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Rules and Regulations

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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Regional Offices; Jurisdictional Changes

AGENCY: Federal Labor Relations Authority (the Authority and the General Counsel of the Federal Labor Relations Authority).

ACTION: Amendment of rules and regulations.

SUMMARY: This document amends the rules and regulations of the Authority and the General Counsel of the Federal Labor Relations Authority to provide for changes in the geographical jurisdictions of the seven Regional Directors concerning unfair labor practice charges and representation petitions.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Clyde B. Blandford, Jr., Director of Operations and Resource Management, at (202) 482–6680, extension 206.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority and the General Counsel published, at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority and the General Counsel under chapter 71 of title 5 of the United States Code. These rules and regulations are required by title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq*. (1996).

Appendix A, paragraph (d) of the rules and regulations sets forth the current addresses, telephone and fax numbers of the Regional Offices of the Authority. This paragraph has been updated to reflect the relocation of the Washington, DC Regional Office in December 1998.

Appendix A, paragraph (f) of the rules and regulations sets forth the geographic jurisdictions of the Regional Directors of the Federal Labor Relations Authority. In the best interest of maximizing the resources of the Office of the General Counsel and efficient and effective case processing, the General Counsel is realigning the geographical jurisdictions of the Regional Directors to distribute the caseload, based on a current analysis of case intake and available resources in order to meet the needs of its customers. The resulting change will result in equalizing the work for each regional office employee. The Office of the General Counsel will continue to transfer cases between regions on a recurring basis, as necessary, based on caseload and staffing in order to maximize its resources.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Labor Relations Authority has determined that these regulations, as amended, will not have a significant economic impact on a substantial number of small entities, because this rule applies to federal employees, federal agencies, and labor organizations representing federal employees.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1966. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

This regulation contains no information collection or record keeping requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq*.)

For the reasons set out in the preamble and under the authority of 5 U.S.C. 7134, Appendix A to 5 CFR Chapter XIV is amended by revising paragraph (d)(2) and paragraph (f) to read as follows:

Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) * * *

(2) Washington, DC Regional Office—Tech World Plaza, 800 K Street, NW., Suite 910, Washington, DC 20001–1206; telephone: FTS or commercial (202) 482–6700; fax: FTS or commercial (202) 482–6724.

* * * * *

(f) The geographic jurisdictions of the Regional Directors of the Federal Labor Relations Authority are as follows:

State or other locality	Regional office	State or other locality	Regional office
Alabama	Atlanta	Nebraska	Denver.
Alaska	San Francisco	Nevada	San Francisco.
Arizona	Denver	New Hampshire	Boston.
Arkansas	Dallas	New Jersey	Boston.
California	San Francisco	New Mexico	Dallas.
Colorado	Denver	New York	Boston.
Connecticut	Boston	North Carolina	Washington, DC.
Delaware	Washington, DC	North Dakota	Chicago.
District of Columbia	Washington, DC	Ohio	Chicago.

State or other locality	Regional office
Florida	Atlanta
Georgia	Atlanta
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90 degrees East..	San Francisco
Idaho	San Francisco
Illinois	Chicago
Indiana	Chicago
Iowa	Chicago
Kansas	Denver
Kentucky	Chicago
Louisiana	Dallas
Maine	Boston
Maryland	Washington, DC
Massachusetts	Boston
Michigan	Chicago.
Minnesota	Chicago
Mississippi	Atlanta..
Missouri	Denver..
Montana	Denver..
Oklahoma	Dallas.
Oregon	San Francisco.
Pennsylvania	Boston.
Puerto Rico	Boston.
Rhode Island	Atlanta.
South Carolina	Denver.
South Dakota	Chicago.
Tennessee	
Texas	Dallas.
Utah	Denver.
Vermont	Boston.
Virginia	Washington, DC.
Washington	San Francisco.
West Virginia	Washington, DC.
Wisconsin	Chicago.
Wyoming	Denver.
Virgin Islands	Atlanta.
Panama/limited FLRA jurisdiction.	Dallas.
All land and water areas east of the continents of North and South America to long. 90 degrees E., except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands.	Washington, DC.

(5 U.S.C. 7134)

Dated: December 17, 1998.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 98–33863 Filed 12–22–98; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AA66

Fees for Official Inspection and Weighing Services

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is increasing fees for certain official inspection and weighing services it performs in the United States under the U.S. Grain Standards Act. This action is needed to recover increased operational costs resulting from the average 3.6 percent January 1999 cost-of-living increase to Federal salaries. The ''average 3.6 percent increase'' is a combination of a 3.1 percent across-the-board increase and increases in locality pay rates for Federal salaries. An average 3.6 percent increase is implemented for all hourly rates and certain unit rates on tests performed at both an applicant's facility and other than an applicant's facility. In addition, an average increase of 1.2 percent is implemented to recover the salary and benefits portion of the administrative tonnage fee.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, ART, 1400 Independence Avenue, SW, Stop 3649, Washington, DC 20250–3649, or telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be nonsignificant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this final rule.

Effects on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Most users of GIPSA inspection and weighing services do not meet the requirements for small entities. GIPSA is required by statute to make services available and to recover costs of providing such services, as nearly as practicable.

These fee revisions are primarily applicable to entities engaged in the export of grain. Under provisions of the USGSA, most grain exported from U.S. export port locations must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA on a fee basis at 37 export facilities. All of the export facilities are owned and managed by multi-national corporations, large cooperatives, or public entities that do not meet the criteria for small entities as defined under the Regulatory Flexibility Act and the regulations issued thereunder. Some users of the service who request non-mandatory official inspection and weighing services (most of which represent appeals) at other than export locations could be considered small entities. However, these fee increases merely reflect the cost-of-living increases in Federal salaries for hourly, certain unit fees, and

that portion of the administrative tonnage fee.

In fiscal year 1998, GIPSA's obligations were $23,021,166 with revenue of $21,776,323, resulting in a loss of $1,244,843 and retained earnings of $55,862. GIPSA cannot absorb the approximate 3.6 percent increase in salary costs with the existing retained earnings. Additionally, GIPSA will continue to monitor its costs to improve operating efficiencies, and adopt cost saving measures, where possible and practicable.

The increase in fees will not have a significant impact on either small or large entities. GIPSA estimates an annual increase of $500,000 in revenue based on a work volume of 72,491,134 metric tons, the equivalent to fiscal year 1998.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 800 have been previously approved by the Office of Management and Budget under control number 0580–0013.

Background

On October 2, 1998, GIPSA published in the **Federal Register** (63 FR 52987) a proposal to increase certain fees it charges under the USGSA. The USGSA requires GIPSA to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, GIPSA's costs for performing these services, including related administrative and supervisory costs.

The fee increases generate the additional revenue required to recover operational costs created by a January 1999 cost-of-living increase in Federal salaries. The average salary increase for GIPSA employees in calendar year 1999 is approximately 3.6 percent. This action is being taken to ensure that the service fees charged by GIPSA generate adequate revenue to cover the additional costs created by the January 1999 Federal salary increase.

The previous USGSA fees were published in the **Federal Register** on June 16, 1998 (63 FR 32713), and became effective on July 1, 1998. In addition, GIPSA published a revised fee schedule on June 30, 1998 (63 FR 35502), effective July 1, 1998, to establish fees for corn oil, protein, and starch testing services. The hourly fees covered by this rule will generate revenue to cover the basic salary, benefits, and leave for those employees providing direct service delivery. The current hourly fees are:

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime	Holidays
1-year contract	$24.40	$26.40	$34.40	$41.40
6-month contract	26.80	28.60	36.60	47.80
3-month contract	30.60	31.60	39.80	49.40
Noncontract	35.40	37.40	45.40	55.80

GIPSA has also identified certain unit fees, for services not performed at an applicant's facility, that contain direct labor costs. Further, GIPSA has identified those costs associated with salaries and benefits that are covered by the administrative metric tonnage fee. The 3.6 percent cost-of-living increase to salaries and benefits covered by the administrative tonnage fee results in an average overall increase of an average of 1.2 percent to the administrative tonnage fee. Other associated costs, including non-salary related overhead, are collected through the fees contained in the fee schedule and are not included under this rule.

The amount of revenue collected as a result of this rule is a direct function of the work volume. GIPSA estimates an increase of $500,000 in revenue based on a work volume of 72,491,134 metric tons, the equivalent to fiscal year 1998. If GIPSA foregoes this adjustment, GIPSA will incur a net loss equivalent to approximately the 3.6 percent increase in salaries for every hour paid to an employee.

In fiscal year 1998, GIPSA's obligations were $23,021,166 with revenue of $21,776,323, resulting in a loss of $1,244,843 and retained earnings of $55,862. GIPSA cannot afford to absorb an additional $500,000 loss due to the approximate 3.6 percent increase in salary costs with the existing deficit in retained earnings. Additionally, GIPSA will continue to monitor its costs to improve operating efficiencies, and adopt cost saving measures, where possible and practicable.

Comment Review

GIPSA received four comments during the 60-day comment period. All four were in opposition to the fee increase. Two comments were from grain trade associations representing grain, feed and processing companies: one commented that it is not correct to conclude that cost of living increases in Federal salaries should be automatically passed on to users of the official system. This comment went on to state that the 3.6 percent increase in Federal salaries was an average increase nationally (national average cost-of-living adjustments with local pay differentials) and questioned whether the Agency would reach a 3.6 percent increase in salaries at export locations. The second comment opposed the proposed fee increase because the increase represented a continuation in the escalation of the cost of official services and because GIPSA was simply passing on increased costs to users of the official system without first relying on cost saving measures and improved efficiencies to offset the anticipated increase in Federal salaries. The comment stated that the impact of the increase would be felt primarily by exporters and that the fee increase would raise the cost of exporting U.S. grains and oilseeds. Both comments stressed that a variety of cost savings measures and other efficiencies should be undertaken by GIPSA, including terminating, reducing or consolidating current programs; continuing to reduce staff; accelerating efforts to automate official services; seeking ways to introduce more flexible work rules for official personnel; improving the quality and consistency of its services; and allocating more costs to others in the grain and oilseed sector that derive benefits from the official system.

Two comments were from individuals not associated with the grain industry. They commented that government's involvement in agriculture adds to the

cost for agriculture operations. The comments went on to say that the increase in Federal salaries should not be paid for by the proposed fee increase, but should be created from sources of funds within the federal program. Some suggestions given were a reduction in force, reduction in travel and/or training, and reduction in procurement of major items.

GIPSA is required by the USGSA to recover its costs for providing inspection and weighing services by establishing reasonable fees to cover their estimated costs. The projection of a 3.6 percent increase in federal salaries is a national average of all salary and benefit increases. The ''average 3.6 percent increase'' is a combination of a 3.1 percent across-the-board increase and increases in locality pay rates for Federal salaries. This average represents a fair and reasonable percentage that is consistent with the provisions of the USGSA concerning the establishment of fees. Further, GIPSA has conducted numerous cost saving measures in the past few years, early retirements, field office consolidations, and reduction in travel and training. GIPSA will continue to monitor its costs to improve operating efficiencies, and adopt cost saving measures, where possible and practicable. Absorbing the approximate 3.6 percent salary increase is impractical considering the extremely low retained earnings of $55,862. Savings derived from further efficiencies will be used to rebuild the retained earnings to a 3-month operating reserve or an estimated $5.7 million.

Final Action

GIPSA is applying an approximate 3.6 percent increase to those hourly rates, certain unit rates, and an average 1.2 percent increase to the administrative tonnage fee in 7 CFR 800.71, Table 1—Fees for Official Services Performed at an Applicant's Facility in an Onsite GIPSA Laboratory; Table 2—Services Performed at Other Than an Applicant's Facility in a GIPSA Laboratory; and Table 3, Miscellaneous Services.

In reviewing the fee schedule to identify fees that will require an approximate 3.6 percent increase, GIPSA has identified several fees that, under the current fee schedule, are at levels that will not require any change. Accordingly, these fees will remain the same at this time.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain.

For the reasons set out in the preamble, 7 CFR Part 800 is amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.71 is amended by revising Schedule A in paragraph (a) to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

	Monday to Friday (6 a.m to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and overtime [2]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative)				
1-year contract	$25.20	$27.20	$35.40	$42.60
6-month contract	27.60	29.40	37.60	49.40
3-month contract	31.60	32.60	41.00	51.00
Noncontract	36.60	38.60	46.80	57.60
(2) Additional Tests (cost per test, assessed in addition to the hourly rate) [3]				
(i) Aflatoxin (other than Thin Layer Chromatography)				$8.50
(ii) Aflatoxin (Thin Layer Chromatography method)				20.00
(iii) Corn oil, protein, and starch (one or any combination)				1.50
(iv) Soybean protein and oil (one or both)				1.50
(v) Wheat protein (per test)				1.50
(vi) Sunflower oil (per test)				1.50
(vii) Vomitoxin (qualitative)				7.50
(viii) Vomitoxin (quantitative)				12.50
(ix) Waxy corn (per test)				1.50
(x) Fees for other tests not listed above will be based on the lowest noncontract hourly rate..				
(xi) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container				.30
(2) Railcar				1.25
(3) Barge				2.50
(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier)				
(i) All outbound carriers (per-metric-ton) [4]				
(a) 1–1,000,000				$0.1014
(b) 1,000,001–1,500,000				0.0925
(c) 1,500,001–2,000,000				0.0500
(d) 2,000,001–5,000,000				0.0370
(e) 5,000,001–7,000,000				0.0200
(f) 7,000,000–				0.0090

[1] Fees apply to original inspection and weighing, reinspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[3] Appeal and reinspection services will be assessed the same fee as the original inspection service.

[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

TABLE 2.—SERVICES PERFORMED AT OTHER THAN AN APPLICANT'S FACILITY IN AN FGIS LABORATORY [1] [2]

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading)	
(a) Truck/trailer/container (per carrier)	$18.10
(b) Railcar (per carrier)	27.60
(c) Barge (per carrier)	174.35
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iii) Lots sampled online during loading (sampling charge under (i) above, plus):	
(a) Truck/trailer container (per carrier)	9.85
(b) Railcar (per carrier)	19.10
(c) Barge (per carrier)	108.10
(d) Sacked grain (per hour per service representative plus an administrative fee per hundredweight) (CWT)	0.02
(iv) Other services	
(a) Submitted sample (per sample—grade and factor)	10.60
(b) Warehouseman inspection (per sample)	17.60
(c) Factor only (per factor—maximum 2 factors)	4.60
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundredweight if not previously assessed) (CWT)	0.02
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above)	11.60
(f) Class X Weighing (per hour per service representative)	48.00
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method)	25.60
(b) Aflatoxin (per test—TLC method)	101.60
(c) Corn oil, protein, and starch (one or any combination)	8.10
(d) Soybean protein and oil (one or both)	8.10
(e) Wheat protein (per test)	8.10
(f) Sunflower oil (per test)	8.10
(g) Vomitoxin (qualitative)	26.10
(h) Vomitoxin (quantitative)	31.10
(i) Waxy corn (per test)	9.35
(j) Canola (per test—00 dip test)	9.35
(k) Pesticide Residue Testing [3]	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(l) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(2) Appeal inspection and review of weighing service.[4]	
(i) Board Appeals and Appeals (grade and factor)	76.60
(a) Factor only (per factor—max 2 factors)	39.60
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC)	25.85
(b) Aflatoxin (TLC)	111.10
(c) Corn oil, protein, and starch (one or any combination)	15.85
(d) Soybean protein and oil (one or both)	15.85
(e) Wheat protein (per test)	15.85
(f) Sunflower oil (per test)	15.85
(g) Vomitoxin (per test—qualitative)	36.10
(h) Vomitoxin (per test—quantitative)	41.10
(i) Vomitoxin (per test—HPLC Board Appeal)	128.00
(j) Pesticide Residue Testing [3]	
(1) Routine Compounds (per sample)	200.00
(2) Special Compounds (per service representative)	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1.	
(iii) Review of weighing (per hour per service representative)	69.60
(3) Stowage examination (service-on-request) [3]	
(i) Ship (per stowage space)	50.50 (minimum $275 per ship)
(ii) Subsequent ship examinations (same as original) (minimum $175 per ship)	
(iii) Barge (per examination)	40.50
(iv) All other carriers (per examination)	15.50

[1] Fees apply to original inspection and weighing, reinspection, and appeal inspection service and include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72 (b).

[3] If performed outside of normal business, 1–1/2 times the applicable unit fee will be charged.

[4] If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service.

TABLE 3.—MISCELLANEOUS SERVICES [1]

(1) Grain grading seminars (per hour per service representative) [2]	$48.00
(2) Certification of diverter-type mechanical samplers (per hour per service representative) [2]	48.00
(3) Special weighing services (per hour per service representative): [2]	
(i) Scale testing and certification	48.00
(ii) Evaluation of weighing and material handling systems	48.00
(iii) NTEP Prototype evaluation (other than Railroad Track Scales)	48.00
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car)	48.00
	110.00
(v) Mass standards calibration and reverification	48.00
(vi) Special projects	48.00
(4) Foreign travel (per day per service representative)	435.00
(5) Online customized data EGIS service:	
(i) One data file per week for 1 year	500.00
(ii) One data file per month for 1 year	300.00
(6) Samples provided to interested parties (per sample)	2.50
(7) Divided-lot certificates (per certificate)	1.50
(8) Extra copies of certificates (per certificate)	1.50
(9) Faxing (per page)	1.50
(10) Special mailing (actual cost).	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1).	

[1] Any requested service that is not listed will be performed at $48.00 per hour.
[2] Regular business hours—Monday thru Friday—service provided at other than regular hours charged at the applicable overtime hourly rate.

* * * * *

Dated: December 17, 1998.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–33921 Filed 12–22–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

[Docket No. DA–98–11]

Milk in the Nebraska-Western Iowa Marketing Area; Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule terminates the advertising and promotion provisions of the Nebraska-Western Iowa Federal milk order (Order 65) with respect to milk marketed on or after December 1, 1998. Termination of the provisions was requested by Dairy Farmers of America and North Central Associated Milk Producers, Inc., two associations of dairy farmers who represent approximately 90 percent of the producers whose milk is pooled under the order. Since a majority of the producers on the market request the removal of the advertising and promotion provisions from the order, the program should be terminated.

