects Officer. Associate Director for Operations Support. Associate Director for Administrative Serv. Assoc Director for Operational Support. Senior Management Advisor. Assistant Director for Prisoner Services. Assistant Director for Business Services. Assistant Director for Executive Service. Assistant Director for Investigative Servs. Assistant Director for Judicial Security. Asst Director for Organizational Development. Assistant Director for Training.
Department of Labor	
Ofc of the Inspector General	Deputy Inspector General Asst Inspector General for Investigations. Asst Inspector Gen for Audit. Deputy Assistant Inspector General for Audit. Asst Inspector Gen for Labor Racketeering. Asst Inspector Gen for Mgmt & Counsel.
Office of the Solicitor	Deputy Solicitor (Regional Operations). Associate Solicitor for Labor-Management Laws. Assoc Solicitor for Plan Benefits Security. Assoc Solicitor for Civil Rights. Assoc Solicitor for Occupational Safety & Hlt. Assoc Solicitor for Mine Safety & Health. Assoc Solicitor for Fair Labor Standards. Assoc Solicitor for Employee Benefits. Assoc Sol for Spec Appel & Sup Court Lit. Dep Solicitor for Planning and Coordination. Associate Solicitor for Black Lung Benefits.
Regional Solicitors	Regional Solicitor. Regional Solicitor Region IV—Atlanta. Regl Solicitor Boston. Regl Solicitor New York.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
OAS for Administration and Management	Regional Solicitor Philadelphia. Regl Solicitor Dallas. Regl Solicitor Kansas City. Regl Solicitor San Francisco. Das for Admin & Mgmt/Chf Information Ofcr. Director of Human Resources. Director of Information Technology. Dir, Administrative & Procurement Programs. Deputy Chief Financial Officer. Dir, Ofc of Fin Integrity. Deputy Assistant Secy for Budget. Director, Business Operations Center. Director of Civil Rights. Dir of Program Devel for Human Resources. Dir, Div of Agency Programs. Dir, Ofc of Mgmt, Administration and Planning.
Office of Management, Administration and Planning	
Ofc of Federal Contract Compliance Programs	Director, Division of Programs Operations.
Wage and Hour Division	Asst Admin for Policy Planning & Review. Dep, Wage & Hour Admin. Dep, Natl Ofc Program Administrator.
Ofc of Workers Compensation Programs	Dir, Federal Employees Compensation.
Pension & Welfare Benefits Administration	Dir, Coal Mine Workers Compensation. Dir of Regulations & Interpretations. Dep Asst Secy for Program Operations. Director of Exemption Determinations. Senior Policy Advisor. Regional Director. Regional Director. Regional Director. Regional Director. Dir of Enforcement.
Bureau of Labor Statistics	Deputy Commissioner. Associate Commissioner for Field Operations. Assoc Commr for Publications & Spec Studies. Asst Commr for Consumer Prices/Price Indexes. Asst Commr for Fedl/State Coop Stat Programs. Assoc Commissioner for Employment Projections. Assoc Comr for Prices and Living Conditions. Assoc Commr, Productivity & Technology. Assoc Commissioner/Survey Methods Research. Assoc Comm for Employment & Unempl Statistics. Asst Commr for Consumer Prices & Price Indexes. Asst Commr for Indust Prices & Price Indexes. Assistant Commissioner for Economic Research. Asst Commissioner for Federal-State Programs. Asst Commissioner for Current Employ Analysis. Asst Commr for Compensation Levels & Trends. Asst Commr for Safety, H & W Conditions. Assoc Commr Compensation & Working Conditions. Asst Comm for Survey Methods Research. Asst Comm for International Prices.
Data Analysis	
Administrative and Internal Operations	Associate Commissioner for Administrative. Director of Survey Processing. Dir of Technology & Computing SVCS. Asst Commr for Technology & Survey Processing. Dir Quality & Info Management. Comptroller. Admr, Ofc of Financial & Administrative Mgmt. Dir, Ofc of Information Resources Management. Dir, Adm Progs. Dir, Health Standards Programs. Director Safety Standards Programs. Director, Federal/State Operations. Director, Technical Support. Chf of Standards, Regulations & Variances. Director of Administration and Management. Director of Technical Support. Director of Prog Evaluation & Info Resources.
Office of Financial & Administrative Management	
Administrative Programs	
Health Standards Programs	
Safety Standards Programs	
Federal/State Operations	
Technical Support	
Mine Safety and Health Administration	
Merit Systems Protection Board:	
Office of the General Counsel	Deputy General Counsel.
Office of the Clerk of the Board	Clerk of the Board.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Policy and Evaluation	Director, Office of Policy & Evaluation.
Office of Planning & Resource Management Services	Director of Office of Administration.
Office of Regional Operations	Director, Office of Regional Operations.
Atlanta Regional Office	Regional Director, Atlanta.
Central Regional Office	Regional Director, Chicago.
Philadelphia Regional Office	Regional Director, Philadelphia.
San Francisco Regional Office	Regional Director, San Francisco.
Philadelphia Office	Regional Director, Washington, D.C.
National Aeronautics and Space Administration:	
Ofc of the Administrator	Technical Assistant to the Chief Engineer.
Office of the Chief Financial Officer/Comptroller	Dir, Systems Analysis Division.
	Deputy Chief Financial Officer.
	Director, Financial Management Division.
	Director, Resources Analysis Division.
Office of Headquarters Operations	Deputy Dir, Financial Management Division.
	Chief, Information Syst & Technol Office.
Office of Equal Opportunity Programs	Director, Headquarters Acquisition Division.
	Director, Discrimination Complaints Division.
	Director, Multicultural Prog & Support Div.
Office of Human Resources & Education	Manager, Minority University Programs.
	Associate Administrator for Human Resources.
	Director, Education Division.
	Director, Personnel Division.
	Director, Management Systems Division.
	Dep Assoc Adm for Human Res & Education.
Office of Procurement	Special Asst to the Associate Admr.
	Asst Admr for Procurement.
	Director, Program Operations Division.
	Director, Procurement Policy Division.
	Dep Assistant Administrator for Procurement.
	Dir, Contract Management Division.
	Director, Analysis Division.
Office of External Relations	Dep Assoc Admin for Pol Coord & Intel Relation.
Defense Affairs	Director, Space Flight Division.
Space Flight	Spec Asst to the Dir, Intl Relations Div.
Policy Coordination	Manager, International Technol Transfer Pol.
Office of Management Systems & Facilities	Special Assistant to the Assoc Administrator.
Security, Logistics & Industrial Relations	Dir, Logistics & Security Division.
Aircraft Management	Director, Aircraft Management Office.
Information Resources Management	Director, Information Resources Mgmt Division.
Facilities Engineering	Deputy Director, Facilities Engineering Div.
	Dir, Environmental Management Division.
	Director Facilities, Engineering Division.
Office of Small & Disadvantaged Business Utilization	Assoc Admr for S&D Business Utilization.
Office of Legislative Affairs	Dep Assoc Admin.
	Dep Assoc Admin for Programs.
Office of Space Flight	Tech Asst to Dep Assoc Admin for Space Shuttle.
	Director, Advanced Project Office.
	Senior NASA Representative.
	Deputy Assoc Admr for Space Communications.
Institutions	Deputy Associate Admr for Business Mgmt.
	Techn Asst to the Dep Assoc Adm for Bus Mgmt.
Chief Engineer	Tech Asst to the Chief Engineer.
	Senior Engineer.
Mission Director	Asst Mission Dir, Mir.
Space Shuttle Program	Manager, Space Shuttle Syst Integration.
	Mgr, Natl Space Trans Syst Integration & Ops.
	Manager, Safety & Obsolescence.
Space Station Program	Manager, Strategic Utilization & Ops Office.
	Deputy Director, Space Station Program.
	Senior Engineer, Space Station Program.
Johnson Space Center	Chief Financial Officer.
	Director of Human Resources.
	Dir of Tech Transfer & Commercialization.
	Chief Information Officer.
	Deputy Chief Information Officer.
	Manager, Phase One Program Office.
	Dep Manager, Johnson Space Ctr Projects Office.
	Associate Director, (Technical).
	Assistant Director, Space Operations.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Space Operations Office	Manager, Advanced Communications Operations. Technical Assistant for External Reviews. Associate Director (Management). Manager, Space Operation Mgmt Office. Manager, Space Ops Engineering Office. Director, Space Operations Office.
Space Station Program Office	Deputy Dir, Space Operations Office. Space Station Program Manager. Space Station Vehicle Manager. Director, Management Operations. Deputy Space Station Vehicle Manager. Manager International Partners Office. Tech Asst to the Mgr, Space Station Program. Dep Program Manager for Business Management. Deputy Program Mgr, for Technical Development.
Space Shuttle Program Office	Manager, Research Programs. Mgr, Space Shuttle Vehicle Engineer Ofc. Mgr, Space Shuttle Mgmt Integration Office. Manager, Shuttle Projects Office (MSFC). Mgr, Launch Integration (KSC). Director, Space Shuttle Operations. Mgr, Space Shuttle Business Office.
Mission Operations	Asst Mgr Space Shuttle Prog Space Flight O/C. Asst Manager, Space Shuttle Program. Director, Mission Operations. Assistant to the Asst Dir for Program Support. Chief Flight Director Office. Deputy Director, Mission Operations. Assistant Director for Program Support. Asst Dir for Operations. Chief Integrated Planning System Office.
Flight Crew Operations	Chief, Simulator & Operations Technology Div. Chief, Aircraft Operations Division. Dep Dir, Flight Crew Operations. Deputy Director, Engineering.
Engineering	Chief, Structures and Mechanics Division. Chief, Crew & Thermal Systems Division. Chief, Automation, R & S Division. Director, Engineering. Chief, Engineer Space Station Program. Chief, Avionic Systems Division. Assistant to the Director, Engineering. Deputy Chief, Avionic Systems Division. Chief, Aeroscience & Flight Mechanics Div. Manager, Advanced Development Office. Deputy Mgr, Advanced Development Office. Asst Mgr, Advanced Development Office. Deputy Manager for Exploration. Special Assistant for Program Planning.
Space & Life Sciences	Chief, Medical Sciences Division. Assistant Director for Engineering. Assistant to the Director for Russian Progs. Chief, Flight Crew Support Division. Assistant Director for Space Science. Deputy Director, Space and Life Sciences. Manager, Science Payloads Management Office. Chief, Solar System Exploration Division.
Information Systems	Director, Business Manager. Director, Information Systems. Procurement Officer. Assistant Director, Business & Info Systems. Special Assistant to the Director.
Business Management	Special Assistant for Facility Management. Dir, Center Operations. Deputy Director, Center Operations.
Center Operations	Dir, Safety, Reliability, & Quality Assurance. Dep Dir, Safety, Reliability & Qual Assurance. Deputy Director for Russian Projects. Dummy.
Safety, Reliability & Quality Assurance	Manager, NASA White Sands Test Facility. Dir, Public Affairs. Associate Director.
White Sands Test Facility	
Kennedy Space Center	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Shuttle Management & Operations	Manager, Spacelab Carrier Prog. Ass Dir for Advanced Devel & Shuttle Upgrades. Dir, Space Station Hardware Integration Ofc. Director Safety & Reliability. Deputy Director for Planning and Projects. Dir, Shuttle Logistics Project Management. Dir of Shuttle Mgmt & Operations. Director, Ground Engineering. Deputy Manager, Launch Integration. Director, Process Integration. Deputy Dir of Shuttle Processing.
Safety, Reliability & Quality Assurance	Director, Process Engineering. Director, Safety and Reliability. Director, Quality Assurance.
Engineering Development	Deputy Director of Engineering Development. Dir, Mechanical Engineering. Director, Electronic Engineering.
Installation Management & Operations	Director, Installation Mgmt & Operations. Director, Facilities Engineering.
Payload Management & Operations	Deputy Dir, of Installation Mgmt & Operations. Director, Logistics Operations. Deputy Director, Payload Operations.
Procurement	Dir, Inter Space Station Launch Site Support. Director, Procurement.
Biomedical Operations & Research	Director, Biomedical Ops & Res Office.
Marshall Space Flight Center	Dir, Systems Safety & Reliability Office. Director, Procurement Office. Chief Financial Officer.
	Director, Safety & Mission Assurance Office. Dir, Human Res & Administrative Support Ofc.
	Associate Director. Assistant to the Center Dir for Space Station.
	Director, Advanced Transportation Syst Office. Associate Director (Technical).
	Manager, Space Transportation Prog Office. Dep Dir, Human Res & Adm Support Division.
	Manager X-34 Program. Assistant to the Manager, X-34 Program.
Program Development	Deputy Director, Program Development. Director, Preliminary Design Office.
	Deputy Manager, Technology Transfer Office. Dir, Research & Technology Office.
Science & Engineering	Director, Space Sciences Lab Director, Propulsion Laboratory. Director, Syst Anal & Integration Laboratory.
	Dep Dir, Structures & Dynamics Laboratory. Deputy Dir, Materials & Processes Laboratory.
	Dep Dir, Mission Operations Laboratory. Dep Dir, Syst Anal & Integration Laboratory.
	Deputy Director, Propulsion Laboratory. Dir, Astrionics Laboratory.
	Dir, Structures Dynamics Laboratory. Deputy Director, Structures & Dynamics Lab.
	Chief Engineer, Space Shuttle Main Engine Proj. Asst Director, Science & Engineering.
	Dep Dir for Space Transportation Systems. Manager, Space Station Furnace Facility.
	Deputy Manager for Development. Director, Mission Operations Laboratory.
	Dep Manager, Super Lightweight External Tank. Deputy Director, Space Sci Laboratory.
	Chf Eng. Reusable Launch Vehicle Project. Assistant Director, Science & Engineering Dir.
Institutional & Program Support	Dir, Info Systems Office. Dir, Institutional & Program Support.
	Dep Dir, Institutional & Program Support. Director, Facilities Office.
	Dir, Environmental Engineering & Mgmt Office. Manager, External Tank Project.
Space Shuttle Projects	Mgr, Solid Rocket Booster Project. Manager, Space Shuttle Main Engine Projects.
	Manager, Reusable Solid Rocket Motor Project.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Science & Applications Projects	Chief, Engineer Space Shuttle Main Engine Prog. Manager, Global Hydrology Research Office.
Observatory Projects	Dep Dir, Science & Engineering. Dir, Materials & Processes Laboratory. Manager, Microgravity Projects. Manager, Microgravity Research Program Office.
Payload Projects	Manager, Observatory Projects Office. Dep Mgr, Observatory Projects Office.
Technology Transfer	Dep Manager, Payload Projects Office. Director, Technology Transfer Office.
Stennis Space Center	Mgr, Earth & Space Sciences Projects. Director, Center Operations & Support Director Deputy Director, NASA Stennis Space Center. Assoc Director for Institution.
Office of Space Communications	Director, Propulsion Test Directorate. Deputy Director, Propulsion Test Directorate.
Ground Networks	Manager, Test Management Support. Chief, Communications Systems Branch.
Program Integration	Assistant Associate Administrators (Plans). Dir, Communications & Data Systems Div.
Communications & Data Systems	Dep Dir, Ground Network Division. Deputy Director, Space Network Division.
Space Network	Dep Assoc Adm for Safety & Mission Quality. Director, Programs Assurance Division.
Office of Safety & Mission Assurance	Mgr, Intl Sp Stn Indep A&O Act. Technical Advisor for Sr M Qa Initiatives.
Safety & Risk Management	Director, Safety Division. Director, Payloads & Aeronautics Division.
Payloads & Aeronautics	Director, Quality Management Office. Dep Assoc Admin for Aeronautics Mgmt.
Engineering & Quality Management	Dep Assoc Admr for A&S Trans Technol (STT). Senior Engineer.
Office of Aeronautics	Special Assistant for Systems Integrations. Director, Inter-Enterprise Operations.
Resources & Management Systems	Director, Resources Management Office. Assistant Director for Program Evaluation.
High Performance Aircraft	Director, Alliance Development Office. Assistant Dir for Aircraft Certification Serv.
High Speed Research	Chief Financial Officer. Dir, National Rotorcraft Technology Center.
National Aero-Space Plane	Special Assistant for Programs. Manager, NASA Consolidated Supercomputing Ops.
Ames Research Center	Associate Director for Institutional Mgmt. Deputy Director for Space.
Aerospace Systems	Chief, Aeronautical T&S Division. Chief, Flight Mgmt & Human Factors Division.
Flight Operations	Associate Director for Aeronautics. Deputy Director of Aeronautics.
Aerophysics	Chief, Applied Aerodynamics Division. Deputy Chf, Airborne Science & Flight Res Div.
Space Research	Chief, Flight Operations Office. Dir, Software Independent Verification Facility.
Administration	Chief, Space Technology Division. Deputy Director of Information Systems.
Engineering & Technical Services	Chief, Space Science Division. Chief, Advanced Life Support Division.
Dryden Flight Research Center	Chief, Information Sciences Division. Director of Space. Chief, Life Sciences Division.
Flight Operations	Deputy Director of Center Operations (ADM). Chief, Airborne Science & Flight Res Div.
Aerospace Projects	Dep Director, Center Operations Directorate. Chf, Systems Engineering Div.
Langley Research Center	Asst Chief, Flight Operations Division. Director, Intercenter Aircraft Operations.
Flight Operations	Asst Dir for Program Integration. Assistant Director of Research Facilities.
Aerospace Projects	Chf, Flight Operations Division. Dir, Aerospace Projects Directorate.
Langley Research Center	Chief, Atmospheric Sciences Division. Chief Engineer Dir of Education Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Aeronautics Space & Atmospheric Sciences Research & Technology	Assistant Director for Planning. Special Assistant for Outreach. Manager, Hyper-X Phase One Program. Dept Dir, Indep Progr Assessment Office. Chief, Aeronautics Systems Analysis Div. Deputy Director, Aeronautics Program Group. Deputy Dir, S & A Sciences Program Group. Chief, Space Systems & Concepts Division. Director.
Technology Applications Internal Operations	Chief Structures Division. Chief, Information Systems Division. Chf, Flight Dynamics & Controls Division. Chief, Fluid Mechanics Division. Deputy Dir, Research & Technology Group. Chief, Aerodynamics Division. Chief, Power & On-Board Propulsion Techn Div. Director, Research & Technology Group. Chief, Gas Dynamics Division. Manager, Space Technologies Thrust Office.
High-Speed Research Project Hypersonic Vehicles Safety, Environmental & Mission Assurance Comptroller Lewis Research Center	Deputy Dir, Internal OPS Group (FE & O). Chief, Aerospace Electronics Systems Division. Chief, Experimental Testing Technology Div. Deputy Dir for Engineering & Info Syst (IOG). Head, Planning & Resources Mgmt Office. Special Assistant. Procurement Officer. Chief, Aerospace Mechanical Systems Division. Director, Internal Operations Group. Director for High-Speed Res Project Office. Director, Hypersonic Vehicles Offices. Dir, Ofc of Safety, E & M Assurance. Chief Financial Officer. Special Assistant to the Director for Policy. Chief Financial Officer.
Aeronautics Aerospace Technology	Deputy Director for Operations. Chief, Systems Engineering Division. Chf, Propulsion Systems Div. Chf, Internal Fluid Mechanics Division. Chf, Aeropropulsion Analysis Office. Chief, Space Propulsion Technology Division. Chief, Structural Systems Division. Chief, Structures Division.
Space Flight Systems	Deputy Director of Aerospace Technology. Chief, Space Communications Division. Chief, Interdisciplinary Technology Office. Manager, Acts Project Office. Chief, Space Experiments Division. Deputy Director of Space Flight Systems. Chief, Power Systems Project Office.
Engineering	Senior Advisor for Advanced Concepts. Chf, Electronics & Control Systems Division. Director of Engineering. Chief Engineer.
Technical Services Administration & Computer Services	Deputy Dir of Engineering & Tech Services. Chief, Computer Services Division. Dir, Adm & Computer Services Directorate.
External Programs Mission Safety & Assurance Office of Space Science	Director, External Programs. Chf, Ofc of Spty, Reliability & Quality Assur. Special Asst to the Deputy Assoc Admin. Asst Associate Admr for Technology.
Solar System Exploration	Chief, Flight Programs Branch. Senior Program Dir, Solar Syst Exploration. Director, Mission & Payloa Development Div. Senior Program Executive for JPL Programs. Dir, Advanced Technol & Mission Studies Div.
Space Physics	Senior Program Executive for GSFC/APL Progs. Senior Program Director, Sun-Earth Connection. Sr Sci Prog Executive for Review & Evaluation. Director, Research Program Management.
Technology & Information Systems Astrophysics	Sr Sci Program Executive for Information Syst. Science Program Director, Galaxy & Universe. Deputy Dir, Astrophysics Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Life & Microgravity Sciences & Applications Microgravity Science & Applications Life & Biomedical Sciences	Asst Assoc Admr for Education & Outreach. Science Prog Dir, Origins & Planetary Systems. Dir, Space Development & Commercial Res Div. Dir, Microgravity Sciences & Applications Div. Manager, Life Sciences and Technology. Dir, Life & Biomedical Science & Applics Div.
Aerospace Medicine & Occupational Health Flight Systems	Director, Program Integration Office. Chief, Mission Management Branch. Deputy Dir, Flight Systems Division.
Office of Inspector General	Assist Inspector General for Investigation. Assistant Inspector General for Auditing. Asst Insp Gen for Partnerships & Alliances. Dir for Program Asst & Review.
Office of Space Access & Technology	Manager, Advanced Technology Programs. Manager, Systems Integration. Chief Engineer. Manager, Communications Experiments. Deputy Assoc Admr for Space Access & Technol. Director, Commercial Dev & Technol Transfer. Manager for Propulsion Technology. Special Assistant for Facilities. Deputy Dir, Spacecraft Systems Division. Special Assistant for Special Projects.
Office of Mission to Planet Earth	Dep Assoc Admr for Mission to Planet Earth. Senior Science Advisor for Intl Programs.
Flight Systems Operations, Data & Information Systems	Director, Flight Systems Division. Director, Operations Data & Info Syst Div. Chief, Earth Science D & I System Branch.
Science Goddard Space Flight Center	Director, Science Division. Director of Human Resources.
Comptroller Management Operations	Dir of University Programs. Chief Financial Officer/Comptroller. Dep Dir of Management Operations.
Flight Assurance	Associate Director for Acquisition. Director of Flight Assurance. Dep Dir of Flight Assurance.
Flight Projects	Deputy Director of Flight Projects. Mgr Hubble Space Telescope Oper & Ground Syst. Project Mgr, Earth Observing Syst AM Project. Assoc Dir of Flt Proj Hubble Space Telescope. Proj Mgr, Intl Solar Terr Physics Proj (ISTP). Dir of Flight Projects. Proj Mgr, Hubble Spc Telescope Syst & Serv. Tracking & Data Relay Satellite TDRS Proj Mgr. Assoc Dir for Earth Sci Data & Info System. Proj Mgr, EOS-PM Proj Flight Proj Direct. Project Manager, Explorers Project. Project Mgr, Earth Sci D & I Syst Project.
Mission Operations & Data Systems	Chief, NASA Communications Division. Assoc Dir of Mission Operations & Data Syst. Dep Dir of Mission Operations & Data Systems. Chief, Networks and Mission Services Center. Chief, Flight Dynamics Division.
Space Sciences	Chf, Mission Ops & Syst Dev Division. Chief, Lab for Astronomy and Solar Physics. Chief, Lab for Extraterrestrial Physics. Director of Space Sciences. Chief, Goddard Institute for Space Studies. Chief, Laboratory for High Energy Astrophysics. Deputy Director of Space Sciences.
Engineering	Dep Dir of Engineering. Chief, Electrical Engineering Division. Chief, Engineer. Chief, Special Payloads Division. Associate Director of Flight Projects. Chief, Mechanical System Center. Chief, Systems Engineering Division. Spec Asst to Dir of Eng (Space Technol Comm).
Suborbital Projects & Operations Earth Sciences	Deputy Director, Mission to Planet Earth. Chief, Lab for Hydrospheric Processes. Chief, Space Data and Computing Division. Associate Dir for Mission to Planet Earth.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Policy and Plans	Asst Dir of Earth Sci for Projects Eng. Chf, Laboratory for Atmospheres. Deputy Director for Earth Sciences. Director for Earth Sciences. Chief Laboratory for Terrestrial Physics. Deputy Assoc Dir for Earth Sci D & I Syst. Asst Dir of Mission to P/E Prog for Globe. Director of Special Studies. Director of Special Projects.
National Archives & Records Administration: Archivist of U.S. Dep Archivist of the U.S./Chf of Staff	Deputy Archivist of the United States. Assistant Archivist for Administrative Serv. Director of the Federal Register. Asst Archivist for Spec & Regl Archives. Asst Archivist for Regional Records Services. Assistant Archivist for policy & IRM Services. Asst Archivist for Human Resources & Info Ser. Asst Archivist for the National Archives. Asst Archivist for Federal Records Centers. Asst Archivist for Records Administration. Asst Archivist for Records Services. Senior Policy Advisor. Asst Archivist for Presidential Libraries. Director, Lyndon B. Johnson Library.
Office of Administrative Services	
Office of the Federal Register	
Office of Regional Records Services	
Office of Human Resources and Information Services	
Office of Records Services—Washington, DC	
Office of Presidential Libraries	
National Capital Planning Commission: National Capital Planning Commission Staff	Executive Director. Assoc Exec Dir, D.C. Affairs. Deputy Executive Director. Assistant Executive Director for Regl Plnng. General Counsel.
National Endowment for the Arts: National Endowment for the Arts	Director of Guidelines & Panel Operations Director of Administration.
National Endowment for the Humanities: National Endowment for the Humanities	Dir, Office of Planning & Budget.
National Labor Relations Board: Ofc of the Board Members	Executive Secy. Deputy Executive Secretary. Inspector General.
Div of Enforcement Litigation	Deputy Assoc. Gen. Counsel, Appellate Court Br. Director, Office of Appeals.
Div of Advice	Associate Gen Counsel, Div of Advice. Deputy Assoc Gen Counsel.
Div of Administration	Director of Administration. Deputy Director of Administration.
Div of Operations Management	Assoc General Counsel, Div of Operation—Mgmt. Dep Asso Gen Counsel, Div of Operations—Mgmt. Assistant General Counsel. Assistant General Counsel. Assistant General Counsel. Assistant General Counsel. Assistant General Counsel. Assistant General Counsel. Asst to the General Counsel.
Regional Offices	Regl Dir, Reg 1, Boston. Regional Director, Reg. 2, New York. Regional Director, Reg. 3, Buffalo. Regl Dir, Reg. 4, Philadelphia. Regional Director, Reg. 5, Baltimore. Regional Director, Reg. 6, Pittsburgh. Reg Dir, Region 7, Detroit Mich. Regional Director, Reg. 8, Cleveland. Regional Director, Reg. 9, Cincinnati. Regl Dir, Reg. 10, Atlanta. Regl Dir, Reg. 11, Winston Salem. Regional Director, Reg. 12, Tampa. Regional Director, Reg. 13, Chicago. Regl Dir, Reg. 14, St Louis. Regl Dir, Reg. 15, New Orleans. Regl Dir, Reg. 16, Ft Worth. Reg Dir, Reg. 17, Kansas City. Regl Dir, Reg. 18, Minneapolis.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	Regl Dir, Reg 19, Seattle. Regional Dir, Reg 20, San Francisco. Regional Director, Reg 21, Los Angeles. Regional Director, Reg 22, Newark. Regional Director, Reg 23, Houston, Texas. Regional Director, Reg 24, Hato Rey, Puerto Rico. Regl Dir, Reg 25, Indianapolis. Regl Dir, Reg 26, Memphis. Regl Dir, Reg 27, Denver. Regl Dir, Reg 28, Phoenix. Regl Dir, Reg 29, Brooklyn. Regl Dir, Reg 30, Milwaukee. Regl Dir, Reg 32, Oakland. Regional Director, Reg 33, Peoria, Ill. Regl Dir, Reg 31, Los Angeles. Regional Director, Reg 34, Hartford.
National Science Foundation:	
Office of the Director	Executive Asst & Special Counsel. Senior Staff Associate.
Office of Science & Technology Infrastructure	Deputy General Counsel.
Office of the General Counsel	Senior Advisor.
Office of Policy Support	Sr Staff Associate/Policy Analysis.
Office of Polar Programs	Deputy Office Director. Head Polar Research Support Section.
Office of the Inspector General	Inspector General. Assistant Inspector General for Oversight. Dep Inspector Gen & Senior Legal Advisor. Asst Inspector General for Audit.
National Science Board	Senior Staff Associate.
Directorate for Geosciences	Senior Science Associate.
Division of Atmospheric Sciences	Section Head, Upper Atmosphere Section. Head Lower Atmosphere Section.
Division of Earth Sciences	Head Major Projects Section. Section Head, Research Grants Section.
Division of Ocean Sciences	Section Head, Ocean Sciences Research Section.
Division of Engineering Education & Centers	Deputy Division Director (Education). Senior Staff Associate.
Division of Design, Manufacture & Industrial Innovation	Senior Engineering Advisor. Senior Advisor, Technology Integration. Senior Advisor.
Division of Civil and Mechanical Systems	Head, Hazard Mitigation Section. Head, Mechanical & Structural Syst Section.
Directorate for Biological Sciences	Deputy Asst Director.
Division of Environmental Biology	Deputy Division Director.
Division of Molecular & Cellular Biosciences	Deputy Director.
Directorate for Mathematical and Physical Sciences	Executive Officer. MPS Coordinator. Special Assistant to the Assistant Director.
Division of Physics	Executive Officer.
Division of Astronomical Sciences	Executive Officer.
Division of Mathematical Sciences	Executive Officer.
Division of Materials Research	Executive Officer.
Division of Chemistry	Dep Dir, Division of Chemistry.
Directorate for Education & Human Resources	Deputy Asst Director. Senior Staff Associate.
Division of Undergraduate Education	Senior Staff Associate.
Directorate for Social, Behavioral and Economic Sciences	Exe Officer, Social Behavioral Econ Sciences.
Division of International Programs	Deputy Division Director. Senior Staff Associate. Senior Staff Associate.
Division of Social, Behavioral & Economic Research	Deputy Director.
Directorate for Computer & Info Science & Engineering	Deputy Asst Dir.
Div of Computer and Computation Research	Deputy Division Director.
Division of Microelectronic Information Processing Sys	Deputy Division Director.
Office of Budget, Finance and Award Management	Director, Ofc of Budget, F&A Management.
Budget Division	Director, Budget Division.
Division of Financial Management	Division Director.
Division of Grants & Agreements	Division Director. Deputy Director.
Division of Contracts, Policy & Oversight	Division Director.
Office of Information and Resource Management	Dep Dir, Ofc of Information & Resource Mgmt. Senior Staff Associate.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Division of Information Systems	Dep Dir, Div of Information Systems.
Division of Human Resource Management	Div Dir, Div of Human Resource Management.
Division of Administrative Services	Dir, Division of Administrative Services.
National Transportation Safety Board:	
Office of the Managing Director	Deputy Managing Director.
	Chief Technical Advisor.
Office of Administration	Dir, Office of Administration.
Office of Aviation Safety	Director, Ofc of Aviation Safety.
	Deputy Director, Ofc of Aviation Safety.
Office of Research & Engineering	Dir, Ofc of Research and Engineering.
	Deputy Dir, Ofc of Research and Engineering.
Office of Safety Recommendations	Director Ofc of Safety Recommendations.
Office of Surface Transportation Safety	Dir, Ofc of Surface Transportation Safety.
	Deputy Director.
Nuclear Regulatory Commission:	
Atomic Safety and Licensing Brd Panel	Chief Administrative Judge.
	Deputy Chief Administrative Judge (Executive).
Office of the Chief Information Officer	Dep Dir/LSS Admr. Ofc of Info Res Mgmt.
	Dir, Information Technology Infrastructure.
	Director, Information Mgmt. Division.
	Director, Planning & Program Support Division.
Office of Chief Financial Officer	Deputy Chief Financial Officer.
	Dir, Division of Budget and Analysis.
	Dir, Division of Accounting and Finance.
	Special Assistant for Internal Controls.
Office of the Inspector General	Asst Inspector General for Investigations.
	Asst Inspector General for Audits.
	Deputy Inspector General.
	Assistant Inspector Gen for Investigations.
Deputy GC for Licensing & Regulation	Deputy Assistant GC/Legislative Counsel.
Dep GC for Hearings, Enforcement & Administration	Deputy Assistant GC for Administration.
Assistant GC for Hearings and Enforcement	Deputy Assistant General Counsel.
	Deputy Assistant General Counsel.
	Deputy Assistant General Counsel.
Office of Commission Appellate Adjudication	Dir, Ofc of Comm Appellate Adjudication.
Division of Operational Assessment	Deputy Director, Div Incident Response.
	Special Assistant to the Director.
Division of Safety Programs	Chief, Reactor Analysis Branch.
	Chf, Reliability & Risk Assessment Branch.
Office of Administration	Director, Div of Contracts & Prop Mgmt.
	Director, Div of Security.
	Dir, Div of Administrative Services.
Organization Abolished	Deputy Controller.
Ofc of Small and Disadv Bus Utilization/Civil Rights	Director.
Office of Nuclear Reactor Regulation	Proj Dir, Project Directorate II-1 .
	Project Director, Project Directorate IV-3.
	Chf, Vendor Inspection Branch.
	Chf, Radiation Protection Branch.
Division of Inspection and Support Programs	Dep Dir, Div of Radiation Safety & Safeguards.
	Dir, Inspection & Support Programs.
	Chief, Png, Program & Mgmt Support Branch.
	Chf, Inspection Program Branch.
	Chf, Special Inspections Branch.
Associate Director for Projects	Dir, Cost Benefits License Act Programs.
Division of Reactor Projects I/II	Project Dir, Project Directorate I-1.