EFFECTIVE DATES: The effective date for §§ 1065.73(a)(2)(viii), 1065.107 and 1065.121(a) is December 1, 1998. The effective date for §§ 1065.105 through 1065.122 is March 31, 1999.

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

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule terminates assessments for the Nebraska-Western Iowa milk order advertising and promotion program on milk marketed on and after December 1, 1998. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), 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 request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

Six milk handlers operating 4 pool distributing and 3 pool supply plants are regulated under the Nebraska-

Western Iowa milk order, and the milk of 1,111 dairy farmers (559 of whom are located in Nebraska) is pooled under the order. This rule would terminate the advertising and promotion program provisions of the Nebraska-Western Iowa order (7 CFR Part 1065, §§ 1065.105 through 1065.122 and a reference to § 1065.107 in § 1065.73(a)(2)(viii)) and the 10-cent per hundredweight assessment for the purpose of operating the program on producer milk pooled under the order. However, the total amount of assessments deducted from dairy farmer returns for advertising and promotion should not be affected by this rule.

The Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501 *et seq.*) requires that a national assessment of 15 cents per hundredweight be deducted from payments to all dairy farmers for milk marketed, with up to 10 cents of that deduction able to be designated to go to research and promotion programs designated under that Act as ''Qualified State or regional programs.'' The remaining 5-cent portion of the national assessment is directed to go to the National Dairy Promotion and Research Board (the Board). The 10-cent assessment under the qualified Order 65 program totaled $118,515.94 for September 1998, with $14,430.90 of that amount paid for Minnesota and South Dakota-produced milk pooled under Order 65 to the Minnesota and South Dakota qualified State promotion and research programs.

Upon termination of the Order 65 advertising and promotion program provisions, a new statutorily-required Nebraska State program (which also will be a qualified program) will begin to receive the 10-cent portion of the 15-cent assessment for producers located within the State of Nebraska. Producers located within the States of Iowa, Missouri, Kansas and Colorado whose milk is pooled under Order 65 will be able to designate these or other qualified programs to receive the 10-cent portion of their national assessment, or that portion will be sent to the Board in addition to the required 5-cent assessment.

The Order 65 Advertising and Promotion Program is set up as a voluntary program, with producers able to request refunds of assessments. However, the 1983 Dairy and Tobacco Adjustment Act requires that the entire assessment for promotion and research be directed either to the Board or to qualified programs, effectively eliminating the ability of any of the assessment to be refunded to dairy farmers. Therefore, this termination will not change the amount of assessments paid by dairy farmers for promotion and research activities, but will eliminate the Order 65 advertising and promotion agency.

The regulatory impact of the Federal order on milk handlers would be reduced because the order would no longer require advertising and promotion assessments to be sent to the Nebraska-Western Iowa advertising and promotion agency. However, handlers still would be required to remit producer assessments to the qualified program established by Nebraska statute and the National Dairy Promotion and Research Board (for the 559 Order 65 dairy farmers located in Nebraska), or to other qualified programs and the National Dairy Promotion and Research Board (for the 552 dairy farmers located outside Nebraska whose milk is pooled under Order 65).

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act (7 U.S.C. 601–674) and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area (7 CFR Part 1065).

Statement of Consideration

The termination, requested by Dairy Farmers of America and North Central Associated Milk Producers, Inc., associations of dairy farmers whose milk is pooled on the Nebraska-Western Iowa Federal milk order, will eliminate the advertising and promotion provisions of that order. This action terminates funding for the program with respect to milk marketed on and after December 1, 1998. The other provisions of the program are terminated effective March 31, 1999. Such timing will facilitate the orderly termination of the program's activities funded with monies collected on milk marketed prior to December 1, 1998, and will give the market administrator the time needed to complete audit verification work and any other duties related to liquidation of the program.

The Order 65 Advertising and Promotion Program requires a 10-cent per hundredweight assessment on producer milk pooled under the order for the purpose of operating the program.

In addition, the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501 *et seq.*) requires that a national assessment of 15 cents per hundredweight be deducted from payments to all dairy farmers for milk marketed, with up to 10 cents of that deduction able to be designated to go to a qualified State or regional dairy product promotion, research or nutrition education program, such as the voluntary ''Qualified State or regional program'' administered through the Nebraska-Western Iowa order. The remaining 5-cent portion of the national assessment is directed to go to the National Dairy Promotion and Research Board (the Board). The 10-cent assessment under the qualified Order 65 program totaled $118,515.94 for September 1998, with $14,430.90 of that amount paid for Minnesota and South Dakota-produced milk pooled under Order 65 to the Minnesota and South Dakota qualified State promotion and research programs.

The State of Nebraska has enacted a state law (Nebraska State Statute 2–3958) requiring the 10-cent portion of the 15-cent deduction for milk produced in Nebraska to be sent to the State of Nebraska for disbursement to qualified programs that request funds. The new Nebraska law is ready to take effect. However, a proviso included in the law states that the Nebraska fund cannot begin operation until the Nebraska-Western Iowa Federal order advertising and promotion program has been terminated.

Section 608c(5)(I) of the Act provides that any Federal order advertising and promotion provisions may be terminated separately whenever the Secretary makes a determination that the provisions of Section 608c(16)(B) for terminating an order have been met. Section 608c(16)(B) of the Agricultural Marketing Agreement Act requires that the Secretary terminate an order whenever he finds that a majority of the producers engaged in production of milk for the market during a representative period favor termination, or that such dairy farmers produced more than 50 percent of the milk produced for sale in the market during such period.

Dairy Farmers of America and North Central Associated Milk Producers, Inc., represent approximately 90 percent of the producers and approximately 81% of the production of milk pooled under the Nebraska-Western Iowa Federal milk order. The termination order designates the month of September 1998 as the representative period for the purpose of determining that the above described statutory requirement is met.

Therefore, the aforesaid provisions of the order are hereby terminated.

It is hereby found and determined that there is good cause for dispensing with prior notice and comment and that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The termination is necessary to fulfill the statutory requirements of

Sections 608c(5)(I) and 608c(16)(B) of the Act (7 U.S.C. 601–674);

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The annual operation of the Order 65 advertising and promotion program is based on milk marketed December 1 through November 30.

Therefore, good cause exists for making this order effective without prior notice and comment, and less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions of 7 CFR Part 1065 are amended as follows:

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1065.73 [Amended]

2. In § 1065.73, paragraph (a)(2)(viii) is amended by removing the language ''and for advertising and promotion pursuant to § 1065.107'' effective December 1, 1998.

§ 1065.107 [Removed]

3. Section 1065.107 is removed effective December 1, 1998.

§ 1065.121 [Amended]

4. In Section 1065.121, paragraph (e) is removed and reserved effective December 1, 1998.

§§ 1065.105 through 1065.122 [Removed]

5. Sections 1065.105 through 1065.122 and the undesignated center heading preceding them are removed effective March 31, 1999.

Dated: December 16, 1998.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 98–33932 Filed 12–22–98; 8:45 am]

BILLING CODE 3410–02–U

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. [R–1033]]

Home Mortgage Disclosure (Regulation C)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The Board is required to adjust annually the asset-size exemption threshold for depository institutions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The adjustment reflects changes for the twelve-month period ending in November. During this period, the index increased by 1.3%; as a result, the threshold remains at $29 million. Thus, depository institutions with assets of $29 million or less as of December 31, 1998 are exempt from data collection in 1999.

EFFECTIVE DATE: January 1, 1999. This rule applies to all data collection in 1999.

FOR FURTHER INFORMATION CONTACT: Pamela Morris Blumenthal, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) *only*, contact Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan statistical areas to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR part 203) implements HMDA. Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104–208, 110 Stat. 3009) amended HMDA to expand the exemption for small depository institutions. Prior to 1997, HMDA exempted depository institutions with assets totaling $10 million or less, as of the preceding year end. The statutory amendment increased the asset-size exemption threshold by requiring annual adjustments based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW).

The statutory amendment is implemented in § 203.3(a)(1)(ii), which provides that the Board will adjust the threshold based on the year-to-year change in the average of the CPIW, not seasonally adjusted, for each twelve-month period ending in November, rounded to the nearest million. For 1998 data collection, the exemption threshold was $29 million. During the period ending in November 1998, the CPIW increased by 1.3%. As a result, the new threshold remains at $29 million. Thus, depository institutions with assets of $29 million or less as of December 31, 1998 are exempt from data collection in 1999. An institution's exemption from collecting data in 1999 does not affect its responsibility to report the 1998 data it was required to collect.

The Board is adopting this amendment to the staff commentary to implement the fact that the exemption threshold remains at $29 million for data collected in 1999. The Administrative Procedure Act provides that notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary or would be contrary to the public interest. 5 U.S.C. 553(b)(B). The Board believes such a finding is appropriate in this case. Regulation C establishes a formula for determining adjustments to the exemption threshold, if any, and the amendment to the staff commentary merely applies the formula. This amendment is technical and not subject to interpretation. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment for the following amendment is unnecessary and would be contrary to the public interest. Therefore, the amendment is adopted in final form.

II. Section by Section Analysis

Section 203.3—Exempt Institutions

Comment 3(a)–2 has been revised to provide that depository institutions with assets that are at or below the threshold as of December 31, 1998 need not collect data for 1999.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

Text of Revisions

For the reasons set forth in the preamble, the Board amends 12 CFR Part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for Part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. In Supplement I to Part 203, under Section 203.3—Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home-purchase loans*, paragraph 2 is revised to read as follows:

Supplement I to Part 203—Staff Commentary

* * * * *

Section 203.3—Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

* * * * *

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 1999, the asset-size exemption threshold is $29 million. Depository institutions with assets at or below $29 million are exempt from collecting data for 1999.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 17, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34021 Filed 12–22–98; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule clarifies certain provisions in NCUA's regulation that sets forth the requirements for the purchase, sale and pledge of eligible obligations. Currently, the regulation provides that a federal credit union (FCU) may purchase real estate loans from any source if it is granting real estate loans on an ongoing basis and the purchase will facilitate the packaging of a pool of loans for sale on the secondary market. The final rule clarifies that a pool must include a substantial portion of the FCU's members' loans and must be sold promptly. Further, the final rule explains when the purchase of a member's loan is not the purchase of an eligible obligation, but rather the making of a direct loan.

DATES: The rule is effective January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6553.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1998, the NCUA Board requested comments on proposed changes to § 701.23 of its regulations. 63 FR 41976 (August 6, 1998). Section 701.23 sets forth the requirements for FCUs' purchase, sale and pledge of eligible obligations.

Section 701.23(b)(1)(iv) allows an FCU to purchase real estate loans from any source if it is granting them on an ongoing basis and the purchase will facilitate the packaging of a pool of loans to be sold on the secondary market. The proposal clarified that a pool of loans, as used in that subsection, must include a substantial portion of the FCU's own loans and must be sold promptly. This clarification is taken from the Accounting Manual. Accounting Manual for Federal Credit Unions, § 6030.4.

Section 701.23(b)(3) sets forth the exceptions to the 5% limit on the purchase of eligible obligations. The proposal adds to the list of exceptions, an indirect lending or leasing arrangement if it is classified as a loan. The conditions for classifying it as a loan are that the FCU must make the final underwriting decision and that the sale or lease contract must be assigned to the FCU very soon after it is signed by the member and the dealer or leasing company.

Summary of Comments

The NCUA Board received ten comments on the proposal: two from credit union trade groups; one from a state league; five from credit unions; one from a bank trade group; and one from a private insurer. Of the six commenters that addressed the proposed changes, five generally supported them.

Section 701.23(b)(1)(iv)

The five commenters that supported the proposed changes to this provision noted that the amendments give sufficient guidance while allowing flexibility. One commenter noted that the amendment has the beneficial effect of preserving credit unions' focus on making loans to members while avoiding the imposition of a barrier if certain timeframes and amounts were required.

The negative commenter was concerned that the language in the proposal requiring ''a substantial portion of its own loans'' would preclude it from having a pool composed substantially of member loans it had purchased from its CUSO. An FCU has the express authority to purchase its member loans from any source without any pooling requirements. 12 U.S.C. 1757(13); 12 CFR 701.23(b)(i). Since the intent of the limitation in § 701.23(b)(iv) is to limit the purchase of nonmember loans, the final rule has been clarified to indicate that a substantial portion of the pool must be composed of ''member loans.''

The Board asked for comment on whether specific numbers should be used instead of the terms ''substantial'' and ''promptly.'' Six of the seven commenters that responded opposed using specific numbers. The reasons cited in opposition were that: setting a fixed ceiling and specific time may make it difficult for an FCU in certain circumstances; placing specific limitations, which remove all flexibility for dealing with unforeseen circumstances, is unnecessary; setting a specific ceiling and using specific dates may make it difficult for large credit unions to assist small credit unions with access to the secondary market; and using specific numbers and dates does not recognize the realities of the secondary marketplace. The Board agrees that it is important for FCUs to have flexibility in this area and so, it will not define ''substantial'' and ''promptly'' with specific numbers.

One commenter, a bank trade group, does not address the proposal, but rather takes exception to § 701.23(b)(1)(iv) since its promulgation in 1979. The bank trade group ''believes that the purchasing of nonmember loans even for the purpose of pooling these loans to be sold on the secondary market is an attempt by federal credit unions to circumvent the restrictions on loans to nonmembers.'' The proposed rule explained in detail the statutory authority for this provision. 63 FR at 41976.

Section 701.23(b)(3).

The two commenters that addressed the issue of clarifying in the rule that indirect lending is considered a loan rather than the purchase of an eligible obligation supported the proposed changes. Three commenters suggested that the preamble to the final rule clarify that credit or electronic scoring by a third party vendor using the credit union's criteria is consistent with the FCU making the final underwriting decision. The NCUA Board agrees with this interpretation which follows General Counsel opinion letters.

Two commenters asked for clarification that assignment of the loan means acceptance of the loan and not necessarily, physical receipt of the loan documentation. The NCUA Board concurs. In today's marketplace, acceptance and payment are often done electronically. However, physical

receipt of the loan documents by the credit union should occur within a reasonable time following acceptance of the loan.

The two commenters that responded to the question of whether a specific number of days should be substituted for the language requiring assignment of the contract ''very soon'' after it is signed by the member, opposed specific numbers. The commenters noted that using specific numbers could reduce flexibility and is not necessary. The NCUA Board agrees and will not use specific numbers.

Finally, the NCUA Board asked for comment on whether the types of loans that can be purchased from any source for purposes of creating pools for sale should be expanded to include auto and credit card loans. Five of the six commenters that responded supported the Board pursuing this option for FCUs. Those commenters noted that it would provide credit unions with an important asset and liability management tool for use as an alternative means of creating liquidity.

The one negative commenter did not see the need for a regulation permitting this practice, because there is no major secondary market for auto and credit card loans.

The NCUA Board is aware that there is a growing secondary market for auto and credit card loans and intends to look at whether this is appropriate for FCUs. Currently, the Financial Accounting Standards Board (FASB) is reviewing the accounting standards governing these transactions. Once FASB states its position and there is stability in this area, the NCUA Board will make a decision on whether to expand its regulations to permit FCUs to purchase nonmember auto and credit card loans for sale on the secondary market.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic effect any regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets. The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that it is highly unlikely that small credit unions would be engaged in pooling real estate loans for sale on the secondary market. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule will only apply to federal credit unions. Section 741.8(b)(1) specifically exempts state chartered federally insured credit unions from § 701.23(b)(1)(iv). Section 701.23(b)(v) only applies to FCUs.

Paperwork Reduction Act

The final rule does not impose any additional paperwork requirements on FCUs.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and determined that, for purposes of the Small Business Regulatory Enforcement Act Fairness Act of 1996, this is not a major rule.

List of Subjects in 12 CFR Part 701

Credit unions; Eligible obligations.

By the National Credit Union Administration Board on December 17, 1998.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERALLY-INSURED CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Amend § 701.23 by adding a sentence to the end of paragraph (b)(1)(iv) and by revising paragraph (b)(3) to read as follows:

§ 701.23 Purchase, sale and pledge of eligible obligations.

* * * * *

(b) * * *

(1) * * *

(iv) * * * A pool must include a substantial portion of the credit union's members' loans and must be sold promptly.

* * * * *

(3) The aggregate of the unpaid balance of eligible obligations purchased under paragraph (b) of this section cannot exceed 5% of the unimpaired capital and surplus of the purchaser. The following can be excluded in calculating this 5% limitation:

(i) Student loans purchased in accordance with paragraph (b)(1)(iii) of this section;

(ii) Real estate loans purchased in accordance with paragraph (b)(1)(iv) of this section;

(iii) Eligible obligations purchased in accordance with paragraph (b)(1)(i) of this section that are refinanced by the purchaser so that it is a loan it is empowered to grant; and

(iv) An indirect lending or indirect leasing arrangement that is classified as a loan and not the purchase of an eligible obligation because the federal credit union makes the final underwriting decision and the sales or lease contract is assigned to the federal credit union very soon after it is signed by the member and the dealer or leasing company.

* * * * *

[FR Doc. 98–33946 Filed 12–22–98; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550–AA01

Releasing Information

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a final rule which sets forth the basic policies of OFHEO regarding disclosure of information it maintains and the procedures for obtaining access to such information by the public. The rule implements the Freedom of Information Act (FOIA) and establishes a schedule of fees, which will be charged for the processing of record requests under the FOIA. In addition, the rule sets forth procedures to be followed to request testimony or the production of documents in legal proceedings in which OFHEO is not a named party as

well as procedures for service of process upon OFHEO in any legal proceeding.

EFFECTIVE DATE: January 22, 1999.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Christine C. Dion, Associate General Counsel, 1700 G Street NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–3829 (not a toll-free number). The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (1992 Act), established OFHEO as an independent office within the Department of Housing and Urban Development (HUD). OFHEO is responsible for ensuring the financial safety and soundness and the capital adequacy of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).

In order to carry out its regulatory responsibilities, OFHEO is issuing this final rule governing the release of information to the public. The rule implements the FOIA by establishing procedures by which the public may inspect OFHEO records, request and obtain copies of materials, and appeal denials of such requests under the FOIA. This rule also includes a schedule of fees and procedures for determining when fees should be waived or reduced for FOIA requests in conformance with applicable guidelines of the Department of Justice (DOJ) and the Office of Management and Budget (OMB). The final rule also implements Executive Order 12600 by providing predisclosure notification procedures for confidential commercial or financial information. In addition, this final rule prescribes procedures for requesting access to records or testimony in legal proceedings in which OFHEO is not a named party. Also set forth in the final rule are procedures for effecting service upon OFHEO in any legal process, including service of process by litigants seeking access to OFHEO records.

OFHEO is aware of recent amendments to the FOIA resulting from the Electronic Freedom of Information Act Amendments of 1996 (1996 Act),[1] which was enacted to provide for public access to information in an electronic format and for other purposes. OFHEO will implement the 1996 Act's amendments under separate rulemaking.

Comments on the proposed rule[2] were received from Fannie Mae and Freddie Mac. Those comments were carefully considered in developing this final rule and a discussion of the Enterprises' comments and OFHEO's response to those comments follows.

II. Comments on the Proposed Releasing Information Rule

General Comments

Most of the Enterprises' comments related to their request that the proposed rule be expanded to include provisions specifying how the agency will process a request for information which is not required to be disclosed under the FOIA because it is covered by an FOIA exemption. The Enterprises commented that the absence of such provisions would result in unnecessary burdens on OFHEO's staff by necessitating a case-by-case review of requests for nonpublic information, and would lead to uncertainty and unpredictability in the disclosure policy of future OFHEO administrations. The Enterprises also noted that regulations governing access to records subject to discretionary disclosure have been adopted by the other financial institution regulatory agencies[3] and that Congress intended OFHEO to act in a manner similar to those agencies.

OFHEO agrees with the Enterprises' comments that OFHEO's enabling statute contains several provisions demonstrating congressional intent that OFHEO consider the policies, rules, and procedures of the bank regulatory agencies in implementing its operational and regulatory authorities. In fact, it is the practice of OFHEO to carefully monitor the law applicable to the bank regulatory agencies as well as the rules and guidance of those agencies in order to more effectively carry out OFHEO's role as the Enterprises' safety and soundness regulator.

For instance, the proposed regulation included provisions governing requests for information in litigation in which OFHEO is not a party which are similar to regulations adopted by the bank regulators. These regulations are designed to ensure that appropriate limits are placed on examination and other confidential information that may be sought as evidence in such litigation. This final regulation contains the same provisions. However, OFHEO has determined that, at this time, it is not appropriate or necessary to adopt regulations governing how the agency exercises its discretion in connection with other requests for information that are not subject to mandatory release under the FOIA.

The other regulators have adopted those regulations primarily because they receive numerous requests for certain categories of information, which they regularly disclose under their discretionary authority. Unlike the bank regulatory agencies, which have been in existence for many years, OFHEO has not experienced a large volume of requests by the public for nonpublic information. To date, each request that has been received has been reviewed and processed on a case-by-case basis under the FOIA. OFHEO believes that the existing procedures are appropriate and effective and do not pose an undue burden on the agency. OFHEO will, of course, monitor the volume and nature of information requests on an ongoing basis and propose appropriate amendments to the regulation if they are deemed necessary.

Fannie Mae expressed concern that a ''gap'' in the disclosure coverage in OFHEO's final rule could result in FOIA requesters asserting that HUD's rules, not OFHEO's, apply to such requests. Fannie Mae further commented that HUD's existing and future disclosure rules and policies may be inconsistent or conflict with OFHEO's disclosure policies and with the appropriate treatment of sensitive OFHEO supervisory records. Fannie Mae expressed concerns that the application of HUD's disclosure rules could result in the release of highly sensitive Enterprise information by HUD.

There is no ''gap'' in coverage. These regulations govern all OFHEO records and requests for those records. The 1992 Act established OFHEO as an independent office within HUD and expressly divided the regulatory responsibilities over the Enterprises—HUD was assigned programmatic oversight over the Enterprises' housing programs;[4] OFHEO was assigned supervision and enforcement of the financial safety and soundness of the Enterprises.[5] Congress granted the Director independent authority with respect to the capital adequacy and safety and soundness regulation of the Enterprises.[6] In addition, Congress granted the OFHEO Director broad

[1] Pub. L. No. 104–231, 110 Stat. 3048.

[2] 60 FR 25162, May 11, 1995.

[3] *See, e.g.,* 12 CFR part 261 §§ 261.1–261.17 (Board of Governors of the Federal Reserve System).

[4] Sections 1321–1349 (12 U.S.C. 4541–4589).

[5] Sections 1311–1319G (12 U.S.C. 4511–4526); sections 1361–1379B (12 U.S.C. 4611–4641).

[6] 1992 Act, section 1313(b)(1)–(8)(12 U.S.C. 4513(b)(1)–(8)).

authority to make such determinations, take such actions, and perform such functions as the Director determines are necessary regarding the management of OFHEO.[7] The Director's independent management authority is reinforced by the statutory provision prohibiting the Secretary of HUD from merging or consolidating OFHEO or any of its functions or responsibilities with any function or program administered by the Secretary.[8]

This final rule governing the release of OFHEO information is being promulgated under the Director's exclusive rulemaking authority. It affects the management of OFHEO, *i.e.*, OFHEO's disclosure policy, the testimony of employees, and access to OFHEO records. For this reason, OFHEO, not HUD, would decide whether or not to release OFHEO records. Records under OFHEO's control are not covered by HUD's general rules on information disclosure.

To date, FOIA requests involving OFHEO information or records, which have been received by HUD, are referred to OFHEO's FOIA Officer for response under OFHEO's disclosure rule and processing procedures. Conversely, OFHEO's FOIA Officer ensures that FOIA requests for HUD information or records are forwarded to HUD's FOIA Officer for response under HUD's disclosure rules.

Freddie Mac commented that the 1992 Act did not specifically delegate to OFHEO the function of public dissemination of information about the Enterprises. Accordingly, Freddie Mac stated that OFHEO generally should exercise its discretion concerning the release of information about the Enterprises in a manner whereby the Enterprises, not OFHEO, decide whether to release such information. Freddie Mac commented that, to the extent that such nonpublic information originates with the Enterprises, it is the Enterprise's property, not OFHEO's. Therefore, Freddie Mac believes that OFHEO's determination to release information should only be made after the Enterprises have had the opportunity to comment on the effect of any disclosure of such information to the public.

In response to this comment, OFHEO notes that OFHEO is subject to the legal requirements of the FOIA. Under the FOIA, all responsive records possessed by and within the control of OFHEO at the time such requests are made must be released, unless OFHEO determines not to release them under an applicable exemption or the records are specifically excluded from FOIA's coverage. The nine exemptions of the FOIA ordinarily provide the only bases for nondisclosure and generally are discretionary in nature. Under the FOIA, discretion to exercise any of the nine exemptions is confined to OFHEO, as the statute's implementing agency. Submitters of information are not authorized under the FOIA to invoke an exemption. However, under certain circumstances, OFHEO must notify and consider input from submitters prior to releasing records. As discussed below, exemption (b)(4) requires OFHEO to give submitters of confidential commercial or financial information an opportunity to object to the release of such information. However, even in those instances and subject to certain notice requirements, the FOIA requires OFHEO to make the final decision as to whether any information will be released.

Below is OFHEO's response to the Enterprises' comments on the specific sections as they appear in the proposed rule.

Section Comments

Subpart A—Information and Records Generally

Section 1710.1 General Rule

Stating that the lack of a definition for the term ''information'' may result in the disclosure of certain confidential information, Fannie Mae requested that the term be defined in the final rule.

Section 1710.1 restricts the disclosure of ''any information in the possession of OFHEO that is confidential or otherwise of a nonpublic nature'' including information of the Enterprises. The term ''information'' is not defined in the section or elsewhere in the proposed rule because OFHEO intended that the term be given its common meaning, *i.e.*, any knowledge derived from experience with a particular event or situation.[9] This meaning would impose a broad-based prohibition against the unauthorized disclosure of any nonpublic information that is obtained by, produced by, accessed by, or disclosed to an OFHEO employee in connection with his or her work experience with OFHEO. OFHEO believes that all information which has not become part of the body of public information, including, but not limited to, information regarding the Enterprises or OFHEO, should be afforded maximum safeguards and that the common, all-encompassing meaning of ''information'' provides such safeguards. Accordingly, it has been determined that the final rule should not be revised to define the term ''information.'' Rather, the term has been added to section 1710.7(a) in this final rule to make it clear that OFHEO intends that the prohibitions against unauthorized disclosure apply very broadly to all nonpublic OFHEO documents and information. Moreover, since Fannie Mae raised the issue of the use of the term ''information,'' OFHEO carefully reviewed the proposed rule regarding other informational-type terms. For consistency, changes were made in the final rule to ensure that the term ''record'' is contained in provisions relating to FOIA requests. The term ''document'' is used in place of the terms ''record'' and ''material'' in all other provisions of the final rule relating to requests for OFHEO nonpublic information.

OFHEO agrees with the Enterprises' comments that, for purposes of clarification, the term ''employee'' should be defined in the final rule. To that end, OFHEO has defined the term.

Consistent with that definitional recommendation, OFHEO determined that it also would be beneficial to define certain other terms for purposes of the entire part 1710. The final rule contains a new subpart, which consolidates in one place various terms used throughout part 1710. Those general definitions are contained in subpart A of the final rule. Subparts A through E of the proposed rule are redesignated in the final rule as subparts B through F, respectively, and, sections 1710.1–.3 are renumbered as 1710.6–.8, respectively. Definitions that are specific to a particular subpart continue to be defined within that subpart in the final rule.

Additionally, to effect a more appropriate placement of its content, section 1710.41 of the proposed rule is renumbered as 1710.9 and is moved to subpart B in the final rule. The section enumerates final orders and agreements that OFHEO shall make available to the public.

Subpart B—Availability of Records of OFHEO

Section 1710.11 Official Records of OFHEO

Fannie Mae commented that section 1710.11(d) provides that certain records exempt from FOIA disclosure may be released if ''specifically authorized by the Director,'' without a requirement

[7] 1992 Act, section 1313(b)(9) (12 U.S.C. 4513(b)(9)).

[8] 42 U.S.C. 3534.

[9] *See Webster's II New Riverside University Dictionary* (1994). *See e.g., Addison* v. *Holly Hill Fruit Products*, 322 U.S. 607, 618 (1994) (when common words are not defined, they should be given common meaning).

that such authority be in writing. Fannie Mae noted that the proposed rule requires written authorization for release of examination reports, and official documents or information disclosure in third-party legal proceedings. Fannie Mae requested that section 1710.11(d) be revised to require specific Director authorization ''in writing.''

OFHEO has determined not to change section 1710.11(d) in the final rule. The requested change would require the Director to approve in writing any decision to disclose a document that is subject to discretionary release under the FOIA. While the FOIA Officer may consult generally with the Director, authority to approve in writing any decision to disclose such documents has been delegated by the Director to the FOIA Officer in accordance with the procedural requirements of the FOIA, Executive Order 12600, and OFHEO's internal information disclosure policy.

Section 1710.18 Special Procedures for Business Information

With respect to section 1710.18, addressing business information, Freddie Mac commented that OFHEO should adopt the simple rule that any submissions designated as confidential by a submitter, unless frivolous, should be covered by the notice and other protections of the rule. Freddie Mac stated that this simple rule is consistent with FOIA's Exemption 4. Freddie Mac objected to the ''good faith'' requirement found in sections 1710.18(c) and 1710.18(e)(1) of the proposed rule and requested that the requirement be deleted from the final rule. Freddie Mac argued that the undefined ''good faith'' requirement is in contravention of Executive Order 12600. Freddie Mac stated that, under the Executive order, notice and an opportunity to object to disclosure of information is required and an agency's opinion of a submitter's ''good faith'' is irrelevant. It further stated that the ''good faith'' standard is inconsistent with the definition of business information found at section 1710.18(b)(1) of the proposed regulation. Freddie Mac expressed concerns that the ''good faith'' requirement at section 1710.18(e)(1) would make the process by which OFHEO judges a submitter's designation as confidential business information too subjective. Moreover, it alleged that to allow OFHEO staff to make determination on the notice requirement would give it ''dangerous power'' and would not reflect respect for the fact that business information submitted to OFHEO is the property of the Enterprise and, therefore, any decision to disclose such information should not be made without the views of the submitting Enterprise. Freddie Mac further commented that the provision found at section 1710.18(i)(4), which allows OFHEO to dispense with notice procedures if a designation is ''obviously frivolous,'' makes the ''good faith'' requirement unnecessary since it gives OFHEO the ability to disclose when a confidential designation is unwarranted.

The ''good faith'' requirements for submitters of business information under section 1710.18, as proposed, simply reiterate the policy underlying Executive Order 12600 that submitters should not frivolously designate submissions as being protected from disclosure under Exemption 4. The good faith language conforms to that contained in the FOIA regulations of DOJ, which is the lead agency responsible for implementation of the FOIA. Moreover, it is consistent with FOIA regulations of other Federal agencies, such as the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Office of Personnel Management. OFHEO believes that the ''good faith'' requirement provides a workable standard and will not give rise to the concerns raised by Freddie Mac. Accordingly, OFHEO has retained the section's good faith requirements in the final rule.

Freddie Mac also commented that reports of examination and related materials should be treated the same way as business information. It requested that the same protections afforded to business information under Executive Order 12600 and proposed that section 1710.18 be extended to examination reports and related materials.

It is clear from the plain language of Executive Order 12600 that examination reports are not the type of ''confidential commercial information'' intended to be subject to its prenotification procedures. OFHEO is not aware of, and Freddie Mac did not identify, any problems that warrant extending the predisclosure notice requirements of this section beyond the scope of Executive Order 12600. Additionally, OFHEO notes that, while examination reports may contain confidential commercial information, the reports are OFHEO-produced and OFHEO-owned documents. OFHEO examination reports are exempt from disclosure under the FOIA by a specific exemption (5 U.S.C. 552(b)(8)). For these reasons, the prenotification requirements of section 1710.18 have not been revised in the final rule to include examination reports.

With respect to the prenotification requirements for business information, Fannie Mae requested that sections 1710.18(f) and (g)(2) of the proposed rule be revised to provide a submitter with a minimum period of 10 days in which to object to a request to disclose and to be advised of an agency's intent to disclose.

In drafting sections 1710.18(f) and (g), OFHEO sought to be consistent with the prenotification requirements applicable to FOIA requests for business information set forth in Executive Order 12600. Among other things, the Order provides a submitter of such information a ''reasonable period of time'' in which to object to disclosure of the information. The Order also requires that an agency give submitters notice of agency intent to disclose within a ''reasonable number of days'' prior to the specified disclosure date.

In order to codify OFHEO's prenotification practice, OFHEO specified in section 1710.18(g)(1) that it would provide notice to a submitter of its intent to disclose 10 business days before the specified disclosure date. To fulfill its obligation under the Order to also notify the requester, OFHEO stated in section 1710.18(g)(2) that OFHEO would forward to the requester of business information a copy of the notice to disclose at the same time that OFHEO forwards such notice to the business submitter.

For purposes of consistency, OFHEO has determined to revise section 1710.18 in the final rule to include the 10-day notice provision in subsection (f) relating to a submitter's opportunity to object to disclosure. For purposes of clarification, OFHEO has further determined to delete reference to submitters in section 1710.18(g)(2), as their inclusion would be redundant to coverage provided under subsection (g)(1). Subsection (e) has been modified to more fully correspond to the language of Executive Order 12600.

The title of section 1710.18 has been changed in this final rule from ''Business Information'' to ''Special Procedures for Business Information'' to more fully highlight the unique treatment afforded to such information under Executive Order 12600.

Subpart C—Fees for Provision of Information

Section 1710.23 Fees To Be Charged—Categories of Requesters

Commenting on section 1710.23(a) relating to fees charged FOIA requesters, Fannie Mae noted that the proposal states that OFHEO ''will seek clarification'' before assigning a fee

category if it reasonably doubts a use classification for purposes of charging a fee for record copying, or if the purpose is not clear from the request. Fannie Mae stated that this would obligate OFHEO to engage in inquiries that may be administratively burdensome; that requesters are in the best position to provide adequate information to avoid such expense. Fannie Mae requested that the section be revised to state that OFHEO ''may place the requester in the commercial use category or may seek additional clarification.''

The Freedom of Information Reform Act of 1986 [10] specifically required OMB to promulgate guidelines containing a uniform schedule of FOIA fees applicable to all agencies that are subject to the FOIA. The uniform guidelines issued by OMB advise agencies to resolve doubtful or unclear requests to ensure that the appropriate use category is assigned to a requester for purposes of charging fees. Among other things, the guidelines note the need to distinguish between requesters whose use of information is for a use that furthers their business interests, as opposed to a use that in some way benefits the public. Section 1710.23(a), as proposed, follows OMB's guidelines. Accordingly, OFHEO has determined to adopt this section as proposed.

Subpart D—Testimony and Production of Documents in Legal Proceedings in Which OFHEO Is Not a Named Party

Stating that any harm to the Enterprises is the same whether sensitive information is made public under the FOIA or pursuant to legal process, Freddie Mac requested that the prenotification requirements for business information should also apply to any request for information under subpart D of the proposed rule. For the reasons noted earlier, OFHEO has determined not to extend its prenotification procedures beyond the scope of Executive Order 12600 in this final rule.

Freddie Mac stated that, prior to the production of the information, OFHEO should provide the Enterprises with the opportunity to comment on the scope of any protective order governing the release of sensitive, nonpublic commercial or examination materials directly relating to them. As noted earlier, OFHEO believes that the provisions of the proposed rule, including those contained in subpart D, adequately safeguard the confidentiality of OFHEO documents and information. However, OFHEO may solicit input from the Enterprises whenever it is determined that such consultation would further complement those safeguards. Accordingly, the provisions of subpart D are being adopted as proposed.

[10] Pub. L. No. 99–570, 100 Stat. 3207.

SECTION-BY-SECTION ANALYSIS

I. General Definitions

Subpart A of the final rule provides definitions of terms used throughout part 1710. Section 1710.1 explains the scope of subpart A. Section 1710.2 defines the common terms used throughout part 1710.