	Project Director, Project Directorate I-2.
	Project Director, Project Directorate I-4.
	Proj Dir, Project Directorate II-2.
	Proj Dir, Project Directorate II-2.
	Project Dir, Project Directorate II-3.
Division of Reactor Projects III/IV	Deputy Dir, Div of Reactor Project I/II.
	Chf, Technical Specification Branch.
	Proj Dir, Project Directorate III-1.
	Proj Dir, Project Directorate III-2.
	Proj Dir, Project Directorate III-3.
	Proj Dir, Project Directorate IV-1.
	Chf, Events A & G Communications Branch.
	Proj Dir, N-P Reactor, D & E Proj Directorate.
	Proj Dir, Proj Directorate IV-2.
Division of Engineering	Chief, Generic Issues & Envir Proj Branch.
	Chief, Materials & Chemical Engineering Br.
	Chf, Mechanical Engineering Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Division of Systems Safety & Analysis	Chief Civil Eng & Geosciences Branch. Chief, Electrical Engineering Branch. Chf, Plant Systems Branch. Chf, Reactor Systems Branch.
Division of Reactor Controls and Human Factors	Chief, Probabilistic Safety Assessment Branch. Chief, Containment Sys & Severe Accident Brch. Chf, Human Factors Assessment Branch. Chf, Operator Licensing Branch.
Division of Reactor Program Management	Chf, Instrumentation & Control Branch. Chf, Quality Assur & Maint Branch. Chf, Emergency P & R Protection. Chf, Safeguards Branch.
Office of Nuclear Material Safety and Safeguards	Project Dir, Standardization Proj Directorate. Proj Dir, License Renewal & Environmental Rev. Deputy Director, Spent Fuel Project Ofc.
Division of Fuel Cycle Safety & Safeguards	Chief, Transportation & Storage Safety. Chief, Operations Branch. Chief, Regl & Intl Safeguards Branch. Chief, Special Projects.
Div of Industrial & Medical Nuclear Safety	Chief, Licensing Branch. Chief, Operations Branch. Chief, Medical, Acad & Com Use Sfty Branch.
Division of Waste Management	Chief, Source Containment & Devices Br. Deputy Dir, Prog Mgmt Policy Devel & Analysis. Chf, High Level Waste & Uranium Recovery Proj. Chief, Perf Assess & Hydrology Branch.
Ofc of Nuc Regulatory Research	Chief, Engineering & Geosciences Branch. Chf, Low Level Waste & Decommissioning Proj. Director: Fin Mgt, Procurement & Admin Staff. Director for Inspector Special Projects.
Division of Engineering Technology	Special Assistant to the Director. Special Assistant to the Director. Chief, Generic Safety Issues Branch. Chief, Elect, M & M Engineer Branch.
Division of Regulatory Applications	Chief, Structural & Geological Eng Branch. Chief, Regulation Development Branch. Chief, Waste Management Branch.
Division of Systems Technology	Chief, Accident Evaluation Branch. Chf, Probabilistic Risk Analysis Branch. Chf, Radiation Protection & Health Effects Br. Chief, Reactor and Plant Systems Branch.
Region I	Chief, Control Instr & Human Factors Branch. Deputy Regional Administrator. Dir, Div of Nuclear Materials Safety. Dep Dir, Div of Nuclear Materials Safety.
Region II	Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects.
Region III	Deputy Regional Administrator, Region II. Dir, Div of Nuclear Materials Safety. Dep Dir, Div of Nuclear Materials Safety. Director, Division of Reactor Projects.
Region IV	Deputy Director, Division of Reactor Projects. Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Dep Regional Administrator, Region III.
Office of Government Ethics:	Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects.
Office of Government Ethics	Dir, Div of Nuclear Materials Safety. Dep Dir, Nuclear Materials Safety. Deputy Regional Administrator, Region IV. Director, Div of Reactor Projects.
	Deputy Director, Div of Reactor Projects. Dir, Div of Nuclear Materials Safety. Dir, Division of Reactor Safety. Dep Dir, Nuclear Materials Safety. Dep Dir, Division of Reactor Safety.
Office of Government Ethics	Deputy Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Office of Management and Budget: Office of the Director	Deputy General Counsel. Senior Assoc Director for Agency Programs. Deputy Dir. for Government R & S Projects.
Legislative Reference Division	Assistant Director for Administration. Deputy Associate Dir for Economic Policy. Staff Assistant. Senior Advisor to the Dep Dir for Management. Dep Assistant Director for Administration. Assistant to the Deputy Director for Mgmt.
Office of Federal Procurement Policy	Asst Dir, Legislative Reference. Chief, Labor, Welfare, Personnel Branch. Chief, Economics, Science & Govt. Branch. Chief, Resources-Defense-International Branch. Associate General Counsel for Budget.
Office of Information and Regulatory Affairs	Dep Admin for Procurement Law & Legislation. Chief, Information Policy & Technology Branch. Chief, Human Resources and Housing Branch. Chief, Commerce and Lands Branch. Chief, Statistical Policy Branch. Chief, Natural Resources Branch.
Office of Federal Financial Management	Senior Advisor. Chief, Management Integrity Branch. Deputy Controller.
Budget Review Division	Chief, Federal Financial Systems Branch. Asst Dir for Budget Review. Dep Asst Dir for Budget Analysis & Systems. Chief, Budget Analysis Branch. Dep Chief, Budget Analysis Branch. Dep Asst Dir for Budget Review & Concepts.
International Affairs Division	Chief, Budget Concepts Branch. Chief, Budget Systems Branch. Dep Assoc Dir for Internatl Affairs. Chief, State-USIA Branch.
National Security Division	Chief, Economic Affairs Branch. Dep Assoc Dir for National Security. Chief, Command, Ctrl, Comms & Intellig Branch. Chief, Force Structure & Investment Branch. Dep Chief, Natl Sec Div & Chief Oper Sup Branch.
Associate Director for Human Resources	Associate Director for Human Resources.
Human Resources Division	Chief, Labor Branch. Chief, Education Branch. Deputy Assoc Dir for Human Resources.
Transportation, Commerce, Justice & Services Division	Chf, Income Maintenance Branch. D/A for Transp Commerce, Justice & Services. Chief, Commerce Branch. Chief, Transport Branch.
Housing, Treasury and Finance Division	Chief, Justice/GSA Branch. Deputy Assoc Dir for Housing, Treasury, Finance. Chief, Treasury Branch.
Assoc Dir for Natural Resources, Energy, and Science	Senior Advisor for Cash & Credit Mgmt. Chief, Financial Institutions Branch. Chief, Housing Branch.
Natural Resources Division	Senior Advisor. Dep Associate Dir for Natural Resources. Chief, Agricultural Branch. Chief, Environment Branch.
Energy and Science Division	Chief, Interior Branch. Dep Assoc Dir for Energy & Science. Chief, Water and Power Branch.
Health Division	Chief, Science and Space Programs Branch. Chief, Energy Branch. Deputy Associate Director for Health.
VA/Personnel Division	Chief, Health Programs & Services Branch. Chief, Health & Financing Branch. Chief, Veteran Affairs Branch.
Office of Personnel Management: Office of the Chief Financial Officer	Deputy Assoc Director for VA & Personnel. Chief, Personnel, Portal, Exop Branch.
Office of the Inspector General	Chief Financial Officer. Deputy Inspector General.
Office of the Inspector General	Asst Inspector General for Audits.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Retirement and Insurance Service Office of Actuaries Office of Insurance Programs Office of Retirement Programs Personnel Research and Development Center Staffing Service Center Office of Workforce Relations	Assistant Inspector Gen for Investigations. Deputy AIG for Audits. Senior Advisor. Director, Office of Actuaries. Asst Dir for Insurance Program. Asst Dir for Retirement Programs. Director, Personnel Res & Development Center. Director, Staffing Automation. Asst Dir for Classification.
Investigations Service Office of Information Technology Office of Contracting and Administrative Services	Director, Office of Workforce Relations. Director, Fed Investigation Systems. Chief, Information Technology Officer. Director of Contracting & Administrative Serv. Senior Advisor.
Office of Merit Systems Oversight and Effectiveness Office of Executive Resources	Asst Dir for Merit Systems Oversight. Asst Director for Executive Resources.
Office of Special Counsel:	
Headquarters, Office of Special Counsel	Assoc Spec Counsel (Investigation). Assoc Special Counsel (Prosecution). Deputy Associate Spec Counsel for Prosecution. Director for Management. Assoc Special Counsel, Planning and Oversight. Associate Special Counsel for Plan & Advice.
Railroad Retirement Board:	
Board Staff	Chief of Data Processing. Director of Hearings and Appeals. Chief Actuary. Director of Field Service. Director of Administration. Deputy General Counsel. Asst Inspector General for Investigations. Chief Financial Officer. Assistant Inspector General for Audit. Director of Taxation. General Counsel. Dir of Operations. Dir of Policy & Systems.
Office of Programs Bureau of Information Systems	Director of Programs. Chief Information Officer.
Securities and Exchange Commission:	
Office of the Chief Accountant Office of the Executive Director	Dep Chf Accountant. Dep Exec Director. Associate Executive Director (Finance). Associate Executive Director (Administration).
Div of Corporation Finance	Associate Director (Operations). Associate Director, (Legal).
Small Business Administration:	
Office of the Inspector General	Asst. Inspector General for Auditing. Asst Inspector General for Investigations. Counsel to the Inspector General. Deputy Inspector General. Asst Inspector General for Magnt Legal Cousl. Assistant Inspector Gen/Inspection & Eval Associate General Counsel for General Law. Assoc Gen Counsel Litigation.
Office of the General Counsel	Assoc Gen Coun—SBIC Liquidation/Litigation Asst Admr for Equal Employ O & C Right Compl. Asst Administrator for Hearings and Appeals.
Office of Equal Employment O & C Rights Compliance Office of Hearings and Appeals Office of the Chief Financial Officer Office of Financial Assistance	Deputy Chief Financial Officer. Assoc Administrator for Financial Assist. Dep Assoc Admr for Financial Assistance. Asst Admr for Borrower and Lender Servicing.
Office of Surety Guarantees Office of Minority Enterprise Development Office of Information Resources Management	Assoc Administrator for Surety Guarantees. Assoc Admr for MSB-COD. Asst Adm for Information Resources Management. Dep Asst Adm for Information Res Mgmt.
Office of Human Resources District Directors	Asst Administrator for Human Resources. District Director. District Director. District Director. District Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	District Director. District Director. District Director.
Social Security Administration:	
Office of the Inspector General	Deputy Inspector General.
Office of Investigations	Asst Inspector General for Investigations. Dep Asst Inspector General for Investigations.
Office of Audits	Asst Inspector Gen for Social Security Audits. Dep Asst Inspector General for Audits.
Office of Actuary	Chief Actuary. Deputy Chief Actuary (Long-Range). Deputy Chief Actuary (Short-Range).
Office of Human Resources	Dir, Ofc Labor-Management Employee Relations.
Office of Finance, Assessment and Management	Senior Financial Executive.
Office of Financial Policy and Operations	Assoc Comr. Office of Fin Policy & Operation. Dep Assoc Comm Financial Policy & Operations.
Office of Acquisition and Grants	Assoc Commissioner for Acquisition & Grants.
Office of Systems	Deputy Associate Commissioner for T&SO.
Office of Telecommunications	Assoc Comm for Telecommunications & Sys Oper. Dep Assoc Commr for T & S Ops (Telecomm).
Division of General Law	Associate General Counsel for General Law
Department of State:	
Bureau of Administration	Director, Office of Acquisitions.
Office of Foreign Buildings Operations	Supervisory Structural Engineer.
Bureau of Economic & Business Affairs	Dir. Office of East-West Trade.
Bureau of Intelligence and Research	Dir, Ofc of Intelligence Resources. Dir, Ofc of Research & Analysis Soviet Affrs.
Office of the Inspector General	Assistant Inspector General for Audits. Asst Inspector General for Investigations. Counsel to the Inspector General. Dep Asst Inspector General for Audits. Dept Asst Inspector Gen for Investigations. Asst Insp Gen for Policy, Png and Management. Dep Asst Inspector Gen for Inspections. Dep Asst Insp Gen for Ofc of Secur Oversight. Deputy Inspector General. Asst Inspector Gen for Security Oversight.
Bureau of Personnel	Director, Ofc of Civil Service Personnel Mgmt.
International Boundary & Water Commission	Supervisory Civil Engineer. Supervisory Civil Engineer, Operations.
Department of Transportation:	
Office of Inspector General	Asst Insp General for Auditing. Asst Inspector General for Investigations. Dep Asst Inspector General for Auditing. Dep Asst Inspector General for Investigations. Deputy Inspector General. Asst Inspector General for Inspections & Eval. Deputy Inspector General. Director of Administration. Dir, Ofc Info Tech Financial & Secretarial Aud. Senior Counsel. Associate Deputy Inspector General. Asst Inspector General for Evaluations. Deputy Chief Financial Officer. Asst Secy for Administration.
Asst Secretary for Budget & Programs	Director, Ofc of Acquisition & Grant Mgmt.
Asst Sec for Administration	Assoc Admr for Safety.
Office of Acquisition & Grant Management	Director, Office of Safety Enforcement.
Assoc Adm'r for Safety	Assoc Admr for Pipeline Safety.
Office of Safety Enforcement	Dir, Ofc of Shipyard Revitalization.
Associate Administration for Pipeline Safety	Assoc Admr for Ship Fin A & C Preference.
Office of Shipyard Revitalization	Senior Advisor.
Ofc of Assoc Admr for Ship Financial A & C Preference	Executive Director.
Office of the Administrator	Dir, Ofc of Budget & Finance.
Federal Highway Administration	Assoc Admr for Safety & System Applications.
Office of Fiscal Services	Dir, Office of Highway Safety.
Associate Administrator for Safety & System App	Dir, Ofc of Motor Research & Standards.
Office of Highway Safety	Director, Ofc of Motor Carrier Field Operation.
Office of Motor Carrier Standards	Chief, Environmental Operations Division.
Office of Motor Carrier Safety Field Operations	Dir, Ofc of Real Estate Services.
Office of Environment & Planning	Associate Administrator for Safety Assurance.
Office of Real Estate Services	Dir, Ofc of Defects Investigation.
Associate Administrator for Safety Assurance	
Ofc of Defects Investigation	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Ofc of Vehicle Safety Comp	Dir, Ofc of Vehicle Safety Compliance.
Office of the Chief of Staff	Director of Finance and Procurement.
Surface Transportation—Board	Director of Finance and Procurement.
Office of Proceedings	Director of Economics, Environmental A & A.
Department of Treasury:	Deputy Director, Legal Analysis.
Assistant Secretary (International Affairs)	Dir, Ofc of Foreign Exchange Operations.
Fiscal Assistant Secretary	Fiscal Assistant Secretary.
Financial Management Service	Assistant Fiscal Assistant Secretary.
	Commr of Financial Management Service.
	Dep Com, Financial Management Service.
	Dir, Regional Financial Center (Chicago).
	Director, Regl Fin Ctr (San Francisco).
	Director, Regl Fin Ctr (Austin).
	Comptroller.
	Director, Platform Services Directorate.
	Asst Commissioner, Information Resources.
	Assistant Commissioner, Federal Finance.
	Director, Operations Group.
	Assistant Commissioner, Regional Operations.
	Asst Comr, Management (Chief Fin Ofcr).
	Director, Systems 90 Implementation.
	Dir, Fin Information Management Directorate.
	Director, Systems Management Directorate.
	Assistant Commissioner, Financial Information.
	Assistant Commissioner (Agency Services).
	Deputy, Chief Information Officer.
	Associate Deputy Commissioner for Re-Engineer.
	Assistant Commissioner, Debt Management Sercs.
Bureau of the Public Debt	Commissioner.
	Dept Commr of the Public Debt.
	Asst Commissioner (Savings Bond Operations).
	Asst Commr (Financing).
	Asst Commr (Administration).
	Government Securities Act Program Director.
	Government Securities Policy Advisor.
	Asst Commr, Securities & Accounting Services.
	Asst Commissioner (Automated Info Systems).
	Asst Commissioner (Public Debt Accounting).
Assistant Secretary (Enforcement)	Dep Dir, Financial Crimes Enforcement Network.
	Director, Fincen.
	Assoc Dir, Ofc of Mgmt/Chf Fin Ofcr, Fincen.
	Dir, Exe Ofc for Asset Forfeiture.
Bureau of Alcohol, Tobacco and Firearms	Associate Director (Enforcement).
	Special Agent in Charge (NY District Office).
	Spec Agent In Charge (Washington Dist Office).
	District Director (North Atlantic District).
	Assistant Director (Inspection).
	Dep Assoc Dir, Reg Enforcement Field Operation.
	SAC, Chicago Field Division.
	Dep Assoc Dir (Criminal Enforcement Programs).
	Special Agent in Charge.
	Brad, Malcolm W.
	Dep Assoc Dir, Criminal Enforcement Field Oper.
	Dep Assoc Dir, Criminal Enfor Field Oper West.
	Asst Dir, Science & Information Technology.
	Dep Asst Dir, (Sci & Info Technology).
	Dep Assoc Dir, Regulatory Enforcement Programs.
	Dep Asst Dir (Liaison & Public Information).
	Deputy Director.
	Asst Dir (Liaison & Public Information).
Chief Counsel	Assistant Chief Counsel (Chicago).
	Staff Assistant to the Chief Counsel.
	Associate Chief Counsel (Admin & Ethics).
U.S. Customs Service	Deputy Assistant Commissioner (Enforcement).
	Asst Commissioner for Internal Affairs.
	Dir, International Trade Compliance Division.
	Dir, Ofc of Regulatory Audit.
	Special Agent in Charge, Miami.
	District Director, Laredo.
	Director, Investigative Operations Division.
	Dir, Office of Enforcement Support.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Customs Chief Counsel	Special Agent in Charge—New York. Special Agent in Charge. Dir, Customs Management Center—New York. Area Dir, Newark. Dir, Customs Management Center. Dir, Strategic Trade Center—New York. Asst Commissioner, Field Operations. Dir, Strategic Trade Center Plantation FL. Dir, Customs Management Center—Gulf. Dir, Customs Management Center. Dir, Customs Management Center—S. Texas. Director, Customs Management Center. Project Executive. Asst Commissioner, Regulations & Rulings. Dir, Strategic Trade Center, Chicago. Area Director, JFK Airport. Port Director—Los Angeles. Asst Commissioner, Infor & Technical Services. Dir, Customs Management Center, South Florida. Special Agent in Charge (New Orleans). Dep Dir, Ofc of Regulatory Audit. Asst Commissioner, Investigations. Director, Strategic Trade Center. Dir, Laboratories & Scientific Services. Project Executive. Dir, Strategic Trade Center Operations. Chief, Operations Officer. Special Agent in Charge. Dir, Budget and Planning. Exec Dir, The Interdiction Committee. Assistant Commissioner, Finance. Project Executive. Dir, Tariff Classification Appeals Division. Dir, Strategic Trade Center, Long Beach. Processes and Policy Executive. Dir, Strategic Trade Center, Dallas/Ft Worth. Special Agent-in-Charge (Seattle, Wash). Special Agent in Charge—Baltimore. Dep Asst Comr, Ofc of A & M Interdiction. Special Agent in Charge (Houston). Dir, Customs Management Center. Dir, Office of Planning. Director, Applications Development Division. Dir, Customs Management Center, East Texas. Executive Director, Customs Management Center. Dir, Customs Management Center, South Pacific. Project Exec (Dir, Intervention Management). Director, Administration, Planning & Policy. Asst Commissioner, Strategic Trade. Special Agent-in-Charge (San Diego). Technology Manager. Asst Commissioner, Human Resources Mgmt. Director, Ofc of Automated Commercial Systems. Special Agent-in-Charge (Chicago). Special Agent-in-Charge—Dallas. Deputy Chief Financial Officer. Miami Regl Counsel. Chicago Regl Counsel. New York Regl Counsel. Associate Chief Counsel, Enforcement. Assoc Chief Counsel (Trade Tariff & Leg). Regional Counsel (Southwest Region). Assoc Chief Counsel (Administration). Regional Counsel (Pacific Region).
Secret Service	Asst Director, Investigations. Special Agent in Charge, New York Office. Director of the Secret Service. Deputy Director, U.S. Secret Service. Asst Dir (Protective Operations). Asst Dir (Protective Research). Assistant Director, Administration. Assistant Director, Inspection.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	Dep Asst Dir (Protective Operations). Spec Agent in Charge—Presidential Protective. Special Agent in Charge, Chicago. Special Agent in Charge, Los Angeles Office. Dep. Asst. Dir. (Protective Research). Assistant Director—Training. Asst Director—Govt Liaison and Public Aff. Spec Agent in Charge—VP Protect Div. Spec Agent in Charge—Tech Sec Div. Spec Agent in Charge—Intelligence Div. Spec Agent in Charge—Washington Field Office. Spec Agent in Charge—Philadelphia Field Office. Special Agent in Charge, Detroit. Special Agent in Charge, Dallas Field Office. Deputy Asst Dir, Investigations. DAD—Administration. Deputy Special Agent in Charge, Pres Prot Div. DAD (Uniformed Forces, F & E Dev), Ofc Trng. Special Agent in Charge—Houston Field Ofc. Deputy Asst Director, Office of Inspection. Spec Agent in Charge—Miami Field Office. Deputy Special Agent in Charge—VP Prot Div. Dep Asst Dir, Protective Operations. CHF, Info Resources Management Division. Special Agent in Charge/Dignitary Prot Div. Special Agent in Charge—Boston Field Office Spec Agent in Charge—Atlanta Field Office.
Ofc of the Inspector General	Dep Asst Inspector Gen for Audit (Fin Mgmt). Dep Asst Inspector Gen for Audit (Audit OPS). Assistant Inspector General for Resources. Assistant Inspector General for Audit. Asst Inspector General for Investigations. Assoc Inspector Gen for Audit (Prog Audits). Dep Ass Inspector Gen for Investigations. Sr Technical Advisor to the Inspector General. Asst Inspector General for Investigations.
Assistant Secretary (Economic Policy)	Asst Dir for Economic Forecasting. Sr Economist.
Assistant Secretary (Tax Policy)	Dir (Economic Mod & Computer Applications).
Assistant Secretary (Management)	Director, Office of Procurement. Deputy Chief Financial Officer.
United States Mint	Dep to the Chf Fin Ofcr for Pol & Planning. Assoc Director, Chief Operating Officer. Dep Assoc Dir for Finance and Dep Chief Fin Ofc. Associate Director for Marketing.
Internal Revenue Service	Assoc Dir for Pol & Mgmt, Chf Fin Officer. Regional Dir of Appeals, North Atlantic Region. Regional Director of Appeals, Western Region. Natl Dir. Equal Employ Opportunity & Diversity. Deputy Commissioner. Taxpayer Advocate. Regional Director of Appeals. National Director of Appeals. Chief Compliance. Associate Commissioner for Modernization. Assistant Dir. Office of Business Transition. District Office Transition Site Executive. Computing CET Transition Site Executive. Deputy National Dir of Appeals. Submission Processing Transition Site Exec. Customer Service Transition Site Executive. Director of Practice. Asst to the Senior Dep Comissioner. Director, Office of Business Transition. Management Systems Site Executive.
North Atlantic Region	Reg Commr. Service Center Director, Andover, Mass. Srcv Ctr Dir. Brookhaven. District Dir, Manhattan. District Dir. Brooklyn. District Dir, Boston. Dist Dir (Hartford).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
	District Dir, Buffalo. Asst Dist Dir, Brooklyn. Assistant District Director, Manhattan. Asst District Dir, Boston. Asst District Director, Buffalo. Regional Chief, Customer Service. Director of Support Services. Chief Compliance. Assistant District Director. Deputy Regional Counsel, Northeast. Regional Counsel, Northeast. Field Information Systems Officer. Asst District Director.
Mid-Atlantic Region	Service Center Dir, Philadelphia. District Dir, Newark. District Director, Richmond District. Asst District Dir, Philadelphia. Assistant District Director, Baltimore, MD. District Dir, Baltimore. Asst Service Center Director. District Director.
Southeast Region	Reg Commr. Srvc Ctr Dir, Atlanta. District Dir, Jacksonville. District Dir, Atlanta. District Director, Greensboro. District Dir, Nashville. District Dir, New Orleans. Asst District Director, Jacksonville. Assistant District Director, Atlanta. Assistant District Director, Gulf Coast. Dir of Support Services. Asst District Director. Assistant District Director. Regional Chief, Customer Service. Field Information Systems Officer, Southeast. District Director. Assistant Service Center Director. Assistant District Director.
Central Region	Dir, Service Ctr, Cincinnati. District Director, Detroit. District Director, Indianapolis. District Dir, Cincinnati. Asst Director, Detroit Computing Center. Asst District Director, Denver. Assistant District Director. Assistant District Director, Detroit.
Midwest Region	Srv Ctr Dir, Kansas City. District Dir, Chicago. District Dir, St Paul. District Dir, Milwaukee. Asst District Dir, Chicago. Assistant District Director. Assistant District Director. National Director for Internal Audit Planning. Assistant District Director.
Southwest Region	Service Center Dir, Ogden. District Dir, Austin. District Director, Dallas. District Director, St Louis. District Director, Oklahoma City. District Dir, Phoenix. District Dir, Denver. Assistant District Director, Dallas. District Director, Cheyenne. Compliance Center Director. Asst District Director, Austin. Asst Compliance Center Director. Field Information Systems Officer Midstates. Assistant Service Center Director. Director of Support Services. Assistant District Director, Houston.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Western Region	District Director, Houston. Regional Chief Customer Service. Regional Commissioner. Regional Director of Appeals, Midstates. Regional Chf Compliance Ofcr, Southwest. District Dir, Los Angeles. District Dir, San Francisco. District Dir, Seattle. Asst District Dir, Los Angeles. Asst Dist Dir, San Francisco. District Director, San Jose. Field Information Systems Officer, Western. Regional Counsel, Western. Special Assistant to the Regional Commr. National Transition Executive for Appeals. Assistant District Director, Laguna Nigule. Asst District Director, San Jose. Regional Chief, Customer Service. Asst District Director, Seattle. Chief Compliance. District Director, Laguna Nigule. Regional Commissioner, Western. Dir of Support Services. Service Center Director, Fresno.
Chief Compliance Officer	Asst Comr (Employee P & E Organizations). Asst Commissioner (Taxpayer Service). Asst Commr (Criminal Investigation). Dir Exempt Organizations Technical Division. D/Employee Plans Tech & Actuarial Division. Director, Statistics of Income Division. Dep Asst Commr (Criminal Investigation). Director of Investigations, Eastern Area Ops. Dir of Investigations. Dir of Investigations (Tax Refund Fraud). Dir of Investigations, Southern Area of Ops. Director, Office of National Operations. Dir of Investigations, Central Area of Ops. Asst Commissioner (Collection). Natl Director, Corporate Examinations. Assistant Commissioner (International). Asst Comr (Forms & Submission Processing). National Director, Compliance Specialization. National Director, Specialty Taxes. Chief Compliance Officer. National Dir, Electronic Program Operations. Executive for Submission Process Outsourcing. National Director, Service Center Compliance. National Dir, Collection Field Operations. National Director, Compliance Research. Deputy Asst Commissioner (International). Director, Business Systems Requirements. Asst Commr (Examination & Govntl Liaison). Natl Director, Electronic Prog Enhancement.
Chief, Taxpayer Services	Service Center Director, Memphis. Service Center Director, Austin. Asst Comr (Electronic Tax Administration). Executive for Electronic Filing Strategy. Asst Service Center Dir Brookhaven. Assistant Service Center Director. Assistant Service Center Director, Ogden. National Dir, Customer Service Operations. Deputy Chief, Taxpayer Service. Natl Dir, Submission Processing Division. Executive Ofcr for Service Center Operations. Project Director, Customer Service Site. National Dir, Customer Serv Planning & Syst. Chief, Taxpayer Services. National Dir, Multimedia Production Division. Executive Officer for Customer Service.
Chief Financial Officer	Chief Financial Officer. Controller National Dir for Financial Mgmt. Deputy Assistant Commissioner (Procurement).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Chief, Management & Administration	National Director for Financial Analysis. Director, Support & Services Division. National Director for Systems & Account Stds. Asst Comr (Procurement). National Director for Budget. Special Asst to Chief Mgmt & Administration. Exec Asst to the Natl Dir Ofc of Quality. Dean, School of Information Technology. Dean, School of Professional Development. Dir, Ofc of Media Relations. Natl Dir, Real Estate Planning & Management. National Director Personnel. National Director of Education. Dean, School of Taxation. Asst Commissioner (Support Services).
Chief Information Officer	Chief Management and Administration. Dir Martinsburg Computing Center. Dir, IRS Data Center Detroit. Director, Systems Design Division. Director, Technical Contract Support Division. Director, Submission Processing Division. Director, Government Program Management Ofc. Privacy Advocate. Dir, Technical Management Division. Dir, Customer Serv Compliance & Mgmt Sys Div. Asst Dir, Government Prog Management Ofc. Director, Technical Program Management. Director, Technical Contract Support. Dep Natl Dir, Applications Design & Develop. Project Director. Dep Natl Dir, Syst Eng & Program Management. Natl Dir Network & Systems Management. Dir, Operation Management Division. Director of Systems Life Cycle, S & E. Director, Systems Support Division. Director, Tennessee Computing Center. Project Director. Director, Product Assurance Division. National Dir, Syst Eng & Program Management. Dir, Program Management & Control Division. Dir, Architecture, Eng & Infrastructure Div. Dept Chief Info Officer (Info Resources Mgmt). Deputy Dir, System Standards & Evaluation Ofc. Director, Performance Management Office. Chief Information Officer. Director, National Office Operations Division. Dir, Office of System Standards & Evaluation. Project Director. Project Director. Project Director. Director, Corporate Processing Division. Director, Information Systems Services Div. Project Director. Deputy Chief Information Officer. Deputy Chief Information Officer (System Dev). Dep Chief Information Officer (Operations). Project Director. Project Director.
Chief, Strategic Planning & Communications	Director, Tax Forms & Publications Division. Director, Legislative Affairs Division. Natl Director, Strategic Planning Division. National Director of Quality.
Chief, Headquarters Operations	Chief, Headquarters Operations.
Chief Inspector	Chief Inspector. Dep Chief Inspector. Assistant Chief Inspector (Int Audit). Assistant Director, Internal Audit Division. Asst Chief Inspector (Internal Security). Asst Dir, Internal Security Division. Regional Inspector, North Atlantic. Regional Inspector, Western Region. Regional Inspector, Southwest Reg.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
Chief Counsel	Regional Inspector, Southeast. Natl Dir for Communication, Education Quality. Asst Chief Counsel (General Litigation). Asst Chief Counsel (Criminal Tax). Asst Chief Counsel (General Legal Services). Asst Chief Counsel (Disclosure Litigation). Assistant Chief Counsel (International). Assistant Chief Counsel (Corporate). Dept Asst Chf Coun (Income Tax & Accounting). Dep Asst Chf Coun (Passthroughs/Spec Indust). Asst Chief Counsel (Field Service). Asst Chf Coun (Passthroughs/Spec Industries). Deputy Asst Chief Counsel (Corporate). Dep Assoc Chief Counsel (Fin & Management). Dep Asst Chief Counsel (Field Service). Dep Asst Chief Coun (Financial Inst & Prod). Dep Assoc Chf Coun (Enforcement Litigation). Dep Assoc Chief Counsel, International. Asst Chf Coun (Fin Institutions & Products). Dep Asst Chief Coun (Income Tax & Accounting). Dep Assoc Chief Counsel (EBEO). Asst Chief Counsel (Income Tax & Accounting). Assoc Chief Counsel (Enforcement Litigation). Assoc Chief Counsel, Emp Benefits Exempt Org. Special Counsel (Modernization & Strat Plnng). Deputy Chief Counsel. Asst Chief Counsel (EBEO). Dep Assoc Chief Counsel (Domestic) (Technical). Associate Chief Counsel (International). Assoc Chf Counsel (Finance & Management). Dep Assoc Chief Coun (Domestic) (Field Serv). Assoc Chief Counsel (Domestic).
Regional Counsels	Regional Counsel, SE Region. District Counsel, Boston. District Counsel, Los Angeles. District Counsel, Cincinnati. District Counsel, Philadelphia. District Counsel, Newark. District Counsel, Chicago. District Counsel, Manhattan. District Counsel, Dallas. District Counsel, San Francisco. District Counsel. District Counsel. Regional Counsel, Midstates. Deputy Regional Counsel (Southeast). Deputy Regional Counsel, Western Region. District Counsel, Seattle. District Counsel, Baltimore. District Counsel, Brooklyn, New York. District Counsel, Atlanta. Deputy Regional Counsel, Midstates. District Counsel, Houston, Texas. District Counsel, Denver.
U.S. Arms Control and Disarmament Agency: Intelligence, Verification & Information Mgmt Bureau	Chief, Intelligence, Technol & Analysis Div. Director of Administration.
Ofc of Administration	Chief, Strategic Neg & Implementation Div. Chf, Theater & Strategic Defenses Division.
Strategic and Eurasian Affairs Bureau	Chief, Strategic Transition Division. Chief Scientist.
Non-Proliferation and Regional Arms Control Bureau	Chief, Nuclear Safeguards & Technology Div. Chf, Weapons and Technology Control Div.
Multilateral Affairs Bureau	Chief, Nuclear Safeguards & Testing Div. Chf, International Nuclear Affairs Divisions.
United States Information Agency: Bureau of Management	Chief, Intl Security & Nuclear Policy Division. Chf, C & B Pol Div Bur of Multilateral Affs. Chief, Sci & Technological Division.
Bureau of Management	Director, Office of Personnel. Director, Office of the Comptroller. Dir, Ofc of Contracts.

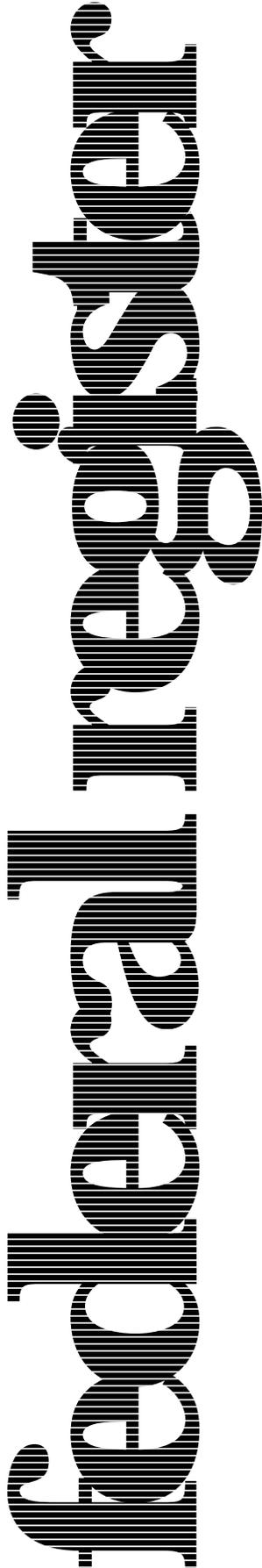
POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1997—Continued