II. Documents and Information Generally

Subpart B of the final rule contains general provisions relating to disclosure of documents and information in the possession of OFHEO. Section 1710.6 sets forth procedures for disclosure of such materials. Section 1710.7 provides that the disclosure requirements of the FOIA and the final rule apply to all OFHEO documents and information. It also provides that if another statute sets specific procedure for disclosure, OFHEO will process a request in accordance with the procedures that apply to those specific documents. If a request is received for disclosure of a document to the public which is not required to be released under those provisions, OFHEO will consider the request under the FOIA and the provisions of this final rule.

Section 1710.7 describes the relationship between the FOIA and the Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, and explains that records that are available through an established distribution system should preferably be obtained through that system, rather than pursuant to the provisions of the FOIA.

Section 1710.8 of subpart B contains a general provision providing that reports of examinations prepared by OFHEO are the property of OFHEO and may only be disclosed in accordance with part 1710 or with the prior written consent of the Director. The section further provides that any unauthorized use or disclosure of such documents may be subject to penalties under Federal law. Section 1710.8 explains that the Director will make available to each Enterprise a copy of the examination report of that Enterprise and that the Enterprise may not disclose or use such reports except as expressly permitted by the Director. The section also explains that the Director has discretion to make the examination reports available for the confidential use of Government agencies responsible for investigating and enforcing applicable laws.

As noted earlier, section 1710.41 of the proposed rule is renumbered as section 1710.9 in subpart B of this final rule. Section 1710.9 enumerates final orders and agreements that the Director is required to make available to the public. The section also has been modified to mirror those statutory requirements.

III. Availability of OFHEO Records

Subpart C implements the FOIA, 5 U.S.C. 552, and describes (1) OFHEO records available to the public, (2) OFHEO information exempt from disclosure, (3) OFHEO's record index, (4) request requirements, (5) response requirements, (6) response content, (7) appeal procedures, and (8) time limits for processing requests and appeals. Subpart C also contains OFHEO's procedures for responding to FOIA requests for confidential, commercial and financial information, *i.e.*, business information, provided to OFHEO.

Section 1710.11 describes OFHEO records that are available pursuant to 5 U.S.C. 552(a) for public inspection and copying at the offices of OFHEO. These records include any final orders and agreements made in adjudication of cases, which are enumerated in section 1710.9 of the final rule. Section 1710.11 also describes the categories of OFHEO records that are exempt from disclosure. These exemptions follow the exemptions provided in the FOIA.

Section 1710.12 sets forth the indexing requirements for records OFHEO maintains which are required to be indexed under 5 U.S.C. 552(a)(2). The section contains the Director's determination that, because of the lack of requests to date for records required to be indexed, such indexes do not need to be published quarterly.

Section 1710.13 contains rules of procedure for requesting records under the FOIA. Requests for OFHEO records should be in writing and addressed to the FOIA Officer. Each request should contain sufficient detail to allow the FOIA Officer to locate the record with a reasonable amount of effort. If a request is too broad or too vague to allow the record to be located with a reasonable amount of effort, OFHEO will assist the requester in revising the request as appropriate.

Procedures for OFHEO's response to FOIA requests are explained in sections 1710.14 and 1710.15. The FOIA Officer has been delegated the responsibility in section 1710.14 to grant or deny such requests and to determine fees. Paragraph (b) of section 1710.14 also provides that OFHEO will refer FOIA

requests for records that originated in another Government agency to that agency for response. In such cases, the requester will be notified of the referral. Paragraph (c) of section 1710.14 states that OFHEO will provide whatever records respond to a request, but will not create a new record in order to respond. Moreover, to mirror the FOIA's requirements, language has been added to the section in the final rule noting that OFHEO will make reasonable efforts to provide information in the format requested. Also, OFHEO will notify the requester if, regardless of format, no records are responsive to the request.

Section 1710.15 requires the FOIA Officer to notify a requester in writing of the determination to grant a request in whole or in part. The response must describe the manner in which the record will be disclosed and inform the requester of any fees that will be charged. Similarly, the FOIA Officer's determination to deny a request in whole or in part must be made in writing and signed by the FOIA Officer. Consistent with section 1710.15(b), any denial is to contain a brief statement describing the basis of the denial, including the FOIA exemption(s) that is relied upon. Moreover, the denial must state that the requester has a right to appeal and must explain OFHEO's appeal procedures.

OFHEO's appeal procedures are set forth in section 1710.16 of the final rule. Denials may be appealed to OFHEO's FOIA Appeals Officer within 30 days after receipt of a denial letter. Appeals must be in writing and must contain reasons for, or arguments in support of, disclosure. OFHEO will respond to appeals in writing and will specify the reason(s) for affirming any original denial. When a denial is reversed in whole or in part, the request for disclosure will be processed promptly. The decision on appeal is OFHEO's final action on a request. Requesters have a right to seek judicial review of the final action under 5 U.S.C. 552(a)(4).

Section 1710.17 of the final rule describes the time limits to which OFHEO will adhere in responding to initial requests and appeals of denials of requests. The response period for an initial request has been revised from 10 days to 20 days in this final rule to reflect statutory changes made by the 1996 Act. The section states that the time limits applicable to either initial requests or appeals of denials of requests may be extended up to a total of 10 days (excluding weekends and legal holidays) in unusual circumstances, *i.e.*, when the records are in a location other than the main office of OFHEO, the request is for a large number of records, or OFHEO must consult with another agency or with various offices within OFHEO.

Section 1710.18 of the final rule contains OFHEO's procedures for disclosure of sensitive, business information provided to OFHEO. Generally, the section requires submitters of business information to designate those portions of their submissions they believe may be exempt from disclosure under Exemption 4 of the FOIA. If records so designated are subsequently requested under the FOIA, in most cases the submitter will have an opportunity to provide a written objection to disclosure. The written objection must demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential and why disclosure would cause competitive harm. Whenever possible, the submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the submitter. Information that is provided by a submitter for the purpose of objecting to disclosure may itself be subject to disclosure under the FOIA.

IV. Fees for Provision of Information

Subpart D of the final rule contains provisions relating to the fees which will be assessed for services rendered in responding to and processing requests for records under the FOIA. Fees are to be based on the type of service provided, *e.g.*, search, review, and duplication, as well as the category of person making the request, *e.g.*, commercial user, educational institution, and news media. Generally, commercial requesters will pay the full amount of permissible fees relating to record search, review, and duplication. Educational and noncommercial scientific institutions and the news media will pay only duplication costs, excluding charges for the first 100 pages. All other requesters will be assessed fees for search and duplication, except that the first 100 pages of duplication and the first 2 hours of search time will be furnished without charge. As a matter of policy, OFHEO will not charge fees for any individual request if the cost of collecting a fee would equal or exceed the fee itself.

Additionally, under the final rule, OFHEO may furnish records without charge or at a reduced charge where disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal Government and is not primarily in the commercial interest of the requester. In making this determination, OFHEO will apply the six analytical factors set out by DOJ in its advisory memorandum on making FOIA fee waiver determinations. The memorandum, titled ''New FOIA Fee Waiver Policy Guidance,'' was issued by the Assistant Attorney General for Legal Policy to the heads of all Federal agencies on April 2, 1987. The factors enumerated in the memorandum have been incorporated in section 1710.24.

Section 1710.25 contains a number of miscellaneous provisions concerning fees, including a requirement that requesters pay in advance fees likely to exceed $250.00. However, advance payment may not be required in the case of a requester who has a history of prompt payment. This section also includes a provision permitting interest to be charged on fees over 30 days past due at the rate prescribed in 31 U.S.C. 3717 for an outstanding debt on a U.S. Government claim.

V. Testimony and Production of Documents in Legal Proceedings in Which OFHEO Is Not a Named Party

Subpart E prescribes the policies and procedures of OFHEO with respect to the testimony of official matters and production of official documents of OFHEO in legal proceedings in which OFHEO is not a named party. The subpart does not affect the rights and procedures governing public access to OFHEO documents pursuant to the FOIA or the Privacy Act.

Section 1710.31 sets forth the purpose of subpart E which is to (1) ensure the confidentiality of OFHEO documents and information, (2) maintain the impartial position of OFHEO in litigation in which OFHEO is not a named party, (3) conserve the time of employees for their official duties, and (4) enable the Director to determine when to authorize testimony and the release of documents in legal proceedings in which OFHEO is not a named party.

Section 1710.32 contains the definitions applicable to the subpart E. Section 1710.33 provides the general policy of OFHEO with respect to testimony and production of documents in any legal proceeding in which OFHEO is not a named party, i.e., employees, including former employees, are prohibited from disclosing any information obtained in or resulting from their official capacities unless the Director determines in writing that disclosure would be in the best interest of OFHEO or in the public interest. Section 1710.33 further provides that,

prior to any authorized testimony or release of official documents, the requesting party must obtain a protective order from the court before which the action is pending to preserve the confidentiality of the testimony or documents subsequently produced.

Section 1710.34 describes the procedures to which OFHEO will adhere to enable the Director to determine whether to grant requests for testimony concerning official matters or disclosure of official documents. Section 1710.35 provides that the scope of permissible testimony by an employee is limited to that set forth in the written authorization granted that employee by the Director. The section addresses OFHEO employees' authority to give opinion testimony in any legal proceeding to which OFHEO is not a party. The section has been modified in this final rule to clarify that generally OFHEO employees do not give such testimony, but may do so if authorized by the Director.

Section 1710.36 describes the manner in which authorized testimony of employees will be made available. This section has been amended in this final rule to clarify that testimony will ordinarily be made available only through depositions or written interrogatories. A party requesting authorized testimony must serve a subpoena on the employee in accordance with applicable Federal or State rules of procedure, with a copy of the subpoena sent by registered mail to the General Counsel. Upon completion of an authorized deposition at OFHEO's office, a copy of the transcript of the testimony shall be furnished at the requesting party's expense to the General Counsel.

Section 1710.37 describes the manner in which official documents authorized for release by the Director will be produced. Certified or authenticated copies of OFHEO documents authorized by the Director to be released under subpart E will be provided upon request.

Section 1710.38 describes the fees charged for documents produced by OFHEO in connection with requests under subpart E. Unless waived or reduced, OFHEO will charge for searches for documents, duplication of documents, and certification or authentication of documents as detailed in the section.

Section 1710.39 provides that an employee served with a demand in a legal proceeding concerning OFHEO or the production of official OFHEO documents or information, must notify the General Counsel of such service. This notification will assist the General Counsel in advising the Director as to whether the individual should be authorized to testify or the material requested should be made available. When authorization to testify or produce documents is not granted by the Director, the General Counsel shall provide the party issuing the demand or the court with a copy of the regulations contained in subpart E, and also shall advise the party or the court that the employee upon whom the demand has been made is prohibited from testifying or producing the documents without the Director's prior approval.

Section 1710.39 also provides that any employee who has official information that has not been approved for disclosure must respond to a legal process by attending at the time and place required. The individual shall respectfully decline to disclose the information on the basis of subpart E of the final rule. If a court orders disclosure contrary to the Director's instructions, the employee shall continue to decline to disclose the information and shall advise OFHEO of the order for such action as OFHEO may deem appropriate. Section 1710.39 advises that any determination under subpart E to comply or not to comply with any demand shall not constitute an assertion or waiver of privilege, lack of relevance, technical deficiencies, or any other ground for noncompliance. Moreover, it is noted that OFHEO reserves the right to oppose any demand on any legal ground independent of its determination under subpart E.

Section 1710.40 pertains to any person who is served with a request to release OFHEO records who is not an OFHEO employee or former employee. Such person may not disclose OFHEO records to any person without the Director's prior written consent. Moreover, any person served with a demand in a legal proceeding requiring that person to produce OFHEO documents or to testify with respect thereto, must (1) notify the General Counsel regarding the service, (2) object to production of such documents or information contained therein on the basis that the documents are the property of OFHEO and cannot be released without OFHEO's consent, and (3) note that the documents' production must be sought from OFHEO following procedures set forth in final sections 1710.34(b) and (c) and 1710.37(b) of subpart E of the final rule.

VI. Rules and Procedures for Service Upon OFHEO

Section 1710.51 of subpart F provides that, with limited exceptions, any legal process on OFHEO must be issued and served upon the General Counsel as well as any OFHEO personnel named in the caption of the documents. Service may be effected by either personal delivery or by registered or certified mail to the General Counsel at OFHEO's office.

Regulatory Impact

Executive Order 12612, Federalism

Executive Order 12612 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. OFHEO has determined that this rule has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Executive Order 12866, Regulatory Planning and Review

This final rule has been reviewed by OMB pursuant to Executive Order 12866.

Executive Order 12988, Civil Justice Reform

Executive Order 12988 sets forth guidelines to promote the just and efficient resolution of civil claims and to reduce the risk of litigation to the Federal Government. This final rule meets the applicable standards of sections 3(a) and (b) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. Consequently, the rule does not warrant the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the

agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

OFHEO has considered the impact of the regulation under the Regulatory Flexibility Act. The General Counsel has certified that this final rule will not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, requires that regulations involving the collection of information receive clearance from OMB. This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review under the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 1710

Administrative practice and procedure, Confidential business information, Freedom of information.

Accordingly, for the reasons set out in the preamble, part 1710 is added to chapter XVII of title 12 of the Code of Federal Regulations to read as follows:

PART 1710—RELEASING INFORMATION

Subpart A—General Definitions

Sec.
1710.1 Scope.
1710.2 General definitions.

Subpart B—Documents and Information Generally

1710.6 General rule.
1710.7 Applicability.
1710.8 OFHEO examination reports.
1710.9 Orders and agreements available to the public.

Subpart C—Availability of Records of OFHEO

1710.11 Official records of OFHEO.
1710.12 Index identifying information for the public.
1710.13 Requests for records.
1710.14 Response to requests.
1710.15 Form and content of responses.
1710.16 Appeals of denials.
1710.17 Time limits.
1710.18 Special procedures for business information.

Subpart D—Fees for Provision of Information

1710.21 Definitions.
1710.22 Fees to be charged—general.
1710.23 Fees to be charged—categories of requesters.
1710.24 Limitations on charging fees.
1710.25 Miscellaneous fee provisions.

Subpart E—Testimony and Production of Documents in Legal Proceedings in Which OFHEO Is Not a Named Party

1710.31 General purposes.
1710.32 Definitions.
1710.33 General policy.
1710.34 Request for testimony or production of documents.
1710.35 Scope of permissible testimony.
1710.36 Manner in which testimony is given.
1710.37 Manner in which documents will be produced.
1710.38 Fees.
1710.39 Responses to demands served on employees.
1710.40 Responses to demands served on nonemployees.

Subpart F—Rules and Procedures for Service Upon OFHEO

1710.51 Service of process.

Authority: 5 U.S.C. 301, 552; 12 U.S.C. 4513, 4522, 4526, 4639; E.O. 12600, 3 CFR, 1987 Comp., p. 235.

Subpart A—General Definitions

§ 1710.1 Scope.

Definitions in § 1710.2 relate to the meaning of terms used throughout part 1710.

§ 1710.2 General definitions.

For the purpose of this part:

(a) *Appeals Officer* means the person designated by the Director to process appeals of denials of requests for OFHEO records under the FOIA.

(b) *Director* means the Director of OFHEO or his or her designee.

(c) *Document* means any record or paper, including but not limited to a report, credit review, audit, examination, letter, telegram, memorandum, study, calendar and diary entry, log, graph, pamphlet, note, chart, tabulation, analysis, statistical or information accumulation, any record of meetings and conversations, film impression, magnetic tape, or any electronic media, disk, film, or mechanical reproduction that is generated, obtained, or adopted by OFHEO in connection with the conduct of its official business.

(d) *Employee* means any officer, former officer, employee, or former employee of OFHEO; any conservator appointed by OFHEO; or any agent or independent contractor acting on behalf of OFHEO, even though the appointment or contract has terminated.

(e) *FOIA* means the Freedom of Information Act.

(f) *FOIA Officer* means the person designated to process requests for OFHEO records under the FOIA.

(g) *Official* means concerning the authorized business of OFHEO.

(h) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(i) *Person* means any individual, or any agency, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein, but does not include OFHEO or any employee.

(j) *Record* means any document which is created or obtained by OFHEO and which is under OFHEO control at the time of an FOIA request.

(k) *Requester* means any person seeking access to OFHEO records under the FOIA.

Subpart B—Documents and Information Generally

§ 1710.6 General rule.

Except as authorized by this part or as otherwise necessary in performing official duties, no employee shall in any manner disclose or permit disclosure of any document or information in the possession of OFHEO that is confidential or otherwise of a nonpublic nature, including that regarding OFHEO or the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).

§ 1710.7 Applicability.

(a) *General.* The FOIA and the regulations in this part apply to all OFHEO documents and information. However, if another law sets specific procedure for disclosure, OFHEO will process a request in accordance with the procedures that apply to those specific documents. If a request is received for disclosure of a document to the public which is not required to be released under those provisions, OFHEO will consider the request under the FOIA and the regulations in this part.

(b) *The relationship between the FOIA and the Privacy Act of 1974.* The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to records that are about individuals, but only if the records are in a system of records as defined in the Privacy Act. Requests from individuals for records about themselves which are contained in an OFHEO system of records will be processed under the provisions of the Privacy Act as well as the FOIA. OFHEO will not deny access by a first party to a record under the FOIA or the Privacy Act unless the record is not available to that individual under both the Privacy Act and the FOIA.

(c) *Records available through routine distribution procedures.* When the record requested includes material published and offered for sale, *e.g.*, by

the Superintendent of Documents or the Government Printing Office, or which is available to the public through an established distribution system (such as that of the National Technical Information Service of the Department of Commerce), OFHEO will first refer the requester to those sources. Nevertheless, if the requester is not satisfied with the alternative sources, OFHEO will process the request under the FOIA.

§ 1710.8 OFHEO examination reports.

(a) *General.* Reports of examinations prepared by OFHEO may be disclosed only in accordance with this part or with the prior written consent of the Director. No person, agency, or authority, or director, officer, employee, or agent thereof, shall disclose any such report or information contained therein in any manner except as authorized in accordance with this subpart. The report of examination is the property of OFHEO and any unauthorized use or disclosure of such report may be subject to the penalties provided in 18 U.S.C. 641.