Agency/organization	Career reserved positions
International Broadcasting Bureau	Director, Office of Technology. Dir, Engineering and Technical Operations.
Office of Information Resources	Deputy for Engineering Resource Control. Deputy for Projects Management.
Ofc of the Gen Counsel	Deputy for Operations. Director for Spectrum Management.
U.S. International Trade Commission:	Director, OFC of Information Resources.
Office of Industries	Deputy General Counsel.
Office of Investigations	Dir, Ofc of Industries.
Department of Veterans Affairs:	Dir, Ofc of Investigations.
Office of the Secretary and Deputy	Director, Office of Edca.
Office of the Inspector General	Dep Inspector General. Assistant Inspector general for auditing.
Board of Veterans Appeals	Asst Inspector General for Investigations. Asst Insp Gen for Departmental R & M Support.
Office of Financial Management	Dep Asst Inspector General for Investigations. Counselor to the Inspector General.
Office of Information Resources Management	Asst Inspector General for Healthcare Inspect. Dep Asst Inspector General for Auditing.
Office of Acquisition and Materiel Management	Vice Chairman. Deputy Vice Chairman.
Office of Human Resources Management	Dep Asst Secy for Financial Management. Assoc Dep Asst Secy for Financial Operations.
Office of Security and Law Enforcement	Dir, Austin Finance Center, Austin, TX. Dir, VA Automation Ctr, Austin, TX.
Veterans Benefits Administration	Assoc Dep Asst Secy for telecommunications. Assoc Dep Asst Secy for Pol & Prog Assistance.
Veterans Health Administration	Dep Asst Sec for Acquisition & Materiel Mgmt. Assoc Dep Assistant Secy for Acquisitions.
Veterans Integrated Service Network Directors	Assoc Dep Asst Secy for Serv & Distribution. Assoc Dep Asst Secy for Prog Mgmt & Oper.
	Executive Director/Chief Operating Officer. Assoc Dep Asst Secy for Human Res Management.
	Assoc Dep Asst Secy for Human Res Management. Dummy.
	Dep Asst Secy for Security & Law Enforcement. Deputy Chief Financial Officer.
	Dep Dir, Compensation & Pension Service. Chief Financial Officer.
	Director, Resource Formulation Office. Dir, Office of Real Property Management.
	Dir, VA/DOD Medical Sharing Office. Dir, Medical Care Cost Recovery Office.
	Dir, Emergency Medical Preparedness Office. Deputy Director, Emergency Medical Prep Ofc.
	Chief Financial Officer. Director, Western Area Office.
	Director, Eastern Area Office. Director, Facilities Quality Office.
	Dir, Consulting Support Office. Director, Financial Management Office.
	Dir, Canteen Service.