(b) *Enterprises.* The Director makes available to each Enterprise a copy of OFHEO's report of examination of such Enterprise. The report of examination is the property of OFHEO and is provided to the Enterprise for its confidential use only. Under no circumstance shall the Enterprise or any director, officer, employee, or agent thereof, make public or disclose in any manner the report of examination or any portion of the contents thereof to any person or organization not officially connected with the Enterprise as director, officer, employee, attorney, auditor, or independent auditor. Any other disclosure or use of this report except as expressly permitted by the Director may be subject to the penalties of 18 U.S.C. 641.

(c) *Government agencies.* The Director may make available reports of examination for the confidential use of Federal agencies responsible for investigating or enforcing applicable Federal laws.

§ 1710.9 Orders and agreements available to the public.

(a) *General.* OFHEO shall make the following documents available to the public:

(1) Any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest.

(2) Any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under 12 U.S.C. 4631 through 4641 that has become final in accordance with 12 U.S.C. 4633 and 12 U.S.C. 4634.

(3) Any modification to or termination of any final order made public pursuant to this section.

(b) *Delay of public disclosure under exceptional circumstances.* If the Director makes a determination in writing that the public disclosure of any final order pursuant to paragraph (a) of this section would seriously threaten the financial health or security of the Enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(c) *Documents filed under seal in public enforcement hearings.* The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(d) *Retention of documents.* The Director shall keep and maintain a record, for not less than 6 years, of all documents described in paragraph (a) of this section and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceedings initiated by the Director under 12 U.S.C. 4631 through 4641.

(e) *Disclosure to Congress.* This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

Subpart C—Availability of Records of OFHEO

§ 1710.11 Official records of OFHEO.

(a) OFHEO shall, upon a written request for records which reasonably describes the information or records and is made in accordance with the provisions of this subpart, make the records available as promptly as practicable to any person for inspection and/or copying, except as provided in paragraph (d) of this section.

(b) *Records available.* OFHEO records which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying are maintained at OFHEO's offices located at 1700 G Street, NW., Fourth Floor, Washington, DC 20552. The records include—

(1) Any final opinions, as well as orders made in adjudication of cases as set forth in § 1710.9 of subpart B of this part;

(2) Any statements of policy and interpretation that have been adopted by OFHEO and are not published in the **Federal Register**;

(3) Any administrative staff manuals and instructions to staff that affect a member of the public, and which are not exempt from disclosure under 5 U.S.C. 552(b); and

(4) Any current indexes providing identifying information for the public as to any matter which OFHEO has issued, OFHEO has adopted or promulgated, and is required by 5 U.S.C. 552(a)(2) to be made available or published.

(c) *Copying.* The cost of copying information available in the offices of OFHEO shall be imposed on a requester in accordance with the provisions of subpart D of this part.

(d) *Records not available.* Except as otherwise provided in this part, or as may be specifically authorized by the Director, the following information and records, or portions thereof, are not available to the public:

(1) Any record, or portion thereof, which is—

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and

(ii) Is in fact properly classified pursuant to such Executive order.

(2) Any record, or portion thereof, related solely to the internal personnel rules and practices of OFHEO.

(3) Any record, or portion thereof, which is specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute—

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

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

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

(5) Any matter contained in inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with OFHEO.

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

(7) Any records or information compiled for law enforcement purposes, but only to the extent that the

production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution or an Enterprise regulated and examined by OFHEO which furnished information on a confidential basis, and, in the case of a record of information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Any matter that is contained in or related to examination, operating, or condition reports that are prepared by, on behalf of, or for the use of OFHEO.

(9) Any geological and geophysical information and data, including maps, concerning wells.

(e) Even if an exemption described in paragraph (d) of this section may be reasonably applicable to a requested record, or portion thereof, OFHEO may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof. The fact that the exemption is not applied by OFHEO to any requested record, or portion thereof, has no precedential significance as to the application or nonapplication of the exemption to any other requested record, or portion thereof, no matter when the request is received.

(f) Any reasonably segregable portion of a record shall be provided to any person properly requesting such record after deletion of the portions which are exempt under this subpart.

(g) To the extent necessary to prevent an invasion of personal privacy, the Director may delete identifying details from a record described in paragraph (b) of this section. In each case of such deletion, the justification will be clearly explained in writing.

(h) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

§ 1710.12 Index identifying information for the public.

(a) OFHEO will maintain and make available for public inspection and copying a current index of materials available at the office of OFHEO which are required to be indexed under 5 U.S.C 552(a)(2).

(b) Because of the lack of requests to date for material required to be indexed, the Director has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). However, OFHEO will provide a copy of such indexes to a member of the public upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

§ 1710.13 Requests for records.

(a) *Addressing requests.* Requests for records in the possession of OFHEO shall be made in writing. The envelope and the request both should be clearly marked ''FOIA Request'' and addressed to: FOIA Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Fourth Floor, Washington, DC 20552. A request improperly addressed will be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (a) of § 1710.17 of this subpart until it is received, or would have been received with the exercise of due diligence, by the FOIA Officer. Records requested in conformance with this subpart and which are not exempt records may be obtained in person or by mail as specified in the request. Records to be obtained in person will be available for inspection or copying during business hours on a regular business day in the office of OFHEO.

(b) *Description of records.* Each request must reasonably describe the desired records in sufficient detail to enable OFHEO personnel to locate the records with a reasonable amount of effort. A request for a specific category of records will be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of OFHEO operations.

(1) Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(2) If the FOIA Officer determines that a request does not reasonably describe the records sought, he or she will either advise the requester what additional information is needed to locate the record or otherwise state why the request is insufficient. The FOIA Officer will also extend to the requester an opportunity to confer with OFHEO personnel with the objective of reformulating the request in a manner which will meet the requirements of this section.

§ 1710.14 Responses to requests.

(a) *Response to initial request.* The FOIA Officer of OFHEO is authorized to grant or deny any request for a record and to determine appropriate fees.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal Government agency, OFHEO will refer the request to the other agency for response. If OFHEO refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Creating records.* If a person seeks information from OFHEO in a format that does not currently exist, OFHEO will make reasonable efforts to provide the information in the format requested. OFHEO will not create a new record of information to satisfy a request.

(d) *No responsive record.* If no records are responsive to the request, the FOIA Officer will so notify the requester in writing.

§ 1710.15 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has granted a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operation of OFHEO. The response letter will also inform the requester of any fees to be charged in accordance with the provisions of subpart D of this part.

(b) *Form of notice denying a request.* When the FOIA Officer denies a request in whole or in part, he or she will so notify the requester in writing. The response will be signed by the FOIA Officer and will include—

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 1710.16 of this subpart and a description of the requirements of that section.

§ 1710.16 Appeals of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments advanced in support of disclosure of the requested record. Both the envelope and the letter of appeal must be clearly marked ''FOIA Appeal.'' An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (b) of § 1710.17 until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of OFHEO on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies, giving rise to a right of judicial review under 5 U.S.C. 552(a)(4).

§ 1710.17 Time limits.

(a) *Initial request.* Following receipt of a request for records, the FOIA Officer will determine whether to comply with the request and will notify the requester in writing of his or her determination within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the request.

(b) *Appeal.* A written determination on an appeal submitted in accordance with § 1710.16 of this subpart will be issued within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the appeal. When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(c) *Extension of time limits.* The time limits specified in either paragraph (a) or (b) of this section may be extended in unusual circumstances up to a total of 10 days (excluding Saturdays, Sundays, and legal holidays) after written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. As used in this paragraph, *unusual circumstances* means that there is a need to—

(1) Search for and collect the requested records from facilities that are separate from the office processing the request;

(2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request, or consult with various offices within OFHEO that have a substantial interest in the records requested.

§ 1710.18 Special procedures for business information.

(a) *In general.* Business information provided to OFHEO by a business submitter shall not be disclosed pursuant to an FOIA request except in accordance with this section.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply:

(1) *Business information* means trade secrets or other commercial or financial information, provided to OFHEO by a submitter, which arguably is protected from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Business submitter* means any person or entity which provides business information, directly or indirectly, to OFHEO and who has a proprietary interest in the information.

(c) *Designation of business information.* Submitters of business information should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4). Any such designation will expire 10 years after the records were submitted to the Government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(d) *Predisclosure notification.* (1) Except as is provided for in paragraph (i) of this section, the FOIA Officer shall, to the extent permitted by law, provide a submitter with prompt written notice of an FOIA request or administrative appeal encompassing its business information whenever required under paragraph (e) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the FOIA Officer provides a business submitter with the notice set forth in paragraph (e)(1) of this section, the FOIA Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under 5 U.S.C. 552(b)(4) and that the person or entity who submitted the information to OFHEO has been given the opportunity to comment on the proposed disclosure of information.

(e) *When notice is required.* OFHEO shall provide a business submitter with notice of a request whenever—

(1) The business submitter has in good faith designated the information as business information deemed protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) OFHEO has reason to believe that the request seeks business information the disclosure of which may result in substantial commercial or financial injury to the business submitter.

(f) *Opportunity to object to disclosure.* Through the notice described in paragraph (d) of this section, OFHEO shall, to the extent permitted by law, afford a business submitter at least 10 days (excluding Saturdays, Sundays, and legal holidays) within which it can provide OFHEO with a detailed written statement of any objection to disclosure. Such statement shall demonstrate why the information is contended to be a trade secret or commercial or financial

information that is privileged or confidential and why disclosure would cause competitive harm. Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* (1) The FOIA Officer shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever the FOIA Officer decides to disclose business information over the objection of a business submitter, the FOIA Officer shall forward to the business submitter a written notice at least 10 days (excluding Saturdays, Sundays, and legal holidays) before the date of disclosure containing—

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained,

(ii) A description of the business information to be disclosed, and

(iii) A specified disclosure date.

(2) Such notice of intent to disclose likewise shall be forwarded to the requester at least 10 days (excluding Saturdays, Sundays, and legal holidays) prior to the specified disclosure date.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the FOIA Officer shall promptly notify the business submitter of such action.

(i) *Exceptions to predisclosure notification.* The requirements of this section shall not apply if—

(1) The FOIA Officer determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such a case, the FOIA Officer will provide the submitter with written notice of any final decision to disclose business information within a reasonable number of days prior to a specified disclosure date.

Subpart D—Fees for Provision of Information

§ 1710.21 Definitions.

For the purpose of this subpart, the following definitions shall apply:

(a) *Commercial use request* means a request for information that is from, or on behalf of, a requester seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is being made. To determine whether a request is properly classified as a commercial use request, OFHEO shall determine the purpose for which the requested records shall be used. If OFHEO has reasonable cause to doubt the purpose specified in the request for which a requester will use the records sought, or where the purpose is not clear from the request itself, OFHEO shall seek additional clarification before assigning the request to a specified category.

(b) *Direct costs* means the expenditures actually incurred by OFHEO in searching for and reproducing records to respond to a request for information. In the case of a commercial use request, the term also means those expenditures OFHEO actually incurs in reviewing records to respond to the request. The direct cost shall include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplication equipment. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(c) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(d) *Noncommercial scientific institution* refers to an institution that is not operated on a commercial, trade, or profit basis and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(e) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances in which the periodicals can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve, *e.g.,* electronic dissemination of newspapers through telecommunication services, such alternative media, would be included in this category. ''Freelance'' journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by the organization. A publication contract would be the clearest proof that a journalist is working for a news organization, but OFHEO may look to the requester's past publication record to determine whether a journalist is working for a news organization.

(f) *Reproduce* and *reproduction* means the process of making a copy of a record necessary to respond to a request for information. Such copies take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation, *e.g.,* magnetic tape or disk. The copy provided shall be in a form that is reasonably usable by requesters.

(g) *Review* means the process of examining records located in response to a request for information to determine whether any portion of any record located is permitted to be withheld. It also includes processing any records for disclosure, *e.g.,* doing all that is necessary to prepare the records for release. The term ''review'' does not include the time spent resolving general legal or policy issues regarding the application of exemptions. OFHEO shall only charge fees for reviewing records in response to a commercial use request.

(h) The term *search* includes all time spent looking for material that is responsive to a request for information, including page-by-page or line-by-line identification of material within records. The term ''search'' includes the extraction of information from a computer using existing programming. Searching for materials shall be done in the most efficient and least expensive manner so as to minimize the costs of OFHEO and the requester. For example, a line-by-line search for responsive material should not be performed when merely reproducing an entire document would be less expensive and the faster method of complying with the request for information. A ''search'' for material that is responsive to a request should be distinguished from a ''review'' of material to determine whether the material is exempt from disclosure.

§ 1710.22 Fees to be charged—general.

(a) *Policy.* Generally, the fees charged for requests for records pursuant to 5 U.S.C. 552 shall cover the full allowable direct costs of searching for, reproducing, and reviewing records that are responsive to a request for information. Fees shall be assessed according to the schedule contained in paragraph (b) of this section and the category of requesters described in § 1710.23 of this subpart for services rendered by OFHEO staff in responding to, and processing requests for, records under this part. Fees assessed will be paid by check or money order payable to the Office of Federal Housing Enterprise Oversight.

(b) *Types of charges.* The types of charges that may be assessed in connection with the production of records in response to an FOIA request are as follows:

(1) *Searches.* (i) *Manual searches for records.* Whenever feasible, OFHEO will charge at the salary rate(s), *i.e.,* basic pay plus 16 percent, of the employee(s) making the search. Charges for search time will be billed by 15-minute segments.

(ii) *Computer searches for records.* Requesters will be charged at the actual direct costs of conducting a search using existing programming. These direct costs will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary, *i.e.,* basic pay plus 16 percent, apportionable to the search. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to OFHEO for the type and amount of such supplies of materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as of right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this subpart. OFHEO will not alter or develop programming to conduct a search.

(iii) *Unproductive searches.* OFHEO will charge search fees even if no records are found which are responsive to the request or if the records found are exempt from disclosure.

(2) *Duplication.* Records will be reproduced at a rate of $.15 per page. For copies prepared by computer, such as tapes or printouts, the requester shall be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of reproducing the record(s) shall be charged.

(3) *Review.* Only requesters who are seeking records for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for initial review, *i.e.,* the review undertaken the first time OFHEO analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review are properly assessable.

(4) *Other services and materials.* Where OFHEO elects, as a matter of administrative discretion, to comply with a request for a special service or materials, such as certifying that records are true copies or sending records by special methods, the actual direct costs of providing the service or materials will be charged.

§ 1710.23 Fees to be charged—categories of requesters.

(a) *Fees for various requester categories.* Paragraphs (b) through (e) of this section state, for each category of requester, the types of fees generally charged by OFHEO. However, for each of these categories, the fees may be limited, waived or reduced in accordance with the provisions set forth in paragraph (c) of § 1710.24. If OFHEO has reasonable cause to doubt the purpose specified in the request for which a requester will use the records sought, or where the purpose is not clear from the request itself, OFHEO will seek clarification before assigning the request a specific category.

(b) *Commercial use requester.* OFHEO shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of records. In accordance with § 1710.22, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(c) *Educational and noncommercial scientific institutions.* OFHEO shall charge fees for records requested by, or on behalf of, educational institutions and noncommercial scientific institutions in an amount which equals the cost of reproducing the records responsive to the request, excluding the cost of reproducing the first 100 pages. No search fee shall be charged with respect to requests by educational and noncommercial scientific institutions. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution, and that the records are not sought for commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a noncommercial scientific institution).

(d) *News media.* OFHEO shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the records responsive to the request, excluding the costs of reproducing the first 100 pages. No search fee shall be charged with respect to requests by representatives of the news media. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for commercial use.

(e) *All other requesters.* OFHEO shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraphs (b), (c), or (d) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 1710.22, requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(f) For purposes of the exceptions contained in this section on assessment of fees, the word ''pages'' refers to paper copies of 8½ × 11 or 11 × 14. Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meets the terms of the exception.

(g) For purposes of paragraph (e) of this section, the term ''search time'' has as its basis, manual search. To apply this term to searches made by computer, OFHEO will determine the hourly cost

of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary plus 16 percent of the person performing the search, *i.e.*, the operator, OFHEO will begin assessing charges for the computer.

§ 1710.24 Limitations on charging fees.

(a) *In general.* Except for requesters seeking records for a commercial use as described in paragraph (b) of § 1710.23, OFHEO will provide, without charge, the first 100 pages of duplication and the first 2 hours of search time, or their cost equivalent.

(b) *No fee charged.* OFHEO will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the ''cost of collecting a fee'' are the administrative costs of receiving and recording a requester's remittance and of processing the fee.

(c) *Waiver or reduction of fees.* OFHEO may grant a waiver or reduction of fees if OFHEO determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal Government, and the disclosure of the information is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees will be considered on a case-by-case basis.

(1) The following factors will be considered by OFHEO in determining whether a waiver or reduction of fees is in the public interest:

(i) *The subject of the request: Whether the subject of the requested records concerns ''the operations or activities of the Government.''* The subject matter of the requested records, in the context of the request, must specifically concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated. Furthermore, the records must be sought for their informative value with respect to those Government operations or activities; a request for access to records for their intrinsic informational content alone will not satisfy this threshold consideration.

(ii) *The informative value of the information to be disclosed: Whether the disclosure is ''likely to contribute'' to an understanding of Government operations or activities.* The disclosable portions of the requested records must be meaningfully informative on specific Government operations or activities in order to hold potential for contributing to increased public understanding of those operations and activities. The disclosure of information that is already in the public domain, in either a duplicative or substantially identical form, would not be likely to contribute to such understanding, as nothing new would be added to the public record.

(iii) *The contribution to an understanding of the subject by the general public: Whether disclosure of the requested information will contribute to the ''public understanding.''* The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualifications, *e.g.*, expertise in the subject area and ability and intention to convey information to the general public, will be considered.

(iv) *The significance of the contribution in public understanding: Whether the disclosure is likely to ''significantly enhance'' the public understanding of Government operations or activities.* The public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be enhanced by the disclosure to a significant extent. The FOIA Officer shall not make a separate value judgment as to whether information, even though it in fact would contribute significantly to public understanding of the operations or activities of the Government, is ''important'' enough to be made public.

(2) In order to determine whether the second fee waiver requirement is met, *i.e.*, that disclosure of the requested information is not primarily in the commercial interest of the requester, OFHEO shall consider the following two factors in sequence:

(i) *The existence and magnitude of a commercial interest: Whether the requester, or any person on whose behalf the requester may be acting, has a commercial interest that would be furthered by the requested disclosure.* In assessing the magnitude of identified commercial interests, consideration will be given to the effect that the information disclosed would have on those commercial interests, as well as to the extent to which FOIA disclosures serve those interests overall. Requesters shall be given a reasonable opportunity in the administrative process to provide information bearing upon this consideration.

(ii) *The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is ''primarily in the commercial interest of the requester.''* A fee waiver or reduction is warranted only where, once the ''public interest'' standard set out in paragraph (c)(1) of this section is satisfied, that public interest can fairly be regarded as greater in magnitude than that of the requester's commercial interest in disclosure. OFHEO will ordinarily presume that, where a news media requester has satisfied the public interest standard, the public interest will be serviced primarily by disclosure to that requester. Disclosure to requesters who compile and market Federal Government information for direct economic return will not be presumed to primarily serve the ''public interest.''

(3) Where only a portion of the requested record satisfies the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(4) A request for a waiver or reduction of fees must accompany the request for disclosure of records and should include—

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

(ii) The proposed use of the records and whether the requester will derive income or other benefit from such use;

(iii) A statement of how the public will benefit from release of the requested records; and

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

(5) A requester may appeal the denial of a request for a waiver or reduction of fees in accordance with the provisions of § 1710.16.

§ 1710.25 Miscellaneous fee provisions.

(a) *Notice of anticipated fees in excess of $25.00.* Where OFHEO determines or estimates that the fees chargeable will amount to more than $25.00, OFHEO shall promptly notify the requester of the actual or estimated amount of fees or such portion thereof that can be readily estimated, unless the requester has indicated his or her willingness to pay fees as high as those anticipated. Where a requester has been notified that the actual or estimated fees may exceed $25.00, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total

fee. A notice to the requester pursuant to this paragraph will include the opportunity to confer with OFHEO personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(b) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of a record or records, solely in order to avoid the payment of fees. When OFHEO reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, OFHEO may aggregate such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred. OFHEO will presume that multiple requests of this type made within a 30-day period have been made in order to evade fees. Where requests are separated by a longer period, OFHEO shall aggregate them only where there exists a solid basis for determining that such aggregation is warranted, *e.g.*, where the requests involve clearly related matters. Multiple requests regarding unrelated matters will not be aggregated.

(c) *Advance payment of fees.* (1) OFHEO does not require an advance payment before work is commenced or continued, unless—

(i) OFHEO estimates or determines that the fees are likely to exceed $250.00. If it appears that the fees will exceed $250.00, OFHEO will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees. In the case of requesters with no history of payment, OFHEO may require an advance payment of fees in an amount up to the full estimated charge that will be incurred; or

(ii) The requester has previously failed to pay a fee in a timely fashion, *i.e.*, within 30 days of the date of a billing. In such cases, OFHEO may require the requester to pay the full amount owed plus any applicable interest, as provided in paragraph (d) of this section, or demonstrate that the fee owed has been paid, prior to processing any further record request. Under these circumstances, OFHEO may require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or finishing processing of a pending request from that requester.

(2) A request for an advance deposit shall include an offer to the requester to confer with identified OFHEO personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

(3) When OFHEO requests an advance payment of fees, the administrative time limits described in 5 U.S.C. 552(a)(6) begin only after OFHEO has received the advance payment.

(d) *Interest.* OFHEO may assess interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Once a fee payment has been received by OFHEO, even if not processed, the accrual of interest shall be stayed. Interest charges shall be assessed at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of the billing.

Subpart E—Testimony and Production of Documents in Legal Proceedings in Which OFHEO Is Not a Named Party

§ 1710.31 General purposes.

The purposes of this subpart are to maintain the confidentiality of official documents and information of OFHEO, conserve the time of employees for their official duties, maintain the impartial position of OFHEO in litigation in which OFHEO is not a named party, and enable the Director to determine when to authorize testimony and to produce documents in legal proceedings in which OFHEO is not a named party. This subpart sets forth the procedures to be followed with respect to testimony concerning official matters and production of official documents of OFHEO in legal proceedings in which OFHEO is not a named party. This subpart in no way affects the rights and procedures governing public access to official documents pursuant to the FOIA or the Privacy Act.

§ 1710.32 Definitions.

For the purpose of this subpart:

(a) *Court* means any entity conducting a legal proceeding.

(b) *Demand* means any order, subpoena, or other legal process for testimony or documents.

(c) *Legal proceeding* means any administrative, civil, or criminal proceeding, including a discovery proceeding therein, before a court of law, administrative board or commission, hearing officer, or other body in which OFHEO is not a named party or in which OFHEO has not instituted the administrative investigation or administrative hearing.

(d) *OFHEO Counsel* means the General Counsel or his or her designee, a Department of Justice attorney, or counsel authorized by OFHEO to act on behalf of OFHEO or an employee.

§ 1710.33 General policy.

It is the policy of OFHEO that in any legal proceeding in which OFHEO is not a named party, no employee shall, in response to a demand, produce any documents contained in the files of OFHEO, or disclose any information relating to, or based upon, documents contained in the files of OFHEO, or disclose or produce any documents acquired as part of the performance of that employee's official duties or because of that employee's official status. Under appropriate circumstances, the Director may grant exceptions in writing to this policy when the Director determines that the testimony of employees or disclosure of official documents would be in the best interest of OFHEO or in the public interest. Prior to any authorized testimony or release of official documents, the requesting party shall obtain a protective order from the court before which the action is pending to preserve the confidentiality of the testimony or documents subsequently produced. The protective order shall be in a form satisfactory to OFHEO.

§ 1710.34 Request for testimony or production of documents.

(a) No employee shall give testimony concerning official matters or produce any official documents in any legal proceeding to which OFHEO is not a named party without the prior written authorization of the Director.

(b) If testimony by an employee concerning official matters or the production of official documents is desired, the requesting party, or his or her attorney, shall submit a letter to the Director setting forth the title of the case, the forum, the requesting party's interest in the case, a summary of the issues in the litigation, the reasons for the request, and a showing that the desired testimony, documents, or information are not reasonably available from any other source. If an appearance or testimony is requested, the letter shall also set forth the intended use of the testimony, a general summary of the scope of the testimony requested, and a showing that no document could be provided and used in lieu of the testimony or other appearance requested.

(c) The General Counsel is authorized to consult with the requesting party or his or her attorney to refine and limit the request so that compliance is less burdensome, or obtain information necessary to make the determination described in § 1710.33 of this subpart. Failure of the requesting party, or his or her attorney, to cooperate in good faith with the General Counsel to enable the

Director to make an informed determination under this subpart may serve as the basis for a determination not to comply with the request.

§ 1710.35 Scope of permissible testimony.

(a) The scope of permissible testimony by an employee is limited to that set forth in the written authorization granted that employee by the Director.

(b) Employees are not authorized to give opinion testimony, except as authorized by the Director. OFHEO, as the regulatory agency charged with the responsibility of examining, supervising, and regulating the financial safety and soundness and capital adequacy of the Enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 *et seq.*, relies on the ability of its employees to gather full and complete information in order to carry out its statutory responsibilities. The use of employees to give opinion testimony would hamper OFHEO's ability to carry out its statutory responsibilities and would cause a serious administrative burden on OFHEO's staff.

§ 1710.36 Manner in which testimony is given.

(a) Authorized testimony of employees ordinarily will be made available only through depositions or written interrogatories.

(b) Where, in response to a request, the Director determines that circumstances warrant authorizing testimony by an employee, the requesting party shall cause a subpoena to be served on the employee in accordance with applicable Federal or State rules of procedure, with a copy of the subpoena sent by registered or certified mail to the General Counsel.

(c) Normally, authorized depositions will be taken at OFHEO's office, at a time arranged with the employee that is reasonably fixed to avoid substantial interference with the performance of the employee's duties.

(d) Upon completion of the deposition of an employee, a copy of the transcript of the testimony shall be furnished, at the expense of the party requesting the deposition, to the General Counsel for OFHEO's files.

§ 1710.37 Manner in which documents will be produced.

(a) An employee's authorization to produce official documents is limited to the authority granted that employee by the Director.

(b) Certified or authenticated copies of official OFHEO documents authorized by the Director to be released under this subpart will be provided upon request.

§ 1710.38 Fees.

Unless waived or reduced, the following fees shall be charged for documents produced by OFHEO in connection with requests subject to this subpart:

(a) *Searches for documents.* OFHEO will charge at the salary rates(s), *i.e.*, basic pay plus 16 percent, of the employee(s) making the search. Charges for search time will be billed by 15 minute segments.

(b) *Copying of documents.* The standard copying charge for documents in paper copy is $.15 per page. When responsive information is provided in a format other than paper copy, such as in the form of computer tapes and disks, OFHEO will assess the direct costs of the tape, disk, or whatever medium is used to produce the information, as well as any related reproduction costs. Normally, only one copy will be provided. Additional copies will be provided only upon a showing of demonstrated need.

(c) *Certification or authentication of documents.* OFHEO will charge $3.00 for each certification or authentication of documents.

(d) *Computer searches.* Services of personnel in the nature of a computer search shall be charged at rates prescribed in paragraph (a) of this section. A charge shall be made for the computer time involved, based upon the prevailing level of costs to OFHEO and upon the particular types of computer and associated equipment and the amount of time that such equipment is utilized. A charge shall also be made for any substantial amount of special supplies or documents used to contain, present, or make available the output of computers, based upon prevailing levels of costs to OFHEO and upon the type and amount of such supplies or documents that are used.

(e) *Other costs.* When other services and documents not specifically identified in this section are requested and provided, their actual cost to OFHEO shall be charged.

(f) *Payments of fees.* A bill will be forwarded to the requesting party upon completion of the production. Payment shall be made by check or money order payable to the Office of Federal Housing Enterprise Oversight.

§ 1710.39 Responses to demands served on employees.

(a) *Advice by employee served.* Any employee who is served with a demand in a legal proceeding requiring his or her personal attendance as a witness or requiring the production of documents or information in any proceeding, shall immediately notify the General Counsel of such service, of the testimony and documents described in the demand, and of all relevant facts which may be of assistance to the General Counsel in determining whether the individual in question should be authorized to testify or the documents requested should be made available.

(b) When authorization to testify or to produce documents has not been granted by the Director, OFHEO Counsel shall provide the party issuing the demand or the court with a copy of the regulations contained in this subpart and shall inform the party issuing the demand or the court that the employee upon whom the demand has been made is prohibited from testifying or producing documents without the prior approval of the Director.

(c) *Appearance by employee served.* Unless OFHEO has authorized disclosure of the information requested, any employee who has OFHEO information that may not be disclosed and who is required to respond to a subpoena or other legal process, shall attend at the time and place required and respectfully decline to disclose or to give any testimony with respect to the information, basing such refusal upon the provisions of this subpart. If the court nevertheless orders the disclosure of the information or the giving of testimony irrespective of instructions from the Director not to produce the documents or disclose the information sought, the employee upon whom the demand has been made shall continue to decline respectfully to disclose the information and shall report promptly the facts to OFHEO for such action as OFHEO may deem appropriate.

(d) A determination under this subpart to comply or not to comply with any demand shall not constitute an assertion or waiver of privilege, lack of relevance, technical deficiencies, or any other ground for noncompliance. OFHEO reserves the right to oppose any demand on any legal ground independent of its determination under this subpart.

§ 1710.40 Responses to demands served on nonemployees.

(a) OFHEO reports of examinations, or any documents related thereto, are the property of OFHEO and are not to be disclosed to any person without the Director's prior written consent.

(b) If any person who has possession of an OFHEO report of examination, or any documents related thereto, is served with a demand in a legal proceeding directing that person to produce such

OFHEO documents or to testify with respect thereto, such person shall immediately notify the General Counsel of such service, of the testimony and described documents in the demand, and of all relevant facts. Such person shall also object to the production of such documents or information contained therein on the basis that the documents are the property of OFHEO and cannot be released without OFHEO's consent and that their production must be sought from OFHEO following the procedures set forth in § 1710.33, paragraphs (b) and (c) of § 1710.34, and paragraph (b) of § 1710.37 of this subpart.

Subpart F—Rules and Procedures for Service Upon OFHEO

§ 1710.51 Service of process.

(a) Except as otherwise provided by OFHEO regulations, the Federal Rules of Civil Procedure, or order of a court with jurisdiction over OFHEO, any legal process upon OFHEO, including a legal process served on OFHEO demanding access to its records under the FOIA, shall be duly issued and served upon the General Counsel and any OFHEO personnel named in the caption of the documents.

(b) Service of process upon the General Counsel may be effected by personally delivering a copy of the documents to the General Counsel or by sending a copy of the documents to the General Counsel by registered or certified mail, postage prepaid, to the Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552.

Dated: December 17, 1998.

Mark Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 98–33943 Filed 12–22–98; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–012]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued December 17, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order establishing implementation date for OBA regulations.

SUMMARY: The Federal Energy Regulatory Commission is establishing April 1, 1999, as the date by which pipelines are required to comply with the regulations requiring pipelines to enter into operational balancing agreements with interconnecting interstate and intrastate pipelines. (18 CFR § 284.10(c)(2)(i)). These regulations were adopted in Order No. 587–G. (63 FR 20072).

DATES: Pipelines must comply with 18 CFR § 284.10(c)(2)(i) by April 1, 1999.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0507

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426. The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

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

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

In Order No. 587–G,[1] the Commission adopted a regulation (284.10(c)(2)(i))[2] requiring each interstate pipeline to enter into operational balancing agreements (OBAs) at points of interconnection between its system and the system of another interstate or intrastate pipeline. In Order No. 587–G, the Commission deferred implementation of this regulation until the Gas Industry Standards Board (GISB) had an opportunity to develop standards related to OBAs and imbalance trading. The Commission also stated that the pipelines would have three months from the date on which final OBA regulations are adopted to conclude OBA agreements with interconnecting interstate and intrastate pipelines.[3]

On November 9, 1998, GISB filed with the Commission a report on its standards development progress. GISB reports that its Executive Committee approved a model OBA on July 16, 1998,[4] and that its OBA standards are completed.[5]

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[1] Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998), *on reh'g*, Order No. 587–I, 63 FR 53565 (Oct. 6, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,067 (Sep. 29, 1998).

[2] 18 CFR § 284.10(c)(2)(i).

[3] Order No. 587–G 63 FR at 20080, III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 at 30,676.

[4] In Order No. 587–G, the Commission found that pipelines did not have to adopt a standard OBA if its terms are inapplicable to their situation, although a standard OBA would provide a benchmark in the event of disputes over OBA provisions. Order No. 587–G, 63 FR at 20081, III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 at 30,676–77.

[5] GISB's November 9, 1998 filing, Docket No. RM96–1–010, at Appendix 5.

Since the OBA standards are now complete, the Commission is establishing an April 1, 1999 date for the pipelines to comply with the requirement to enter into OBAs with interconnecting interstate and intrastate pipelines. In Order No. 587–G, the Commission determined that pipelines would not have to file OBAs with the Commission as long as they maintained the contracts and made them available, along with all relevant records of volumes and amounts paid, to the Commission and any person requesting copies.[6] Since pipelines are not required to file OBA contracts with the Commission, each pipeline will be required to file by April 1, 1999, a statement as to whether it has complied with § 284.10(c)(2)(i) of the regulations at all pipeline to pipeline interconnects on its system.

The Commission orders:

(A) Each interstate pipeline must comply with § 284.10(c)(2)(i) of the Commission's regulations by April 1, 1999.

(B) Each interstate pipeline must file by April 1, 1999, a statement setting forth its compliance with § 284.10(c)(2)(i) of the Commission's regulations.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 98–33986 Filed 12–22–98; 8:45 am]

BILLING CODE 6717–01–U

[6] Order No. 587–G, 63 FR at 20080, III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 at 30,676.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98N–1149]

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing January 1, 2002, as the uniform compliance date for food labeling regulations that are issued between January 1, 1999, and December 31, 2000. FDA periodically announces uniform compliance dates for new food labeling requirements to minimize the economic impact of label changes. On December 27, 1996, FDA established January 1, 2000, as the uniform compliance date for food labeling regulations that issued between January 1, 1997, and December 31, 1998.

DATES: This regulation is effective December 23, 1998. Submit written comments by March 8, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Hilario R. Duncan, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8281.

SUPPLEMENTARY INFORMATION: FDA periodically issues regulations requiring changes in the labeling of food. If the effective dates of these labeling changes were not coordinated, the cumulative economic impact on the food industry of having to respond separately to each change would be substantial. Therefore, the agency periodically has announced uniform compliance dates for new food labeling requirements (see e.g., the **Federal Registers** of October 19, 1984 (49 FR 41019), December 24, 1996 (61 FR 67710), and December 27, 1996 (61 FR 68145)). Use of a uniform compliance date provides for an orderly and economical industry adjustment to new labeling requirements by allowing sufficient lead time to plan for the use of existing label inventories and the development of new labeling materials. This policy serves consumers' interests as well because the cost of multiple short-term label revisions that would otherwise occur would likely be passed on to consumers in the form of higher prices.

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

FDA has examined the economic implications of this final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety, distributive, and equity effects). Executive Order 12866 classifies a rule as ''economically significant'' if it meets any one of a number of specified conditions including having an annual effect on the economy of $100 million, adversely affecting some sector of the economy in a material way, or adversely affecting jobs or competition. A regulation is considered a ''significant'' regulatory action under Executive Order 12866 if it raises novel legal or policy issues. FDA finds that this final rule is neither an economically significant rule nor a significant regulatory action as defined by Executive Order 12866. In addition, in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the administration of the Office of Management and Budget has determined that this final rule is not a major rule for purposes of congressional review. The establishment of a uniform compliance date does not impose either costs or benefits. For future labeling requirements, FDA will assess the costs and benefits of the uniform compliance date as well as the option of setting other dates.