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Tuesday
February 24, 1998



Part III

**Department of
Education**

**Special Education and Rehabilitative
Services; Grant Applications; Notice**

DEPARTMENT OF EDUCATION**Special Education and Rehabilitative Services; Grant Applications**

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1998.

SUMMARY: On June 4, 1997, the President signed into law Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997, amending the Individual with Disabilities Education Act (IDEA).

This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1998 competitions under four programs authorized by IDEA, as amended. The four programs are: (1) Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (four priorities); (2) Special Education—Technology and Media Services for Individuals with Disabilities (two priorities); (3) Research and Innovation to Improve Services and Results for Children with Disabilities (one priority); and (4) Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities (one priority).

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice. In order to make awards on a timely basis, the Secretary has decided to publish these priorities in final under the authority of section 661(e)(2).

General Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA);

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA); and

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

(d) In a single application, an applicant is required to address only one absolute priority in this notice.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities

Purpose of Program: The purpose of this program is to provide technical assistance and information through such mechanisms as institutes, regional resource centers, clearinghouses and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria included in regulations for these programs in 34 CFR part 305.31 for the Regional Resource Centers priority, and 320.30 for the remaining three priorities.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Under section 685 and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary funds under these competitions only those applications that meet these absolute priorities:

Absolute Priority 1—Regional Resource Centers (84.326R)**Background**

State educational agencies (SEAs) are increasingly being asked to make changes to their systems for providing early intervention, special education, and transition services to improve results for children with disabilities and their families. Recent findings on educational change suggest that in order to create successful and lasting "systemic change": (1) decisions should be data-based; (2) multiple aspects of the system should be considered, including policies and practices at national, State, district, classroom,

teacher, and student levels; (3) change should be driven from both the top-down and the bottom-up; (4) barriers to systemic change, such as fragmented policies and complicated administrative requirements should be eliminated; and (5) changes to one sector of the system should be directly linked to changes in all other system sectors (for example, personnel development and teacher certification must be linked to curriculum content and student outcomes). Furthermore, SEAs striving for such complex transformations will be required to establish new partnerships, translate validated research findings into practice, and provide personnel with specialized knowledge and skills.

In order to help States improve their special education programs, the Office of Special Education Programs (OSEP) has supported Regional Resource Centers (RRCs) which employ a variety of strategies, including needs assessment, staff training, policy and product development, and information dissemination. Historically, these strategies, although requested and well received by SEAs, have focused primarily on specific policy or program issues. They have seldom addressed the SEA's systemic needs.

For over a decade, OSEP has supported State system change efforts through a number of discretionary projects. These projects, although successful, were limited in number and scope, focusing specifically on secondary transition and the education of children with severe disabilities. The IDEA Amendments of 1997 specifically authorize technical assistance on assisting SEAs and their partners in planning and implementing systemic change. In this regard, the following priority would require the RRCs to assist SEAs and LEAs in including general educators in systems change efforts designed to improve results for children with disabilities.

The Regional Resource Centers will become a key component of OSEP's expanded systems change efforts, serving not only in their traditional capacity as technical assistance providers, but also as brokers of technical assistance for SEAs, LEAs, and their partners. This new role would require RRCs to serve as a link between SEAs and appropriate technical assistance providers at national, State, and local levels that can assist States in achieving systemic change and improving results for children with disabilities and their families.

Consistent with the Regional Resource Centers' central mission of helping States improve their special education

programs, the following priority requires centers to address the general technical assistance needs of SEAs and their partners related to the development and implementation of State Improvement Plans under the new State Program Improvement Grants for Children with Disabilities (or SIG program). The SIG program supports competitive grants designed to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, in order to improve results for children with disabilities. Because Regional Resource Centers are funded to provide technical assistance and to serve as a resource for information requests from all States within their regions, and must do so on an equitable basis across those States, centers are prohibited from helping a State draft its SIG application, providing technical assistance on what to include in the application or how to draft the application contents, or performing any other function that could be viewed as providing a competitive advantage to one potential SIG program applicant over another. On the other hand, helping States, for example, with needs assessments, project implementation, and evaluation, and other activities related to the State improvement plan are consistent with the centers' general role and are authorized under the following priority.

Priority

The Secretary establishes an absolute priority for the purpose of supporting Regional Resource Centers. The Regional Resource Centers, through written technical assistance agreements with SEAs, LEAs, and other entities must—

(a) Increase the depth and utility of information in on-going and emerging areas of priority needs as identified by States, local educational agencies, and participants in SIG partnerships that are in the process of making systemic changes. To expand information depth and utility, Regional Resource Centers must, for example, cooperate with the Federal Resource Center in collecting and sharing information on current practices, policies, and programs relevant to State implementation of IDEA.

(b) Promote change through a multi-State or regional framework that benefits States, local educational agencies, and participants in SIG partnerships pursuing systemic-changes. To promote

change, Regional Resource Centers must conduct activities such as—

(1) Identifying general and special education technical assistance providers funded by the Department of Education at national, State, and local levels, and linking them with SEAs to help them achieve systemic change and improved results for children with disabilities and their families.

(2) Collaborating with other Department-funded programs that address special needs related to school-based reform (e.g., school-wide and other programs under Title I of the Elementary and Secondary Education Act).

(3) Participating in Department of Education program coordinated reviews whose purpose is to ensure that technical assistance activities of the centers are coordinated with those of other technical assistance providers to meet State identified needs in a comprehensive and efficient manner. The program coordinated reviews conducted by the Department focus on areas in which technical assistance is needed across programs such as standards and assessments, parent involvement, professional development, transition from school to work, and education reform.

(c) Promote communication and information exchange among States, local educational agencies, and participants in SIG partnerships based on the needs, concerns, emerging issues, and trends identified by these agencies and participants. Such bases may include, for example:

(1) Persistent problems that arise as States comply with IDEA requirements (e.g., identifying appropriate settings for infants and toddlers, transition issues, shortages of related service personnel, alternate assessment strategies, or determining appropriate uses of technology).

(2) Issues faced by local, regional, and State entities in implementing systemic reform, (e.g., placement issues, training and support for teachers, developing useful curricular materials based on sound instructional principles, managing children who exhibit challenging behaviors).

(3) Variance in practices, procedures, and policies of States, local educational agencies, and participants in SIG partnerships.

(4) Accountability of States, local educational agencies and participants in SIG partnerships for improved early intervention, educational, and transitional results for children with disabilities.

(d) Provide technical assistance to State educational agencies and their

partners related to State improvement plans under the SIG program. Technical assistance activities may include—

(1) Developing general models for SEAs to use in developing their State improvement plans under the SIG program (See § 653 of IDEA);

(2) Helping SEAs conduct needs assessment activities stipulated in the State improvement plan (See § 653(b) of IDEA);

(3) Helping SEAs and their partners implement systemic changes specified in the State improvement plan (See § 653(c) of IDEA);

(4) Helping to evaluate the systemic outcomes of State improvement activities (See § 653(f) of IDEA); and

(5) Serving as a technical assistance facilitator to establish mentoring relationships between SEAs that have successfully implemented State improvement activities under the SIG program and those seeking funding under the SIG program.

(e) Assist States in developing and implementing strategies to comply with IDEA requirements such as establishing performance goals and indicators under section 612(a)(16). To assist States, the Regional Resource Centers may conduct activities such as—

(1) Designing LEA systems for ensuring compliance, (e.g., LEA monitoring, eligibility, complaint resolution);

(2) Developing and assisting in the implementation of corrective action plans in response to U.S. Department of Education monitoring findings; and

(3) Assisting in coordinated program reviews conducted by the U.S. Department of Education.

(f) Conduct, every two years, a results-based evaluation of the technical assistance provided. Such an evaluation must be conducted by a review team consisting of three experts approved by the Secretary and must measure elements such as—

(1) The type of technical assistance provided and the perception of its quality by the target audience;

(2) The changes that occurred as a result of the technical assistance provided; and

(3) How the changes relate to State plan goals and objectives.

The services of the review team, including a two-day site visit to the centers are to be performed during the last half of a center's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the Regional Resource Center's budget for

year two. These costs are estimated to be approximately \$4,000.

Geographic Regions:

The Secretary establishes the following geographic regions for the RRCs:

Region 1: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont

Region 2: Delaware, District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia

Region 3: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Texas, Puerto Rico, Virgin Islands

Region 4: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Wisconsin

Region 5: Arizona, Colorado, Kansas, Montana, New Mexico, Nebraska, North Dakota, South Dakota, Utah, Wyoming, Bureau of Indian Affairs

Region 6: Alaska, California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, and the Northern Marianas, and the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau—for as long as they participate under Part B of IDEA.

In addition to the two-day Project Directors' meeting (see general requirement (c)), the project must also budget for an additional trip to Washington, D.C. to collaborate with the OSEP project officer.

Under this priority, the Secretary will make six awards for cooperative agreements with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Regional Resource Centers for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider the timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Regional Resource Centers.

Project Period: Up to 56 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$1,040,000 for the first budget period of 8 months, and \$1,500,000 for the subsequent 12 month budget periods. The Secretary may change the maximum amounts through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is

where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Absolute Priority 2—National Clearinghouse on Postsecondary Education (84.326H)

The Secretary establishes an absolute priority to support a National Clearinghouse on Postsecondary Education for Individuals with Disabilities. The National Clearinghouse on Postsecondary must—

(a) Collect and disseminate information on: the characteristics of individuals with disabilities entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, support service, (including assistive technology and adaptations), and other resources available or recommended to facilitate the postsecondary education of individuals with disabilities; available educational programs and services in postsecondary settings that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the postsecondary education and training of individuals with disabilities;

(b) Identify areas, in addition to those specified in paragraph (a), in which information is needed and provide information in those areas;

(c) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for purposes of disseminating information, promoting awareness of issues related to the postsecondary education of individuals with disabilities, and referring individuals who request information to local resources;

(d) Respond to requests for information from individuals with disabilities, their parents, and professionals who work with such individuals so that persons may make informed decisions about postsecondary education and training. All information requests should be collected and responses disseminated, at no cost to the requester, through multiple vehicles such as a toll free telephone number, a World Wide Web Site, and through electronic and regular mail. The project must link with other Federally supported technical assistance projects in collecting and disseminating information. Information products must be made available in accessible formats and, as appropriate, foreign languages.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$450,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page

abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Absolute Priority 3—National Information Center for Children With Disabilities (84.326N)

Background

There is a need to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties who live with, and work with, infants, toddlers, and children with disabilities. Activities such as disseminating information and providing technical assistance are intended to support States and local entities in building capacity to improve early intervention, educational, and transitional services, and results for children with disabilities and their families, and to address systemic-change goals and priorities. Since the inception of IDEA, the informational needs of parents, professionals, and others has greatly increased. Public awareness of IDEA has continued to improve. As additional parents and professionals confront issues related to IDEA and children with disabilities, the need for information will intensify and existing materials will have to be updated, revised, and improved upon.

Priority

The Secretary establishes an absolute priority for the purpose of establishing and operating a national information dissemination center to improve early intervention results for infants and toddlers and educational and transitional results for children with disabilities. The center shall also address national needs for the preparation and dissemination of information relating to eliminating barriers to systemic change.

The national information dissemination center must—

(a) Collect, develop, and disseminate research-based information on the characteristics of infants, toddlers, and children with disabilities and on the programs, legislation, and services related to early intervention or education under IDEA and other Federal laws;

(b) Develop and implement a process for reviewing materials related to the IDEA Amendments of 1997 for accuracy and for consistency with those

Amendments. The process must be approved by OSEP prior to implementation;

(c) Participate in programs and activities for providing outreach, technical assistance, and collection and dissemination of information on issues related to children with disabilities; and promote networking between individuals and appropriate national, State, and local agencies and organizations that deal with issues under IDEA. The center must coordinate its activities with parent training and information centers; community parent resource centers; early childhood, elementary, secondary and postsecondary technical assistance centers; the technical assistance to parent information centers project; regional resource centers; and other national technical assistance systems and information sources, such as the center on dispute resolution, that are supported under IDEA. The project must create links with other Federally supported technical assistance projects and create a World Wide Web home page to link electronically to these projects, as appropriate;

(d) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of relevant information, programs, and services;

(e) Collect, develop and disseminate research-based information related to early intervention, education, and related services of individuals with disabilities that is responsive to current and future informational needs of parents, professionals, individuals with disabilities, and other interested parties. Information, must be collected and disseminated on a national, regional, and State basis as appropriate;

(f) Provide technical assistance to national, federally supported, regional, State, and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families;

(g) Develop strategies to disseminate information to underrepresented groups such as those with limited English proficiency, for purposes of carrying out center activities.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$1,100,000 for any single budget period of 12 months. The Secretary may change the maximum

amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Program Authority: Section 685 of the Act.

Absolute Priority 4—Linking Policy and Practice Audiences With the 1997 Amendments of IDEA (84.326A)

Background

The Individuals with Disabilities Education Act Amendments of 1997 (P.L. 105-17) made improvements to the IDEA that will help ensure that each child (ages birth through 21) with a disability is provided with a high quality individually designed program of services to meet his or her developmental and educational needs. The IDEA Amendments of 1997 build on the original purposes of the law: each child must be ensured a free appropriate public education, each child's education must be determined on an individualized basis, a program must be designed to meet the child's particular needs in the least restrictive appropriate environment, and the rights of children and their families must be ensured and protected through procedural safeguards.

The new IDEA provisions begin to shift the focus of the law from providing access to education and early intervention services to improving results for children with disabilities. For example, the IDEA Amendments of 1997 include additional requirements to help ensure that children with disabilities have access to challenging curricula, that their developmental and educational programs are based on high expectations, and that their progress is regularly assessed and their parents are kept informed.

Educational and professional associations, parent organizations, and other entities concerned with early intervention and the education of children with disabilities played an important role in the reauthorization of IDEA. Each supported and advocated for a clear focus on results as well as on access. These same entities, and their grassroots constituents, will be critical to the implementation of the new law by helping to ensure that the changes made by the IDEA Amendments of 1997 are understood and put into practice by their members at the State and local levels.

Priority

The Secretary establishes an absolute priority to support four partnerships among associations and other entities so they can contribute to the successful implementation of IDEA, including Part C. These partnerships will be established in order to inform and provide support to partnership's members and constituents in understanding the changes to the law, the implications of these changes for their respective roles in improving results for children with disabilities, and how research-based best practices can be used to implement the law. Associations and other entities forming partnerships must—

(a) Collaborate to meet the needs of one of four audiences: (1) policy makers (e.g., chief State school officers, State boards of education, local school boards, State directors of special education, State directors of mental health programs, State directors of vocational rehabilitation programs, State directors of programs for children with special health care needs, deans of education and special education department chairs, school superintendents, governors, State legislators); (2) service providers, (e.g., general and special education teachers, early childhood specialists, community-based providers, vocational educators, related service providers, paraprofessionals); (3) local-level administrators (e.g., elementary, middle

and secondary school principals; special education administrators; and administrators of private schools); and (4) families and advocates (e.g., parents and family members of general and special education students and infants with disabilities, and disability advocacy organizations). One partnership will be supported for each collective audience. Each partnership must include—

(i) From 5 to 10 associations and entities representing general and special education interests; and

(ii) One project director responsible for the leadership and management of the partnership.

(b) Conduct needs assessments of member associations and other entities prior to submitting an application in order to identify the needs of their respective memberships and constituents regarding the implementation of the amended IDEA.

Partnerships must—

(1) Describe in the application the strategies (e.g., questionnaires, telephone surveys, focus groups, the use of documents in electronic formats) used to obtain input and need-based information from their respective memberships and constituents;

(2) Provide an analysis of the needs assessment data with the application and submit the analysis to the Coordinating Committee described in paragraph (e) once the committee is established.

(c) Develop a joint agreement among its participating associations and other entities to be included in the application. This agreement must describe—

(1) The audience whose needs the partnership will address;

(2) The roles and responsibilities of each member organization or other entity in the partnership;

(3) The activities that the partnership is proposing to conduct. Activities must include dissemination and outreach. Each partnership must also employ information specialists to answer questions and provide materials to audience members and constituents upon request; and

(4) How resources are proposed to be allocated to ensure the success of the partnership activities.

(d) Budget for the participation of three partnership members in up to five days of training on the IDEA Amendments of 1997. This training will be conducted by OSEP staff in Washington DC.

(e) Propose an approach for establishing and operating a Coordinating Committee comprised of representatives of each of the four

partnerships supported under this priority. The Coordinating Committee shall include, at a minimum, the project director of each partnership and appropriate OSEP staff, and may also include other partnership staff for purposes of carrying out committee responsibilities, including assisting partnerships in implementing their projects. The proposal under this paragraph must address each of the committee functions listed below and include a method for allocating partnership resources to support committee activities. Committee members will convene during the second month of the award to reach consensus on a single approach based on the proposals in one or more of the partnership's respective applications. The Coordinating Committee shall—

(1) Provide technical assistance and develop materials to ensure clarity, accuracy, consistency of message and efficient use of resources across the partnerships;

(2) Provide partnerships timely information, including information on pertinent research;

(3) Implement an external review process in which experts review partnership materials for technical accuracy and clarity. Experts must be knowledgeable in the IDEA Amendments of 1997, supporting legislative history, and regulations implementing the Amendments, and also must be familiar with related OSEP policy guidance. The external expert review process shall be finalized in consultation with, and approved by, OSEP;

(4) Implement a joint marketing, training, dissemination, and outreach plan, based on the results of the partnerships' needs assessments, for reaching each of the four target audiences in an efficient and timely manner. This plan must include a timeline and a range of strategies, with differing degrees of intensity, to reach each of the four audiences (e.g., mailouts to members and constituents, training trainers, providing on-site technical assistance, preparing and disseminating materials). The marketing plan must explain: how partners will use funds provided under this priority to supplement their ongoing organizational efforts to improve results for children with disabilities; how partners intend to create a cadre of individuals who have in-depth knowledge of the IDEA Amendments of 1997 and can provide necessary training; how these representatives of the various partnerships will participate in training members of other partnerships; how partners will reach

their members and constituents at the local level; how partners will address the level of awareness, knowledge, and skill of their respective targeted audiences; and how the partners will use the knowledge from research-based best practices to effectively implement the IDEA Amendments of 1997; and

(5) Design and conduct a communication campaign that includes the successful implementation of researched-based practices and that increases public awareness of how children with disabilities are being served appropriately and how appropriate services affect results for children. Appropriate resources must be allocated to the communication campaign. The communication campaign also must be based on the needs assessments, and should use a range of strategies. Elements of the campaign might include, but need not be limited to: an 800 number to provide accurate answers to inquiries related to the IDEA Amendments of 1997 and to provide information about the partnerships' successes; one or more web sites with shared information among the partnerships and links to other information providers; a database of material developed by the partnerships; regular information updates keeping abreast of new developments in the law; and a media campaign highlighting the exemplary practices of the partnerships through television, radio and print public service announcements, a press package, regional events and conferences, and targeted mailings. The communication campaign will culminate in the third and fifth years with a national conference on best practices for achieving positive results for children with disabilities.

Project Period

Under this priority, The Secretary will make an award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue a partnership for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The team's review is to be performed during the last half of the partnership's second year. The cost of this review, which is estimated to be approximately \$4,000, must be included in the partnership's budget for year two;

(b) The quality and accuracy of materials and information provided by

the partnership, as well as the timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the partnership; and

(c) The degree to which the partnership assists audience members in using best practices to implement the IDEA Amendments of 1997.

Number of Awards: Four partnership awards will be made: policy maker partnership; local-level administrator partnership; service provider partnership; and family and advocate partnership.

Review and Approval by OSEP: Information products produced under this award may not be disseminated to outside audiences without prior approval by OSEP.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$1,500,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application (the application narrative), applicants must address the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" X 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Special Education—Technology and Media Services for Individuals With Disabilities [CFDA No. 84.327]

Purpose of Program: The purpose of this program is to promote the development, demonstration, and utilization of technology and to support educational media activities designed to be of educational value to children with disabilities. This program also provides support for some captioning, video description, and cultural activities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria included in regulations for these programs in 34 CFR 332.32 for the Captioned Films and Videos Distribution System priority, and CFR 333.21 for the Steppingstones of Technology Innovation for Students with Disabilities priority.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Under section 687 and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary funds under these competitions only those applications that meet these absolute priorities:

Absolute Priority 1—Captioned Films and Videos Distribution System (84.327N)

Background

This priority supports the operation of a distribution system of captioned films and videos that provides deaf and hard of hearing individuals, as well as other individuals with disabilities, with access to captioned educational and general interest media on a nonprofit free-loan basis. This priority provides students and other individuals with disabilities with captioned media so they may benefit from the same educational media used to enrich the educational and cultural experiences of students and other individuals who do not have disabilities. Activities under this priority include, but are not limited to:

(a) Improving the accessibility of all students and other individuals to captioned media;

(b) Circulation of free-loan captioned media;

(c) Producing and providing printed, cd-rom, and online listings and catalogs of available materials; and

(d) Outreach activities to promote the program to users and to inform school systems as to the availability of educational captioned media.

Priority

To be funded under this priority, the project must—

(a) Develop strategies and procedures to be implemented in operating a distribution system, consisting of local and regional centers, including depositories, and one central general interest and educational media center. Local and regional centers may include State schools for disabled individuals, public or private school systems, public libraries, colleges or universities, or other distribution points that distribute captioned media;

(b) Ensure that the system permits interdepository circulation of free-loan captioned educational media, and allows individuals, depositories, and local and regional centers to access booking information from the (1) computerized depositories; and (2) general interest and educational films and video center via on-line access;

(c) Establish and describe the computerized registration procedures that will be used to register users, schedule captioned media retrieval and use, and track and record consumer feedback and usage information;

(d) Develop and implement criteria and procedures for replacing irreparable captioned media;

(e) Prepare, update, and distribute copies of a catalog listing all captioned media available under this project, including copies of the lesson guides as they become available;

(f) Convene an annual meeting of depository managers, librarians, and audiovisual and other personnel from local, regional, and State educational agencies for the purpose of training, planning, sharing, brainstorming, and other activities related to improving the access of individuals to captioned media. The Washington, D.C. metropolitan area will be the site of the meeting;

(g) Implement outreach activities, especially activities that reach out to local school systems to make them aware of the open and closed captioned materials that are available to them under this program and from other sources; and

(h) Submit quarterly progress reports to the project officers.

Project Period: Up to 36 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$1,350,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Absolute Priority 2—Steppingstones of Technology Innovation for Students With Disabilities (84.327A)

The purpose of this priority is for the support of projects that—

(a) Select and describe a technology-based approach for achieving one or more of the following purposes: (1) Improving literacy for students with disabilities; (2) improving access to and participation in the general curriculum for students with disabilities; and (3) improving accountability and participation in educational reform for students with disabilities. The technology-based approach must consist of an innovative and emerging technology, and additional curriculum materials and instructional methodologies that enable the technology to achieve educational purposes for students with disabilities;

(b) Justify the approach on the basis of research or theory that supports the effectiveness of the technology-based approach for achieving one or more of the purposes presented in paragraph (a); and

(c) Conduct work in *ONE* of the following phases:

(1) *Phase 1—Development:* Projects funded under Phase 1 must develop and refine a technology-based approach, and test its feasibility for use with students with disabilities. Activities may include development, adaptation, and refinement of technology, curriculum materials, or instructional methodologies. Activities must include formative evaluation. The primary product of Phase 1 should be a promising technology-based approach that is suitable for field-based evaluation of effectiveness.

(2) *Phase 2—Research and Evaluation:* Projects funded under Phase 2 must select a promising technology-based approach that has been developed in a manner consistent with Phase 1, and subject the approach to rigorous field-based research and evaluation to determine effectiveness and feasibility in educational settings. Products of Phase 2 include a further refinement and description of the technology-based approach, and sound evidence that, in a defined range of real world contexts, the approach can be effective in achieving one or more of the purposes presented in paragraph (1).

(3) *Phase 3—Implementation and Validation:* Projects funded under Phase 3 must select a technology-based approach that has been evaluated for effectiveness and feasibility in a manner consistent with Phase 2, and must study the implementation of the approach in multiple, complex settings to acquire an improved understanding of the range of contexts in which the approach can be used effectively, and the factors that determine the effectiveness and sustainability of the approach in this range of contexts. Factors to be studied in Phase 3 include factors related to the technology, curriculum materials and instructional methodologies that constitute the technology-based approach. Phases 2 and 3 can be contrasted as follows: Phase 2 studies the effectiveness the approach can have, while Phase 3 studies the effectiveness the approach is likely to have in sustained use in a range of typical educational settings. The primary product of Phase 3 should be a detailed blueprint that can be used in dissemination and utilization of the technology-based approach. Also to be studied in Phase 3 are contextual factors associated with students, teacher

attitudes skills and actions, physical setting, curriculum and instruction, resources, and professional development and policy supports, etc.;

(d) In addition to the annual two-day Research to Practice Division Project Directors' meeting in Washington, D.C. mentioned above in the General Requirements section of this notice, budget for another annual trip to Washington, D.C. to collaborate with the Federal project officer and the other projects funded under this priority, and to share information and discuss findings and methods of dissemination; and

(e) Prepare products from the project in formats that are useful for specific audiences as appropriate, including parents, administrators, teachers, early intervention personnel, related services personnel, researchers, and individuals with disabilities.

Project Period: The Secretary intends to fund at least one project in each phase. Projects funded under Phase 1 will be funded for up to 24 months. Projects funded under Phase 2 will be funded for up to 24 months. Projects funded under Phase 3 will be funded for up to 36 months. During the final year of projects funded under Phase 3, the Secretary will determine whether or not to fund an optional six-month period for additional dissemination activities.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$200,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget

section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Research and Innovation To Improve Services and Results for Children With Disabilities

Purpose of Program: To produce, and advance the use of, knowledge to: (1) improve services provided under IDEA, including the practices of professionals and others involved in providing those services to children with disabilities; and (2) improve educational and early intervention results for infants, toddlers, and children with disabilities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Research Institute To Improve Results for Adolescents With Disabilities in General Education Academic Curricula

Background

The purpose of this priority is to support an institute that will conduct research and development activities aimed at improving results for secondary school-aged (grades 9 through 12) students with disabilities participating in the general education academic curricula. Research must be conducted on how students with disabilities learn challenging academic content, as well as on a broad array of instructional and contextual variables that influence skill acquisition among high school students with disabilities. The institute must also develop approaches to disseminating effective research-based information and practices to secondary education teachers who serve high school students with disabilities participating in general education academic curricula.

Although various school reforms have been implemented that are intended to

help all students succeed academically, multiple and significant challenges face both general and special educators. For example, findings from the National Longitudinal Transition Study indicate that students with disabilities are spending, on average, nearly 70 percent of their school day in regular education classrooms where exposure to general education academic curricula is most common. However, it is uncertain if academic content is learned when fewer than one-quarter of students with disabilities move on to two or four-year colleges. Furthermore, when special education and other related services are being increasingly provided in regular education classrooms, a stronger collaboration among general and special educators is needed. For example, general educators play an increasingly prominent role in the education of students with disabilities, not only as classroom teacher for academic content, but also in the IEP process. Therefore, the redefinition of responsibilities for both general and special educators will require the learning of new content and new strategies for teaching and assessing students.

Furthermore, many high school students with disabilities have significant skill deficiencies that prevent them from benefiting from instruction offered in the general education academic curricula. Studies are needed to develop instructional strategies that enable students with disabilities to understand, remember, and integrate content information contained in academic curricula, and to examine factors which define the instructional dynamic within high school classrooms between teachers and students and between groups of students.

Some of the specific questions about which more knowledge is needed include: Are current practices sufficient for teaching complex, high school subject content within the context of restructured high schools to students with disabilities, including students who live in poverty? How do classroom teachers best structure and deliver content information? How can teachers best organize instruction within an academically diverse class to ensure that all students master and can generalize targeted content? What are the critical instructional and contextual variables that influence skill acquisition among adolescents with disabilities? How can this knowledge inform the improvement of instructional practice?

For real change to occur, secondary special and general education teachers who serve children with disabilities in the general education academic

curricula need to know of, and be able to use, research-based practices. Moreover, it is necessary to develop effective ways of disseminating research results and effective research-based practices to teachers and other school personnel. This calls for ambitious, innovative, and collaborative approaches to infuse research findings into professional practice. Effective approaches for translating research to secondary school practice can help ensure that students with disabilities have access to and achieve success in general education curricula with high, measurable standards, and that they will be prepared to succeed in post-secondary education.