Because FDA has issued this final rule without first publishing a general notice of proposed rulemaking, a final regulatory analysis is not required by the Regulatory Flexibility Act (5 U.S.C. 601–612). Nonetheless, the uniform compliance date does not impose any burden on small entities. The agency will assess the costs and benefits of setting alternative dates as part of the regulatory flexibility analyses of future labeling regulations.

This action is not intended to change existing requirements for compliance dates contained in final rules published before publication of this final rule. Therefore, all final FDA regulations published in the **Federal Register** before December 23, 1998, will still go into effect on the date stated in the respective final rule.

The agency generally encourages industry to comply with new labeling regulations as quickly as feasible, however. Thus, when industry members voluntarily change their labels, it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time.

In rulemaking that began with publication of a proposal on April 15, 1996 (61 FR 16422), and ended with a final rule on December 24, 1996 (61 FR 67710), FDA provided notice and an opportunity for comment on the practice of establishing uniform compliance dates by issuance of a final rule announcing the date. Receiving no comments objecting to this practice, FDA finds any further rulemaking

unnecessary for establishment of the uniform compliance date. Nonetheless, under 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on whether this uniform compliance date should be modified or revoked.

Interested persons may, on or before March 8, 1999, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday. After its review of any comments received to this final rule, FDA will either publish a document providing its conclusions concerning the comments or will initiate document and comment rulemaking to modify or revoke the uniform compliance date established by this final rule.

The new uniform compliance date will apply only to final FDA food labeling regulations that require changes in the labeling of food products and that publish after January 1, 1999, and before December 31, 2000. Those regulations will specifically identify January 1, 2002, as their compliance date. All food products subject to the January 1, 2002, compliance date must comply with the appropriate regulations when initially introduced into interstate commerce on or after January 1, 2002. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2002, the agency will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

Dated: December 15, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–33984 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 92F–0443]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen polysiloxane and dimethylmethylhydrogen polysiloxane using a platinum catalyst. FDA is also amending the food additive regulations to provide for the safe use of 3,5-dimethyl-1-hexyne-3-ol, 1-ethynylcyclohexene, bis(methoxymethyl)ethyl maleate, methylvinyl cyclosiloxane, and tetramethyltetravinylcyclotetrasiloxane as optional polymerization inhibitors. This action is in partial response to a petition filed by Dow Corning Corp.

DATES: The regulation is effective December 23, 1998; written objections and requests for a hearing by January 22, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 12, 1993 (58 FR 8290), FDA announced that a petition (FAP 3B4346) had been filed by Dow Corning Corp., P.O. Box 994, Midland, MI 48686–0994. The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300), § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320), and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst. The petition further proposed that the food additive regulations be amended to provide for the safe use 3,5-dimethyl-1-hexyne-3-ol, 1-ethynylcyclohexene, bis(methoxymethyl)ethyl maleate and methylvinyl cyclosiloxane as optional polymerization inhibitors. Additionally, the petition proposed that the regulations be amended to provide for the safe use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture, optionally containing magnesium nitrate, as an antimicrobial agent for emulsion-based silicone coating formulations.

Subsequent to the filing of the petition, the petitioner requested that tetramethyltetravinylcyclotetrasiloxane be included in the petition. Therefore, in a notice published in the **Federal Register** of July 2, 1998 (63 FR 36246), FDA announced that it was amending the filing notice of February 12, 1993, to indicate that the petitioner was also proposing that the food additive regulations be amended to provide for the safe use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

In 1996, Congress enacted the Food Quality Protection Act (the FQPA). As a result of certain changes made by that law, antimicrobial formulations used in or on food contact articles were made subject to regulation as pesticide chemicals by the U.S. Environmental Protection Agency. Thus, after the FQPA, the proposed use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture, with magnesium nitrate as an optional ingredient, intended for use as an antimicrobial agent for emulsion-based silicone coating formulations was no longer under the jurisdiction of FDA. Because FDA lacked the authority to regulate this substance for the antimicrobial use, the agency did not complete its review of the safety of this additive.

Congress recently passed the Antimicrobial Regulation Technical Corrections Act of 1998 (the ARTCA) (Pub. L. 105–324) that reverses some of the jurisdictional changes made by the FQPA. As a result of the ARTCA, the antimicrobial use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture, with magnesium nitrate as an optional ingredient, is once again subject to regulation by FDA as a food additive. The safety of the proposed use of this substance will be considered by FDA and the agency's decision announced in a subsequent issue of the **Federal Register**.

As noted, the petition proposed to amend § 176.170, however, because the petitioned additives will be listed under § 175.300(b)(3) they may, by cross-reference, be used under § 176.170(b)(2). Therefore, this action does not include an amendment that would establish a

separate listing for the additives under § 176.170(b)(2).

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of each additive is safe, that each additive will have its intended technical effect, and therefore, that the regulations in §§ 175.300 and 175.320 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this action as announced in the amended notice of filing for FAP 3B4346 published in the **Federal Register** of July 2, 1998 (63 FR 36246). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before January 22, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.300 is amended in paragraph (b)(3)(xxviii)(*a*) by alphabetically adding an entry to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxviii) * * *

(*a*) * * *

Siloxane resins originating from the platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. No. 68083–18–1 and CAS Reg. No. 68083–19–2) with methylhydrogen polysiloxane (CAS Reg. No. 63148–57–2) and dimethylmethylhydrogen polysiloxane (CAS Reg. No. 68037–59–2), where the platinum content does not exceed 150 parts per million. The following substances may be used as optional polymerization inhibitors:

3,5-Dimethyl-1-hexyne-3-ol (CAS Reg. No. 107–54–0), at a level not to exceed 0.53 weight-percent;

1-Ethynylcyclohexene (CAS Reg. No. 931–49–7), at a level not to exceed 0.64 weight-percent;

Bis(methoxymethyl)ethyl maleate (CAS Reg. No. 102054–10–4), at a level not to exceed 1.0 weight-percent;

Methylvinyl cyclosiloxane (CAS Reg. No. 68082–23–5); and

Tetramethyltetravinylcyclotetrasiloxane (CAS Reg. No. 2554–06–5).

* * * * *

3. Section 175.320 is amended in the table in paragraph (b)(3) in item (i) by alphabetically adding an entry under the headings ''List of substances'' and ''Limitations'' to read as follows:

§ 175.320 Resinous and polymeric coatings for polyolefin films.

(b) * * *

(3) * * *

List of substances	Limitations
(i) * * *	
Siloxanes and silicones: platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. No. 68083–18–1 and CAS Reg. No. 68083–19–2) with methylhydrogen polysiloxane (CAS Reg. No. 63148–57–2) and dimethylmethylhydrogen polysiloxane (CAS Reg. No. 68037–59–2). The following substances may be used as optional polymerization inhibitors: 3,5-Dimethyl-1-hexyne-3-ol (CAS Reg. No. 107–54–0), at a level not to exceed 0.53 weight percent; 1-Ethynylcyclohexene (CAS Reg. No. 931–49–7), at a level not to exceed 0.64 weight percent; Bis(methoxymethyl)ethyl maleate (CAS Reg. No. 102054–10–4), at a level not to exceed 1.0 weight percent; Methylvinyl cyclosiloxane (CAS Reg. No. 68082–23–5); and Tetramethyltetravinylcyclotetrasiloxane (CAS Reg. No. 2554–06–5).	Platinum content not to exceed 150 parts per million.
* * * * * * *	

* * * * *

Dated: December 14, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–33914 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300702; FRL–6024–5]

RIN 2070–AB78

Triazamate; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance relative to an Experimental Use Permit for combined residues of triazamate (RH–7988) and its metabolite (RH–0422) in or on apples. Rohm and Haas Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996 (Pub. L. 104–170). The tolerance will expire on December 31, 2001.

DATES: This regulation is effective December 23, 1999. Objections and requests for hearings must be received by EPA on or before February 22, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300702], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300702], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall (CM) #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300702]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Mark Dow, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703 305–5533, e-mail: dow.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 6, 1998 (63 FR 11240)(FRL–5777–5), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19108–2399. This notice included a summary of the petition prepared by Rohm and Haas Company, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a time-limited tolerance for combined residues of the insecticide triazamate (RH–7988) and its metabolite (RH–0422), in or on apples at 0.1 part per million (ppm). This tolerance will expire on December 31, 2001.

I. Risk Assessment and Statutory Findings

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

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

A. Toxicity

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

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

the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

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

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

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

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

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

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

B. Aggregate Exposure

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

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, ''The chronic dietary risk (food only) for triazamate...does not exceed the Agency's level of concern.''

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of triazamate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of triazamate (RH–7988) and its metabolite (RH–0422) on apples at 0.1 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the

toxic effects caused by triazamate are discussed below.

B. Toxicological Endpoints

1. *Acute toxicity.* The data base for acute toxicity is considered complete. No additional studies are required at this time. Acute toxicity categories for triazamate are: Acute oral and acute inhalation are toxicity category II; Acute dermal, Occular irritation and Dermal irritation are toxicity category IV; and Dermal sensitization is Not Applicable.

Triazamate produces significant toxicity via the oral and inhalation routes. In the acute oral studies in the rat and the mouse, the LD_{50} values were less than 500 miligrams/kilograms (mg/kg). In the acute inhalation study in the rat, the LC_{50} value was less than 0.5 miligram/liter (mg/L).

2. *Short - and intermediate - term toxicity.* The data base for subchronic toxicity is considered complete.

i. *Thirteen week dietary in rats.* In a subchronic toxicity study, RH–7988 was administered to 10 rats/sex/dose at dietary concentrations of 0, 50, 500, 1,500 or 3,000 ppm (mean measured concentrations of 0, 3, 31, 93 or 192 mg/kg/day for males and 0, 4, 39, 117 or 250 mg/kg/day for females) for 13 weeks. In conjunction with the primary study, 10 additional rats/sex were fed RH–7988 at 0, 50, 500, 1,500 or 3,000 ppm (mean measured concentrations of 0, 3, 31, 95 or 188 mg/kg/day for males and 0, 4, 39, 119 or 250 mg/kg/day for females) for 13 weeks to determine the effects of RH–7988 on cholinesterase activities.

In the primary study, body weights for the 1,500 and 3,000 ppm treatment groups were significantly ($p < 0.05$) depressed for most or all weekly intervals. Body weight gains for the 1,500 and 3,000 ppm treatment groups were 16–23% and 27–37% lower, respectively, than the controls at the end of the study. Decreased food consumption by the 1,500 ppm treatment groups was significant ($p < 0.05$) during the initial 3–4 weeks and at one or several later weekly intervals compared to the controls. The Lowest Observed Adverse Effect Level (LOAEL) for this study is 93.37 mg/kg/day (1,500 ppm) based on decreased body weights and decreased food consumption in both sexes. The NOEL is 31.45 mg/kg/day (500 ppm).

In the cholinesterase study, both sexes in the 500, 1,500, and 3,000 ppm treatment groups exhibited concentration-dependent decreases in red blood cell (12–41%) and plasma (58–95%) cholinesterase activities compared to the controls. Both sexes in the 1,500 and 3,000 ppm treatment groups had concentration-dependent decreases in brain cholinesterase activities (28–56%) compared to the controls. The LOAEL for this study is 30.96 mg/kg/day (500 ppm) based on decreased plasma cholinesterase activities in both sexes and decreased red blood cell cholinesterase activity in females. The NOEL is 3.09 mg/kg/day (50 ppm).

ii. *Subchronic oral toxicity in mice.* In a 3 month dietary toxicity study, Crl: CD–1 (ICR) BR mice (10 per group per sex) were exposed to triazamate at dose levels of 0, 0.5, 2, 25, 250 or 1,000 ppm (in males 0, 0.09, 0.34, 4.55, 49.75 and 159.43 mg/kg/day; in females 0, 0.13, 0.53, 6.56, 71.82, and 223.19 mg/kg/day). Compound related toxicity was observed at > 25 ppm as evidenced by cholinesterase inhibition in both sexes. Plasma cholinesterase levels were significantly decreased in a dose-dependent manner at 25 ppm in males (11–67% of control) and females (13–73% of control). At these same dose levels, red blood cell cholinesterase levels were significantly decreased in males (72–84% of controls) and in females (84–93% of controls). Brain cholinesterase levels were significantly decreased in males at 1,000 ppm (81% of controls). No other treatment related effects were observed.

Based on plasma cholinesterase inhibition at 25 ppm, the NOEL and LOAEL were 0.34 – 0.53 mg/kg and 4.55 – 6.56 mg/kg, respectively, for both males and females.

iii. *Subchronic dog (non-guideline) 14–day dietary.* In a non-guideline range-finding study, triazamate (99%) was administered to male beagles (4/dose) at dietary levels of 0, 140, 300 or 700 ppm (0, 5.16, 9.64 or 11.25 mg/kg/day) for a period of 2 weeks. Dose levels of 3,500 and 7,000 ppm were initiated but the 3,500 ppm was continued for only one week, with recovery on basal diet (2–week average dose: 8.75 mg/kg/day); animals receiving 7,000 ppm for one day only were fed basal diet for 6 days prior to use as test animals at the 300 ppm level.

There were no unscheduled deaths in this study. The most obvious toxic effect of triazamate is its inhibition of cholinesterase activity in plasma at very low doses (140 ppm, 48% of control; 300 ppm, 54% of control; 700 ppm 54% of control). Other significant effects observed at 140 ppm included only irregular feces. At 300 ppm and above, emesis was reported and decreases were observed in white blood cell count (86% control), alkaline phosphatase activity (67% control) and serum glutamic pyruvic transaminase (SGPT) activity (58% control). Numerous incidences of no fecal output were observed at 70 ppm and above.

From the data presented in this 2–week study, the NOEL for triazamate is < 140 ppm (5.16 mg/kg/day) based on inhibition of plasma cholinesterase and irregular feces (diarrhea, soft stool, mucoid feces, no fecal output). The LOAEL is start ≤ 140 ppm.

iv. *Subchronic oral toxicity-13–week dog.* In a subchronic toxicity study, triazamate (95.3%) was administered to beagle dogs (4/sex/dose) in the diet at dose levels of 0, 1, 10, 100 or 400 ppm (0, 0.03, 0.31, 3.11 or 10.98 mg/kg/day for a period of 13 weeks.

No treatment related clinical signs were observed in the 1 ppm that were related to treatment. In the 10 ppm group, food-like vomitus was observed in 2/4 males. In the 100 ppm, the same observation was made in 2/4 males and 2/4 females. Other observations included fluid vomitus in 1/4 females, bloated abdomen in 1/4 males, 1/4 females was considered thin and 1/4 females had decreased total blood protein (88% control).

Triazamate greatly inhibited the cholinesterase activity in blood plasma at all dose levels but did not appear to do so in red blood cells or brain. No NOEL was established for cholinesterase inhibition.

The LOAEL for inhibition of plasma cholinesterase inhibition was less than 1 ppm (0.03 mg/kg/day) based on inhibition of plasma cholinesterase activity (74% of control) in females receiving this dose level.

The NOEL for systemic effects is 10 ppm (0.31 mg/kg/day) based on vomiting in both sexes, thin appearance in (1/4 females) and bloated abdomen in 1/4 males.

The study satisfied the requirements for a subchronic nonrodent study and is acceptable.

v. *21–day dermal - rat.* In a 21–day dermal study groups of Crl:CD BR rats (6/sex/dose) received 15 repeated dermal applications of triazamate (97%, technical) at doses of 0, 10, 100 and 1,000 mg/kg, 6 hours/day, 5 days /week over a three week period. An other group of 6 male and 6 female rats received repeated dermal applications of a formulation product (50WP, 52% active ingredient (a.i.)) at a dose equivalent to 10 mg a.i./kg/day. Under the conditions of this study, there were no treatment-related clinical signs of toxicity for either product. At 10 mg/kg, there was a biologically significant decrease in plasma cholinesterase for both the technical (females only) and 50WP formulations (both sexes). At 100 mg/kg and at 1,000 mg/kg, there was a statistically significant decrease in

plasma, red cell and brain cholinesterase when compared to controls. At 100 mg/kg, the plasma cholinesterase activity was 50% and 58% of control values for females and males, respectively. The red cell cholinesterase activity was 67% in females and 72% in males and the brain cholinesterase activity was 87% of control activity in both sexes. At 1,000 mg/kg, Plasma cholinesterase activity was 25% in females, and 19% of controls in males; red cell activity was 67% of controls in females and 72% of controls in males and brain cholinesterase activity was 47% in females and 42% in males. Based on the results of this study, for systemic toxicity, the LOAEL was 10 mg/kg based on the biologically significant decreases in plasma cholinesterase activity; a NOEL was not established.

The study satisfied the requirements for a 21–day dermal rat study and is acceptable.

3. *Chronic toxicity*— i. *Oncogenicity*. EPA has established the RfD for triazamate at 0.000164 (0.0002 rounded off) milligrams/kilogram/day (mg/kg/day). This Reference Dose (RfD) is based on a NOEL of 0.0164 mg/kg/day and an uncertainty factor of 100; NOEL established from a combined chronic feeding study in the dog; LOAEL = 0.0236 mg/kg/day.

The data base for chronic toxicity and oncogenicity is considered complete.

a. *Chronic nonrodent - 1 year dog.* In a chronic toxicity study triazamate (94.9%) was administered to purebred beagle dogs (4/sex/dose)in the diet at dose levels of 0, 0.1, 0.3, 0.6, 0.9, 15.0 or 150 ppm (corresponding to 0, 0.0025, 0.0078, 0.0164, 0.0236, 0.3904, or 4.42 mg/kg/day) for 52 weeks.

The most significant effect observed was inhibition of plasma, red blood cell and brain cholinesterase activity. Decreases in activity were reported at several dose levels. Plasma cholinesterase activity was decreased (9 to 87% of control value) in both sexes at the two highest dose levels. At 150 ppm red blood cell cholinesterase activity was decreased (64 to 82%) of control values. This finding was not reported at doses equal to and lower than 15 ppm. Brain cholinesterase activity was significantly decreased (53 to 80% of controls) at both the 15 and 150 ppm levels, but statistical significance was only reported for females in the 150 ppm group. Brain cholinesterase activity was decreased (88% of control) for males in the 0.9 ppm group. This decrease in activity is considered biologically significant since the reported decrease is greater than 10% of the control value. Brain cholinesterase inhibition was not observed in animals receiving triazamate at dose levels lower than 0.9 ppm.