Priority

The Secretary establishes an absolute priority for a research institute to improve results for high school students with disabilities by enhancing learning in general education academic curricula. A project funded under this priority must—

(a) Review and identify the critical gaps in the current knowledge in the following areas:

(1) How high school students with disabilities learn challenging academic content, specifically in core high school courses (e.g., math, science, English, social studies, and foreign language);

(2) How teachers learn and use effective and efficient, research-based instructional practices including necessary instructional accommodations and supports to help students with disabilities achieve in a rigorous, standards-based curriculum. We know that certain teaching strategies (e.g., intensive instruction; individualized, instructional decision-making and planning; curriculum that provides contextualized learning opportunities) enable students to learn in a more efficient manner; and

(3) How contextual factors in secondary classrooms and schools influence teaching and learning. For example, scheduling, cross-disciplinary teaching and cooperative teaching approaches, and the use of technology to support instruction and learning are often-cited factors that improve learning for all students;

(b) Design and conduct a strategic program of research that addresses knowledge gaps identified in paragraph (a) by:

(1) Conducting a rigorous research program and employing collaborative research team models (e.g., teacher-researcher partnership research, action research);

(2) Conducting the program of research in organizationally and

demographically diverse high school settings, including high poverty rural and urban schools; and

(3) Collaborating with other research institutes supported under the Individuals with Disabilities Education Act, and other experts and researchers in related subject matter and methodological fields in designing and conducting the activities of the institute; and

(c) Design, implement, and evaluate a dissemination approach that links research to practice and promotes the use of current knowledge and ongoing research findings in the professional development of teachers. This approach must—

(1) Serve as a “blueprint” for maximizing the use of research-based knowledge to improve and sustain effective and efficient instructional practices of general and special education teachers in high school academic courses;

(2) Actively engage teachers, administrators, and related service personnel in learning, adapting, and evaluating research;

(3) Be comprehensive, flexible and responsive to new knowledge and to changing school environments;

(4) Include a rigorous evaluation methodology with multiple outcome measures to assess its effectiveness across diverse sites;

(5) Be implemented and evaluated in organizationally and demographically diverse settings including high poverty urban and rural high schools; and

(6) Be developed in coordination with other U. S. Department of Education-sponsored efforts and technical assistance providers, including other research institutes, centers, and information clearinghouses; and

(d) The project must budget three trips annually to Washington, D. C. (two trips to meet with U.S. Department of Education officials and one trip, as specified in the general requirements for all projects, to attend the Office of Special Education Programs Project Director’s Conference).

Program Authority: Sections 672 and 685 of IDEA.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$700,000 for any single budget period of 12 months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by

reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 60 double-spaced number of pages, using the following standards: (1) A “page” is 8½” x 11” (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities [CFDA 84.325]

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and (2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined through research and experience to be successful, that are needed to serve those children.

Eligible Applicants: Institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The selection criteria included in regulations in 34 CFR Part 318.22; and (c) 34 CFR Part 318.31–318.33.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Under section 673 and 34 CFR 75.105 (c)(3), the Secretary gives an absolute preference to applications that meet the

following priority. The Secretary funds under this competition only those applications that meet this absolute priority:

Absolute Priority—Improving the Preparation of Personnel To Serve Children With High-Incidence Disabilities

Background

The Individuals with Disabilities Education Act Amendments of 1997 clearly reflect the importance of ensuring that personnel working with children with disabilities have the skills and knowledge that are needed to effectively serve such children. Pursuant to this objective, the Department of Education supports grants to improve the preparation of personnel serving children with the full range of disabilities. A priority supporting programs for personnel to serve children with low-incidence disabilities was announced in the **Federal Register** on August 4, 1997. The following priority addresses the preparation of personnel serving children with high-incidence disabilities.

State agencies, university training programs, local schools, and other community-based agencies and organizations confirm both the importance and the challenge of improving training programs for personnel to serve children with high-incidence disabilities and of meeting the staffing needs of localities experiencing chronic shortages of these personnel.

This priority is intended to improve personnel preparation programs throughout the Nation and help meet shortages in particular areas. The project requirements in conjunction with competitive priorities also reflect a number of important factors that are common to effective personnel preparation programs. These factors are:

- (a) Collaboration among governmental, educational and community-based organizations on the Federal, State and local levels in meeting personnel needs;
- (b) Field-based training opportunities for students to use acquired knowledge and skills in schools reflecting wide contextual and student diversity, including high poverty schools;
- (c) Multi-disciplinary training of teachers, including regular and special education teachers, and related services personnel;
- (d) Coordinating personnel preparation programs aimed at addressing chronic personnel shortages with State practices for addressing such needs;

(e) Addressing shortages of teachers in particular geographic and content areas;

(f) Integration of research based curriculum and pedagogical knowledge and practices; and

(g) Meeting the needs of trainees, and of children with disabilities, from diverse backgrounds.

Priority

Consistent with section 673(e) of IDEA, the purpose of this priority is to develop or improve, and implement, programs that provide preservice preparation for special and regular education teachers and related services personnel in order to meet the diverse needs of children with high incidence disabilities and to enhance the supply of well-trained personnel to serve these children in areas of chronic shortage. Student financial assistance is authorized only for the preservice preparation of special educators and related services personnel to serve children ages 3 through 21 with high-incidence disabilities. The term "high-incidence disabilities" includes disabilities such as mild or moderate mental retardation, speech or language impairments, emotional disturbance, or specific learning disability. Training of para-professionals to serve children with high-incidence disabilities is authorized under this priority. Training of early intervention personnel is not authorized under this priority.

A preservice program is defined as one that leads toward a degree, certification, or professional licence or standard, and may be supported at the associate, baccalaureate, master's or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, endorsements, or licences.

Projects funded under this priority must—

- (a) Develop or improve, and implement, partnerships that are mutually beneficial to grantees and LEAs in order to promote continuous improvement of preparation programs;
- (b) Use research-based curriculum and pedagogy to prepare personnel able to assist students with disabilities in achieving under the general education curricula and able to improve student outcomes;
- (c) Develop or improve, and implement, strategies for instructing students on how special education, related services, and regular education personnel can collaborate to improve results for children with disabilities; and

(d) Include field-based training opportunities for students in schools reflecting wide contextual and student diversity, including high poverty schools;

An applicant must satisfy the following requirements contained in Section 673(f)–(h) of IDEA:

(a) Demonstrate, through letters from one or more States that the project proposes to serve, that the States:

(1) Intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities; and

(2) Need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under Part B of the Act;

(b) Demonstrate that it has engaged in a cooperative effort with one or more State educational agencies to plan the project, and will cooperate with such agency or agencies in carrying out and monitoring the project;

(c) Meet State and professionally-recognized standards for the preparation of special education and related service personnel if the project provides financial assistance to assist personnel in obtaining degrees; and,

(d) Ensure that individuals who receive financial assistance under the proposed project will subsequently provide special education and related services to children with disabilities for a period of two years for every year for which assistance was received or repay all or part of the cost of that assistance. Applicants must describe how they will notify scholarship recipients of this work or repay requirement which is specified under section 673(h)(1) of the Act (20 U.S.C. 1474(h)(1)). The requirement must be implemented consistent with section 673(h)(1) and with applicable regulations in effect prior to the awarding of grants under this priority.

Competitive preferences: Within this absolute priority the Secretary will give the following competitive preferences:

(a) Up to ten (10) points to an application that includes strategies for recruiting students from under-represented populations, including students with disabilities; and

(b) Up to ten (10) points to an application that demonstrates that a majority of the graduates of its program consistently enter jobs in which they serve children with disabilities in high poverty rural or inner city areas.

Applicants who fulfill the requirements of each of the two competitive preferences can be awarded

a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting both of these competitive preferences could earn a maximum total of 120 points.

Project Period: The maximum funding period for awards is 36 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding \$200,000 in Federal funding for any single budget period of twelve months.

Page Limit Requirements for All Applications: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced number of pages, using the following standards: (1) A "page" is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use

no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

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Program Authority: Section 673 of IDEA.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202-2641. The preferred method for requesting information is to FAX your request to: (202) 205-8717. Telephone: (202) 260-9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205-8953. Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice (except for Research and Innovation Projects) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an inter-governmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for those program.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 1998

CFDA No. and name	Applica-tions available	Applica-tion deadline Date	Deadline for inter-governmental review	Maximum award (per year) ¹	Page limit ²	Estimated number of awards
84.326R Regional Resource Centers	3/6/98	6/5/98	8/5/98	³ \$1,040,000	40	6
84.326H National Postsecondary Clearinghouse	3/6/98	4/24/98	6/24/98	450,000	40	1
84.326N National Information Center	3/6/98	4/24/98	6/24/98	1,100,000	40	1
84.326A IDEA Implementation—Associations	3/6/98	4/24/98	6/24/98	1,500,000	40	4
84.327N Captioned Films and Videos Distribution	3/6/98	4/24/98	6/24/98	1,350,000	40	1
84.327A Steppingstones of Technology Innovation for Students with Disabilities	3/6/98	5/8/98	7/8/98	200,000	40	15
84.324S Research Institute to Improve Results for Adolescents with Disabilities in General Education Academic Curricula	3/6/98	4/24/98	6/24/98	700,000	60	1
84.325H Professional Development—High Incidence	3/6/98	5/1/98	7/1/98	200,000	40	32

¹ The Secretary rejects and does not consider an application that proposes a budget exceeding the amount listed for each priority for any single budget period of 12 months.

² Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the "Page Limit" section of this notice for the specific requirements. The Secretary rejects and does not consider an application that does not adhere to this requirement.

³ The first budget period will be 8 months, and the subsequent budget periods will be 12 months. The maximum award for the first budget period will be \$1,040,000. The maximum award for the subsequent 12-month periods will be \$1,500,000.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>
<http://www.ed.gov/news.html>

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the

Department. Telephone: (202) 219-1511 or, toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

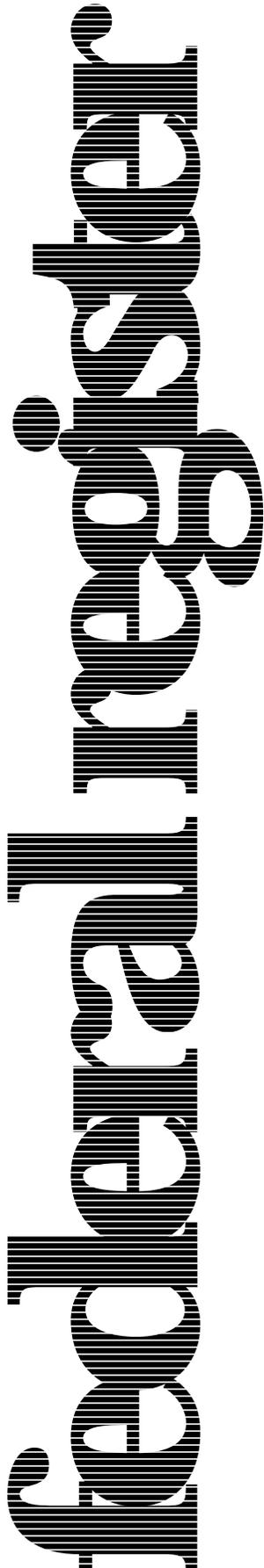
Dated: January 29, 1998.

Judith E. Heumann,

*Assistant Secretary for Special Education and
Rehabilitative Services.*

[FR Doc. 98-4577 Filed 2-23-98; 8:45 am]

BILLING CODE 4000-01-P



Tuesday
February 24, 1998

Part IV

**Department of
Energy**

Office of Energy Efficiency and
Renewable Energy

10 CFR Part 430
Energy Conservation Program for
Consumer Products: Test Procedures for
Furnaces and Boilers; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE-RM-93-501]

RIN No. 1904-AA45

Energy Conservation Program for Consumer Products: Test Procedures for Furnaces and Boilers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (the Department or DOE) adopts as a Final Rule an Interim Final rule, published on October 14, 1997, in which DOE amended a provision of its recently promulgated final rule that prescribed revised test procedures to determine the energy efficiency of furnaces and boilers. Under the amendment, the test procedures will provide that the flue collector box on a furnace or boiler with a power burner or draft inducer need not be insulated before the start of the cool-down test.

EFFECTIVE DATES: This rule was effective November 10, 1997.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasser, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE-43, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585-0121, (202) 586-9138, or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585-0103, (202) 586-9507.

SUPPLEMENTARY INFORMATION:

On August 23, 1993, DOE published in the **Federal Register** a proposal to amend the DOE test procedures for furnaces and boilers (58 FR 44538). On May 12, 1997, after review and evaluation of the comments received, DOE published in the **Federal Register** a final rule amending the furnace test procedure (62 FR 26140).

After the publication of the 1997 final rule, the Gas Appliance Manufacturers Association (GAMA) contacted the Department and asserted that the adoption in the DOE test procedures of a requirement to insulate the flue gas collector box of a power burner unit before the cool-down and heat-up tests will reduce the Annual Fuel Utilization Efficiency (AFUE) of many furnaces and boilers. GAMA stated that for some units the reduced AFUE would be

below the minimum standard, while for others it would be below the qualifying levels for many utility rebate programs. The Department published an Interim Final Rule on October 14, 1997 (62 FR 53507) deleting from its recently adopted test procedure for furnaces and boilers the insulation requirement for power burner units. Since no comments were received following publication of the Interim Final Rule, this rule is adopted as final without change.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances, Incorporation by reference.

Issued in Washington, DC, on January 22, 1998.

Dan W. Reicher,

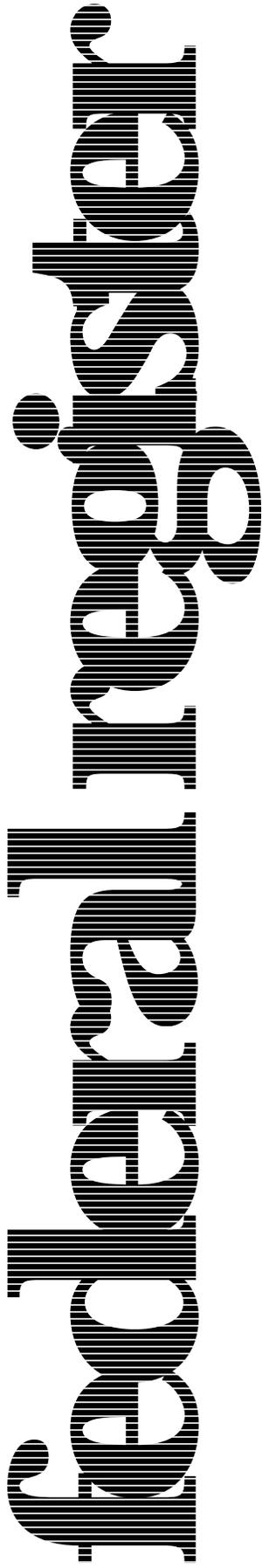
Assistant Secretary for Energy Efficiency and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Accordingly, the interim final rule amending 10 CFR part 430 which was published at 62 FR 53507 on October 14, 1997, is adopted as a final rule without change.

[FR Doc. 98-4646 Filed 2-23-98; 8:45 am]

BILLING CODE 6450-01-P



Tuesday
February 24, 1998

Part V

**Department of
Education**

34 CFR Part 702

**Standards for Conduct and Evaluation of
Activities Carried Out by the Office of
Educational Research and Improvement
(OERI); Evaluation of the Performance of
Recipients of Grants, Cooperative
Agreements, and Contracts; Proposed
Rule**

DEPARTMENT OF EDUCATION**34 CFR Part 702**

RIN 1850-AA54

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI); Evaluation of the Performance of Recipients of Grants, Cooperative Agreements, and Contracts

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Assistant Secretary proposes to establish regulations pursuant to OERI's authorizing legislation, the Educational Research, Development, Dissemination, and Improvement Act of 1994. The major purpose of these standards is to ensure that the research, development, and dissemination activities carried out by the recipients of grants from and contracts and cooperative agreements with OERI meet the highest standards of professional excellence.

DATES: Comments must be received by the Department on or before April 27, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sharon Bobbitt, U.S. Department of Education, 555 New Jersey Avenue, NW., room 508c, Washington, DC 20202-5651. Comments may also be sent through the Internet to: comments@ed.gov

You must include the term Phase III in the subject line of your electronic message.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Sharon Bobbitt. Telephone: (202) 219-2126. Internet: (Sharon_Bobbitt@ed.gov). 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

The Secretary particularly requests comments on the role of Department of Education staff in the implementation of the Standards. For example, should Department staff serve as reviewers on peer review panels under these regulations? See proposed § 702.10(d) of these regulations in this regard. Should there be a maximum number or maximum percentage of Department staff on peer review panels? Should the participation of Department staff vary by size of the grant, contract, or cooperative agreement? What other issues about the role of Department staff in the peer review process should the Secretary consider?

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 600, 555 New Jersey Avenue, N.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Background

On March 31, 1994, President Clinton signed Pub. L. 103-227, which includes Title IX, the Educational Research,

Development, Dissemination, and Improvement Act of 1994 (the Act). The Act restructured OERI and provided it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students.

Statutory Requirements

The Act directed the Assistant Secretary to develop, in consultation with the National Educational Research Policy and Priorities Board (the Board), such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by OERI to ensure that these activities meet the highest standards of professional excellence. The Board is responsible for reviewing and approving the standards. The legislation requires that the standards be developed in three phases.

In the first phase, standards were created and promulgated to establish the peer review process and evaluation criteria to be used for the review of applications for grants and cooperative agreements and proposals for contracts. The final regulations setting out these standards were published on September 14, 1995 (60 FR 47808). In the second phase, standards were created and promulgated to establish the criteria to be used in reviewing potentially exemplary and promising educational programs. The final regulations setting out these standards were published on November 17, 1997 (62 FR 61427).

In the third phase, which is the subject of this notice of proposed rulemaking (NPRM), the Act requires that OERI develop standards for evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with OERI. This evaluation must take place both during and at the conclusion of the performance of the grant, cooperative agreement, or contract, and must include the use of a system of peer review for the final assessment.

In developing the standards, the Assistant Secretary was required to review the procedures utilized by the National Institutes of Health (NIH), the National Science Foundation (NSF), and other Federal departments or agencies engaged in research and development and to solicit recommendations from research organizations and members of the general public. OERI has reviewed the procedures used to evaluate the performance of recipients of grants, contracts, or cooperative agreements by several offices within NIH and NSF, the Office of Energy Research in the

Department of Energy, the Food and Drug Administration, the National Institute of Standards and Technology, the National Aeronautics and Space Administration, and the University Research Initiative of the Department of Defense. Recommendations concerning these standards have been obtained from the American Educational Research Association, the Council for Educational Development and Research, and the Organization of Research Centers. Public comment is invited in response to this NPRM.

Standards

The standards have been developed by the Assistant Secretary in consultation with the Board. The standards in this NPRM would:

- Require interim and final assessments of the performance of recipients of grants, cooperative agreements, and contracts.
- Establish procedures for selecting peer review panels to conduct these assessments.
- Establish procedures and criteria that the peer review panels use in conducting these assessments.
- Establish specific additional criteria that peer review panels use in conducting these assessments for National Research and Development Centers, Regional Educational Laboratories, Field-Initiated Studies, and ERIC Clearinghouses.

In an effort to fulfill the law's intention of ensuring high-quality research, development, and evaluation, OERI has developed standards in which interim and final assessments may be supplemented by a self-assessment by the recipient of a grant, cooperative, agreement, or contract. The Board and the Assistant Secretary believe that the collection and review of evidence on one's own performance is itself a useful tool for improvement.

These standards cover all grants, cooperative agreements, and contracts administered by OERI, ranging from the smallest purchase orders and commissioned papers to the largest research projects and research centers. The Department will require a single interim assessment by a peer review panel for total awards of \$5,000,000 or less. At least one interim review by peer review panel will be required for larger awards. A final assessment by a peer review panel will be required for all awards.

The Government Performance and Results Act requires the establishment of performance indicators for Department activities. Information collected pursuant to those indicators

will be considered, as appropriate, in the evaluation of individual recipients.

Executive Order 12866

1. Potential Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

Summary of Potential Costs and Benefits

The potential costs of the proposed regulations are discussed in this preamble under the Paperwork Reduction Act of 1995. The benefit of these standards is to ensure that the research, development, and dissemination activities carried out by the recipients of grants from and contracts and cooperative agreements with OERI meet the highest standards of professional excellence.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the

proposed regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the proposed regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 702.2 *What activities must be evaluated by these standards?*) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the proposed regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW. (Room 5121, FB-10), Washington, D.C. 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies (LEAs) and private schools receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs and private schools affected because the proposed regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

Sections 702.22 and 702.23 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Standards for Evaluation of the Performance of Recipients of OERI Grants, Cooperative Agreements, and Contracts.

These regulations affect the following types of entities eligible to enter into

grants, cooperative agreements, or contracts: any public or private agency, organization or institution, or individual.

The public reporting burden is estimated to range from 8 to 120 hours for each interim or final assessment. The actual burden will be determined by how much descriptive information each recipient wishes to provide.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating 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 use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing 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.

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

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://gcs.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or, toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 702

Education, Educational research, Reporting and recordkeeping requirements.

Dated: December 23, 1997.

Ricky Takai,

Acting Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number does not apply)

The Secretary proposes to amend Chapter VII of Title 34 of the Code of Federal Regulations by adding a new part 702 to read as follows:

PART 702—STANDARDS FOR CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—EVALUATION OF THE PERFORMANCE OF RECIPIENTS OF GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

Subpart A—General

Sec.

- 702.1 What is the purpose of these standards?
- 702.2 What activities must be evaluated by these standards?
- 702.3 What additional activities may be evaluated by these standards?
- 702.4 When is performance assessed under these standards?
- 702.5 What definitions apply?

Subpart B—Selection of Peer Review Panels

- 702.10 What are the characteristics of peer reviewers?
- 702.11 What constitutes a conflict of interest for grants and cooperative agreements?
- 702.12 What constitutes a conflict of interest for contracts?
- 702.13 How are peer reviewers selected for panels?

Subpart C—The Evaluation Process

- 702.21 How does a peer review panel evaluate the performance of a recipient?
- 702.22 What information does a peer review panel consider for an interim assessment?
- 702.23 What information does a peer review panel consider for a final assessment?
- 702.24 What evaluation criteria are used for performance assessments?

Authority: 20 U.S.C. 6011(i), unless otherwise noted.

Subpart A—General

§ 702.1 What is the purpose of these standards?

(a) The standards in this part implement section 912(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act).

(b) These standards are intended to ensure that the research, development, and dissemination activities carried out by the recipients of grants from and contracts and cooperative agreements with the Office of Educational Research and Improvement (OERI) meet the highest standards of professional excellence.

(Authority: 20 U.S.C. 6011(i)(2)(F))

§ 702.2 What activities must be evaluated by these standards?

These standards apply to activities carried out by OERI using funds appropriated under section 912(m) of the Act including activities carried out by the following entities or programs:

- (a) The National Education Research Institutes.
- (b) The Office of Reform Assistance and Dissemination.
- (c) The Educational Resources Information Center.
- (d) The Regional Educational Laboratories.
- (e) The Teacher Research Dissemination Demonstration Program.
- (f) The Goals 2000 Community Partnerships Program.
- (g) The National Educational Research Policy and Priorities Board.

(Authority: 20 U.S.C. 6011(i)(1))

§ 702.3 What additional activities may be evaluated by these standards?

(a) The Secretary may apply these standards to other activities funded by the Department.

(Authority: 20 U.S.C. 6011(I)(1))

§ 702.4 When is performance assessed under these standards?

(a) The Secretary will assess the performance of recipients of OERI grants, contracts, and cooperative agreements subject to these standards during and at the conclusion of their period of performance.

(b) The Department requires a single interim assessment by a peer review panel for total awards of \$5,000,000 or less. At least one interim review by peer review panel is required for larger awards.

(c) A final assessment by a peer review panel is required for all awards.

(d) As used in this part—

(1) Interim assessment is one conducted during a recipient's period of performance.

(2) Final assessment is one conducted at the conclusion of a recipient's period of performance.

(Authority: 20 U.S.C. 6011(I)(2)(F))

§ 702.5 What definitions apply?

(a) *Definitions in the Educational Research, Development, Dissemination, and Improvement Act of 1994.*

The following terms used in this part are defined in 20 U.S.C. 6011(1):

Development
Dissemination
Educational research

(b) *Definitions in the Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Application
Award
Department
Grant
Project
Secretary

(c) *Definitions in the Federal Acquisition Regulation.* The following term used in this part is defined in 48 CFR Chapter 1:

Contract Proposal

(Authority: 20 U.S.C. 6011(I)(2)(F))

Subpart B—Selection of Peer Review Panels**§ 702.10 What are the characteristics of peer reviewers?**

(a) The Assistant Secretary selects each peer reviewer. Each peer reviewer must have the necessary knowledge and expertise in the area of the project being reviewed to evaluate the performance of

a recipient. This experience may include—

(1) Expert knowledge of subject matter in the area of the activities to be reviewed;

(2) Expert knowledge of theory or methods or both in the area of the activities to be reviewed;

(3) Practical experience in the area of the activities or type of institution or both to be reviewed;

(4) Knowledge of a broad range of education policies and practices;

(5) Experience in managing complex organizations; or

(6) Expertise and experience in evaluation theory and practice.

(b) Each peer reviewer must be free of conflict of interest, as determined in accordance with § 702.11 or 702.12.

(c) The Assistant Secretary may solicit nominations for peer reviewers from professional associations, nationally recognized experts, and other sources.

(d) OERI and other Department staff who possess the qualifications in paragraphs (a) and (b) of this section may serve as peer reviewers.

(Authority: 20 U.S.C. 6011(I)(2)(B))

§ 702.11 What constitutes a conflict of interest for grants and cooperative agreements?

A peer reviewer assessing the performance of the recipient of a grant from or cooperative agreement with OERI is considered an employee of the Department for the purposes of conflict of interest analysis. As an employee of the Department, the peer reviewer is subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(I)(2)(B))

§ 702.12 What constitutes a conflict of interest for contracts?

A peer reviewer assessing the performance of the recipient of a contract with OERI is considered an employee of the Department in accordance with the Federal Acquisition Regulation (FAR), 48 CFR 3.104-4(h)(2). As an employee of the Department, the peer reviewer is subject to the provisions of the FAR, 48 CFR Part 3, Improper Business Practices and Personal Conflict of Interest.

(Authority: 41 U.S.C. 423)

§ 702.13 How are peer reviewers selected for panels?

(a) The Assistant Secretary assigns peer reviewers to panels that conduct the performance assessments.

(b) The Assistant Secretary may establish panels by category of recipient, such as a panel to review the

performance of all Regional Educational Laboratories. Each recipient is evaluated individually by reviewers who have been assigned to this type of panel.

(Authority: 20 U.S.C. 6011(I)(2)(B))

Subpart C—The Evaluation Process**§ 702.21 How does a peer review panel evaluate the performance of a recipient?**

(a) In each evaluation, a peer review panel—

(1) Considers relevant information about the recipient's performance, as described in §§ 702.22 and 702.23; and

(2) Makes judgments about the recipient's performance, using the criteria in § 702.24.

(b) Each peer reviewer prepares a report based on the reviewer's assessment of the quality of the project according to the evaluation criteria.

(c) After each peer reviewer has evaluated each project independently, the panel may be convened to discuss the strengths and weaknesses of the project. Each reviewer may then independently re-evaluate each project with appropriate changes made to the written report.

(d) The report of the interim assessment must include any recommendations the peer reviewer may have for improving the recipient's performance.

(e) The report of the final assessment must contain each peer reviewer's evaluative summary of the recipient's performance, from the beginning of the contract, grant, or cooperative agreement to its conclusion.

(Authority: 20 U.S.C. 6011(I)(2)(F))

§ 702.22 What information does a peer review panel consider for an interim assessment?

(a) Sources of information for the interim assessment must include—

(1) The original request for proposals or grant announcement and the contract proposal or grant application;

(2) Documentation of any changes in the work described in the contract, grant, or cooperative agreement, including reasons for the changes;

(3) Any progress reports delivered to the Department or made available to the public by the recipient;

(4) Examples of products delivered to the Department or made available to the public by the recipient;

(5) Any relevant reports written by OERI staff, including reports of site visits by OERI staff;

(6) Any performance evaluations conducted under the FAR or the Education Department General Administrative Regulations (34 CFR part 75).

(7) Any relevant information provided by the recipient in response to Government Performance and Results Act (GPRA) (Pub. L. 103-62) requirements; and

(8) Any reports from program evaluations commissioned by the Department.

(b) Sources of information for the interim assessment may also include—

(1) A self-assessment, prepared by the recipient, addressing the criteria in § 702.24;

(2) One or more site visits by the peer review panel;

(3) One or more oral or written presentations to the panel by the recipient describing its performance; or

(4) Other information about the recipient's performance.

(Authority: 20 U.S.C. 6011(l)(2)(F))

§ 702.23 What information does a peer review panel consider for a final assessment?

(a) Sources of information for the final assessment must include—

(1) The original request for proposals or application notice and the contract proposal or grant application, together with documentation of any changes in the work described in the proposal or application, including reasons for the changes;

(2) If consistent with the recipient's contract, grant, or cooperative agreement with OERI, a written report or oral presentation or both by the recipient summarizing its activities and accomplishments;

(3) Any relevant information provided by the recipient in response to Government Performance and Results Act (GPRA) (Pub. L. 103-62) requirements; and

(4) Any reports from program evaluations commissioned by the Department.

(b) The final assessment may also include other sources of information, such as one or more of those listed in § 702.22.

(Authority: 20 U.S.C. 6011(l)(2)(F))

§ 702.24 What evaluation criteria must be used for performance assessments?

(a) Peer reviewers (and those recipients who conduct self-evaluations) shall use the criteria in paragraph (b) of this section to assess performance and, in case of interim assessments, to identify areas in which the performance of recipients may need improvement.

(b) The following evaluation criteria are to guide the assessment process undertaken by peer reviewers. The peer reviewers determine the extent to which recipients meet these criteria:

(1) *Implementation and management.*

(i) Peer reviewers shall consider the

degree to which the recipient has fully executed its program of work. In doing so, peer reviewers shall consider evidence on the extent to which the recipient completes the work described in the approved application or contract, including any approved modifications, in the time period proposed and in an efficient manner.

(ii) In examining the degree of implementation, peer reviewers may also consider evidence on the extent to which—

(A) The recipient implements and utilizes a quality assurance system for its products or services or both; and

(B) The recipient conducts self-assessment or self-evaluation activities, including periodically seeking out independent critiques and evaluations of its work, and uses the results to improve performance.

(2) *Quality.* (i) Peer reviewers shall consider the degree to which the recipient's work approaches or attains professional excellence. In determining quality, peer reviewers shall consider evidence on the extent to which—

(A) The recipient utilizes processes, methods, and techniques appropriate to achieve the goals and objectives for the program of work in the approved application; and

(B) The recipient applies appropriate processes, methods, and techniques in a manner consistent with the highest standards of the profession.

(ii) In determining quality, peer reviewers may also consider the extent to which the recipient conducts a coherent, sustained program of work informed by relevant research.

(3) *Utility.* (i) In determining the utility of the recipient's products or services or both, peer reviewers shall consider evidence on the extent to which the recipient's work (including information, materials, processes, techniques, or activities) is effectively used by and is useful to its customers in appropriate settings.

(ii) In determining utility, peer reviewers may also consider the extent to which the recipient has received national recognition; e.g., articles in refereed journals and presentations at professional conferences.

(4) *Outcomes and impact.* (i) Peer reviewers shall consider the results of the recipient's work. In examining outcomes and impact, peer reviewers shall consider evidence on the extent to which—

(A) The recipient meets the needs of its customers; and

(B) The recipient's work contributes to the increased knowledge or understanding of educational problems, issues, or effective strategies.

(ii) In examining outcomes and impact, peer reviewers may also consider the extent to which recipients address issues of national significance through its products or services or both.

(c) For National Research and Development Centers, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* (i) The recipient uses a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies; and

(ii) The recipient conducts work of sufficient size, scope, and duration to produce sound guidance for improvement efforts and future research.

(2) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate the effective use of its work in appropriately targeted settings.

(3) *Outcomes and impact.* (i) The recipient's work contributes to the development and advancement of theory in the field of study, including its priority area; and

(ii) The recipient addresses issues of national significance through its products or services or both.

(d) For the Regional Educational Laboratories, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* (i) The recipient utilizes a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies;

(ii) The recipient conducts work of sufficient size, scope, and duration to produce sound guidance for improvement efforts; and

(iii) The recipient's products are well-tested and based on sound research.

(2) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate its effective use in appropriately targeted settings, particularly in school improvement efforts of States and localities.

(3) *Outcomes and impact.* (i) The recipient assists States and localities to implement comprehensive school improvement strategies through the provision of research-based information (including well-tested models and strategies), materials and assistance; and

(ii) The recipient's work results in widespread access to information regarding research and best practices, particularly within its region.

(e) For Field-Initiated Studies, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Implementation and management.* The recipient's work responds to the goals, objectives and mission of the National Institute from which it is funded.

(2) *Quality.* The recipient utilizes a well-conceptualized framework and sound theoretical and methodological tools in conducting professionally rigorous studies.

(3) *Utility.* The recipient documents, reports, and disseminates its work in ways to facilitate its effective use in appropriately targeted settings.

(4) *Outcomes and impact.* (i) The recipient's work contributes to the development and advancement of

theory and knowledge in the field of study; and

(ii) The recipient addresses issues of national significance through its products or services or both.

(f) For the ERIC Clearinghouses, peer reviewers also shall consider evidence on the extent to which recipients meet the following criteria:

(1) *Quality.* The recipient applies an integrated approach to acquiring and disseminating significant and high-quality educational literature and materials to maintain and enhance the ERIC database.

(2) *Utility.* The recipient contributes to the development of the ERIC database as a source of literature and materials

that reflects trends and issues within its scope.

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