The NOEL for cholinesterase inhibition was 0.6 ppm (0.0164 mg/kg/day) based on the inhibition of brain cholinesterase activity (88% of control value) in males at the LOAEL of 0.9 ppm triazamate in the diet (0.0236 mg/kg/day).

No biologically significant treatment related effects were noted with respect to mortality, clinical signs, body weight, food consumption, food efficiency, hematology, clinical chemistry, urinalysis, organ weights, organ/body weight ratios, organ/brain weight ratios, or gross or microscopic pathology. The NOEL for systemic effects is ≧ 150 ppm (4.42 mg/kg/day); the LOAEL is > 150 ppm.

The study is acceptable and satisfies the requirement for a chronic oral non-rodent study.

b. *Chronic oral toxicity/oncogenicity in mice.* In a 78 week oral toxicity/oncogenicity study in mice, groups of 60 CD-1 mice/sex were fed dietary levels of 0, 1, 50, or 1,500 ppm triazamate (equivalent to 0, .13, 6.7, or 210 mg/kg/day for females and 0, 0.17, 8.4 or 262 mg/kg/day for males. At week 55, the highest dose levels were reduced to 1,000 ppm(127 mg/kg and 146 mg/kg for males and females, respectively) due to high mortality. Groups of 10/sex/dose level were included for sacrifice at 12 months.

At 50 ppm, plasma cholinesterase activity was decreased in males (64 to 75%) and in females (69 to 80%) at 6, 12, or 18 months. At the high dose of 1,000/1,500 ppm, a significantly decreased survival rate and a debilitated state of health were observed during the first 12 months in both sexes. Body weight gains overall were depressed compared to controls in males and females (16%), food consumption was slightly decreased in males and marginal decreases in erythrocyte parameters (RBC, HGB and HCT) were observed at 12 and 18 months in males. An increase in the incidence of inhalation pneumonia was observed in both sexes. Inhibition of erythrocyte and brain cholinesterase activity was also observed at 1,000 ppm.

The Lowest Effect Level (LEL) for cholinesterase inhibition is 50 ppm (6.7 and 8.4 mg/kg/day in males and females, respectively) based on plasma cholinesterase activity. The NOEL is for cholinesterase inhibition is 1 ppm (0.13 and 0.17 mg/kg/day, in males and females respectively).

The systemic LEL is 1,000 ppm (127 and 146 mg/kg/day , males and females, respectively) based on decreased body weight gains and inhalation pneumonia. The systemic NOEL was 50 ppm.

There is no evidence of carcinogenic potential. Dosing was excessive at the highest dose (1,000/1,500 ppm) but sufficient numbers of mice were considered available at termination to assess the carcinogenicity at the highest dose. The study is Core Guideline for carcinogenicity and satisfies the requirement for an oncogenicity study in mice as per 83–2(b). For chronic toxicity, the study is core supplementary. No ophthalmoscopic examinations or clinical chemistry determinations were performed, other than for inhibition of cholinesterase activity.

c. *Chronic/carcinogenicity study - rats.* In a combined chronic/oncogenicity study, RH–7988 was administered to 70 Sprague-Dawley rats/sex/dose in the diet at dose levels of 0, 10, 250, or 1,250 ppm (0, 0.45, 11.50, and 59.18 mg/kg/day for males, and 0.58, 14.54, and 73.70 mg/kg/day for females) for 24 months. A total of 10 rats/sex/group were terminated at 12 months and all remaining animals were sacrificed at 24 months of the study.

Chronic toxicity in rats receiving the 1,250 ppm diet was characterized in males by significant decreases in mean body weights (decrease 5–7%; p ≧ 0.05) and body weight gains (8–18%; p ≧ 0.05) and by reduced plasma (decrease 71–87%; p ≧ 0.05), erythrocyte (decrease 37–62%; p ≧ 0.05), and brain cholinesterase activities (decrease 26–38%; p ≧ 0.05) in both males and females. In the 250 ppm group animals, reduced plasma (decrease 31–65%; p ≧ 0.05) and erythrocyte (decrease 16–29%; p ≧ 0.05) cholinesterase activities were also observed.

The chronic LOAEL is 250 ppm (11.50 and 14.54 mg/kg/day in males and females, respectively) based on inhibition of plasma and erythrocyte cholinesterase activities in the 250 ppm animals. The chronic NOEL is 10 ppm (0.45 and 0.58 mg/kg/day for males and females, respectively).

Under the conditions of this study, there was no evidence of carcinogenic potential.

Dosing was considered adequate based on decreased body weight and body weight gain in the high-dose males and decreased activity of plasma and Red Blood Cell (RBC) cholinesterase at the mid and high doses and brain cholinesterase at the high dose.

This study is classified as acceptable and satisfies the guideline requirements for a chronic toxicity study (Series 83–1) and a carcinogenicity study (Series 83–2) on the rat.

ii. *Developmental toxicity.* The data base for developmental toxicity is considered complete.

a. *Oral (gavage) developmental toxicity study - rats.* In a developmental toxicity study, RH–7988 (95.7% a.i.) was administered to 25 Crl:CD Br rats/dose by gavage in a corn oil suspension at dose levels of 0, 4, 16, or 64 mg/kg/day from days 6 through 15 of gestation.

Maternal toxicity was demonstrated at 64 mg/kg/day by treatment-related clinical signs of toxicity and decreased body weights (days 8, 10, 13, 16, and 20, decrease 5–6%, $p > 0.05$), body weight gains (overall treatment period, decrease 25%, $p > 0.05$), and feed consumption (decrease 25 and 12%, $p > 0.05$, days 6–10 and 10–16, respectively). Clinical signs of toxicity noted during the treatment period in the high-dose group included fasciculations, salivation, rapid breathing, diarrhea, mucoid feces, tan stained perineum, and red stained nose. Body weights, body weight gains, feed consumption, and clinical signs of toxicity were unaffected by treatment at dose levels of 4 and 16 mg/kg/day. Cesarean section parameters were similar between the controls and all treated groups. No treatment-related changes were noted in mortality or gross pathology at any dose level. The maternal LOAEL is 64 mg/kg/day, based on treatment-related clinical signs of toxicity and decreased body weights, body weight gains, and feed consumption. The maternal NOEL is 16 mg/kg/day.

There were no treatment-related effects in developmental parameters at any administered dose level. The developmental LOAEL was not observed. The developmental NOEL is 64 mg/kg/day.

b. *Developmental toxicity - rabbits.* In a developmental toxicity study, 21 New Zealand White rabbits per group received RH–7988 (triazamate, 94.9%) by gavage on gestational days 7–19 at dose levels of 0, 0.05, 0.5 or 10 mg/kg/day. Corn oil served as the control substance and vehicle for the test article. The study authors did not indicate if doses were adjusted for concentration of active ingredient. Analytical chemistry results demonstrated that the lowest dose was 136% of target, i.e. 0.068 mg/kg/day.

Maternal toxicity was observed at 10 and 0.5 mg/kg/day as evidenced by increased incidences of clinical signs (soiled perineum, diarrhea and scant/no feces), significantly decreased body weight gain and food consumption during the entire gestational period. Based on these results, the maternal toxicity NOEL is 0.068 mg/kg/day and the maternal toxicity LOAEL is 0.5 mg/kg/day.

Developmental toxicity was not observed in this study, therefore, the developmental NOEL was 10 mg/kg, the developmental LOAEL was not determined.

iii. *Reproductive toxicity* The data base for reproductive toxicity is considered complete.

Two generation reproduction study in rats. In a two-generation reproduction study, Crl: CDBR rats (25/group) received RH–7988 (triazamate, 94.9%) at dietary levels of 0, 10, 250, or 1,500 ppm (equal to 0, 0.8, 19.9 or 116.8 mg/kg/day for females and 0, 0.7, 17.0, or 101.4 mg/kg/day for males) during premating.

The NOEL for systemic toxicity was 10 ppm. The LOAEL was 250 ppm based on decreased red blood cell and plasma cholinesterase activity in males and females in both generations.

At 250 ppm, plasma cholinesterase activity was 25 to 38% of control value and at 1,500 ppm the plasma cholinesterase activity was 6 to 13% of control level. Red blood cell activity was 65 to 80% of control at 250 ppm and 53–57% of control at 1,500 ppm. Additional findings at 1,500 ppm included decreased body weight (F_0 males, F_1 males and F_1 females), decreased food consumption (F_0 males, F_1 males and F_1 females) and an increased incidence of clinical signs (soft feces, small irregular shaped feces) in males in the F_0 and both sexes in the F_1.

The NOEL for reproductive toxicity was 250 ppm (17 – 19.9 mg/kg). The LOAEL was 1,500 ppm (101.4 – 116.8 mg/kg) based on decreased pup body weight on lactation days 14 and 21 in both generations.

iv. *Neurotoxicity.* Adequacy of data base for neurotoxicity (Series 81–8, 82–5): This chemical is not an OP and hen studies were not performed or required. Because of the cholinesterase inhibiting properties of the compound, acute and subchronic neurotoxicity studies were conducted. The data base for neurotoxicity is considered to be complete. No additional studies are required at this time.

In an Acute neurotoxicity study, RH–7988 was administered to Crl CD:BR rats of both sexes (10/sex/dose) by gavage at single doses of 0, 5, 25 or 75 mg/kg. There was no neuropathology reported on brain, spinal cord (and ganglia) and peripheral nerves. There were no treatment related mortalities. Cholinesterase activity was not assessed.

Based on study results the NOEL is 5 mg/kg. A threshold NOEL could be considered at 25 mg/kg due to the marginal effects observed in males, only at that dose level. This guideline [Series 81–8] acute neurotoxicity study is not yet classified because a formal review has not yet been done. The NOEL and LOAEL are tentative at this time.

In a Subchronic neurotoxicity study RH7988 was administered to Crl CD:BR (Sprague-Dawley) rats of both sexes at dietary levels of 0, 10, 250 or 1,500 ppm (0, 0.6, 14.3 or 86.8 mg/kg/day, respectively for males and 0, 0.7, 17.1 or 103.5 mg/kg/day for females). There was no effect on motor activity when dosed groups were compared to controls and no treatment related deaths were reported. Necropsy and histopathology did not reveal any lesions that could be correlated to treatment with the test material. Brain weights were comparable between groups.

Based on the results reported, the NOEL is 10 ppm (0.6/ 0.7 mg/kg/day[M/F]). The LOAEL is 250 ppm (14.3/17.1 mg/kg/day[M/F]) based on statistically and biologically significant decreases in plasma and red blood cell cholinesterase activity. This guideline [Series 82–5] subchronic neurotoxicity study is not yet classified because a formal review has not yet been done. The NOEL and LOAEL are tentative at this time.

v. *Mutagenicity.* The data base for Mutagenicity is considered adequate.

vi. *Metabolism.* The data base for metabolism is considered to be complete.

Groups of male and female Wistar rats were dosed with ^{14}C-labeled RH–7988 at oral doses of 0.3 or 30 mg/kg and at 14–day repeated oral doses of RH–7988 at 3 ppm followed by a single oral dose of ^{14}C–RH–7988 at 0.3 mg/kg. In addition, groups of rats were subjected to dietary administration of ^{14}C–RH–7988 at 300 ppm (males only) and 3,000 ppm (females only). The excretion of radioactivity into urine and feces was rapid and complete in all groups tested and most of the test compound administered was excreted in the urine (67–109%) and feces (10–33%) from the animals. Total recovery of radioactivity ranged between 101% and 128% of the administered dose for all tested groups within 3 to 4 days after dosing. No marked sex-related difference was observed in the excretion patterns.

Peak plasma/whole blood ^{14}C-concentration was attained 5–15 minutes after oral dosing (0.3 or 30 mg/kg/day) and 12–24 hours after dietary administration (300 ppm or 3,000 ppm).

At 3 days after oral administration of a low-dose (0.3 mg/kg, single or 14–day repeated dosing) or single high-dose (30 mg/kg), 0.6–4% of the administered

radioactivity remained in the tissues (0.1–0.2%) and carcass (0.4–4%). There were no sex-dependent differences in retention or distribution of the test article. The greatest amount of radioactivity (expressed as percent of the administered dose) was associated with the fat, liver, and muscle. At 3 days after oral administration of a single low- or high-dose of RH–7988, thyroid contained the highest tissue ^{14}C-concentration (expressed as ppm equivalent/tissue).

High Pressure Liquid Chromatography (HPLC) analysis of urine and feces from rats after oral administration of 30 mg/kg of ^{14}C–RH–7988 showed four ^{14}C containing metabolites. Parent was not detected in any sample analyzed. The urine contained Metabolite 1 (35.5–49.4% of the dose), Metabolite 2 (9.5–13.7%), Metabolite 3 (0.9–2.7%) and a trace of Metabolite 4. The feces contained only Metabolite 1 (16.7–19.8%) and a trace of Metabolite 4. Most of the metabolites are cleavage products of RH–7988 either at the carbamoyl functionality or at the ester. The authors provided a proposed metabolic pathway that is consistent with the available data.

vii. *Dermal absorption* . In a dermal absorption study ^{14}C triazamate was administered to male Crl:CDBR rats at a single dermal application at 0.5, 0.05 or 0.005 mg/centimeter (cm). The fur was removed from the intrascapular region of the back 24 hours prior to the administration of the test material. Dermal absorption at the highest concentration was less than 2% at 1, 10 and 24 hours. At the mid concentration, the dermal absorption ranged from less than 1% at 1 hour to approximately 13% after 24 hours. At the lowest concentration of 0.005 mg/cm, the highest percentage of absorption (19%) was reported at 24 hours; at 1 hour, the absorption was less than 1%.

Dermal Absorption Factor: A dermal absorption factor of 10% should be used for correcting oral dosing to dermal dosing.

C. Exposures and Risks

1. *From food and feed uses.* Risk assessments were conducted by EPA to assess dietary exposures and risks from RH–7988 and RH–0422 as follows:

i. *Acute dietary exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure.

For assessment of acute dietary risk, a maternal NOEL of 0.068 mg/kg/day is used from a developmental toxicity study on rabbits. The selected endpoint is based on clinical signs and decreases in body weight gain and food consumption at a dose level of 0.5 mg/kg/day.

The Margin of Exposure (MOE) is a measure of how closely the anticipated exposure comes to the NOEL and is calculated as a ratio of the NOEL to the exposure (NOEL/exposure = MOE). The Agency is not generally concerned unless the MOE is below 100 when the NOEL is based upon data generated in animal studies. The 100 factor is to take into account interspecies extrapolation and intraspecies variability. For triazamate, the Agency's level of concern is for MOEs that are below 100.

A dietary risk evaluation system (DRES) analysis assuming 100% crop treated and using the proposed tolerance level of 0.05 ppm for apples and average residue concentrations from field trial data for apple juice was conducted. Average residues for apple juice were derived The resulting MOEs for triazamate are summarized below.

Subgroup	NOEL mg/kg/day	MOE
General U.S. Population	0.068	68
Infants (< 1 yr)	0.068	34
Children (1-6 yrs)	0.068	45
Females (13+ yrs)	0.068	226
Males (13+ yrs)	0.068	226

As shown above, the MOEs for adult males and females are greater than 100 and MOEs for the subgroups General U.S. Population, Infants (< 1 year), and Children (1–6 years old) are below 100. However, the Agency determined that in reality, the MOEs will be above a level of concern (>100) because of the following factors: 1) While the DRES analysis assumes 100% crop treated, less than 5% of the crop is ''actually'' treated with triazamate; 2) the acreage treated is approximately 3,000 acres, in 20 states over a 2–year period; 3) the field trial data show non-detectable residue levels (< 0.01 ppm) after a post-treatment interval of 21 days; and 4) the unlikely leaching of this chemical due to its physical and chemical properties.

ii. *Chronic exposure and risk.* (Anticipated Residue Contribution or ARC) The chronic dietary exposure analysis was conducted using a RfD of 0.0002 mg/kg/day. The RfD is based on the NOEL for cholinesterase inhibition of 0.0164 mg/kg/day in male dogs from the chronic toxicity study in beagle dogs and an uncertainty factor of 100, applicable to all population subgroups.

In conducting this chronic dietary risk assessment, EPA is assuming that triazamate will be applied under the experimental use permit directions for use: 2,107.5 lbs ai to be applied on 2,810 acres over a 2–year period. Under these assumptions, the crop may contain triazamate residues when approximately 1% of the crop are treated. Anticipated residue values of 0.05 ppm derived from field trial data were used. There are no other published, pending, or section 18 tolerances for triazamate.

The resulting ARCs are equivalent to the following percents of the RfD for the subgroups listed below.

Subgroup	%Rfd
U.S. Population (48 states)	0.045%
Northeast Region	0.056%
Western Region	0.054%
Hispanics	0.048%
Non-Hispanic Whites	0.047%
Non-Hispanic Others	0.047%
Nursing Infants (< 1 yr)	0.329%
Non-Nursing Infants (< 1yr)	0.0442%
Children (1–6 yrs)	0.034%
Children (7–12 yrs)	0.060%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48) states.

The chronic dietary risk (food only) for triazamate therefore, does not exceed the Agency's level of concern.

2. Drinking water risk (acute and chronic). Drinking water levels of concern (DWLOC) are the concentrations of triazamate in drinking water which would result in unacceptable aggregate risk, after factoring in all food exposures and other non-occupational for which the Agency has reliable data. To calculate the DWLOC for acute exposure relative to an acute dietary toxicity endpoint, the acute dietary food exposure is subtracted from the ratio of the acute NOEL (used for acute dietary assessments) to the MOE.

However, for triazamate, the acute DWLOC could not be calculated because this ratio is less than the food exposure.

To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) is subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to triazamate in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

The DWLOCs for triazamate are 6.97 μ/L for adults and 1.99 μ/L for children (1–6 years old) which are higher than the estimated average concentrations for triazamate in surface (0.25 μ/L) and ground water (0.000063 μ/L). Therefore, for the use proposed in this action, the Agency concludes with reasonable certainty that residues of triazamate in drinking water would not result in unacceptable levels of aggregate health risk at this time.

D. Statement of the Adequacy of the Residential Exposure Data- base to Assess Infants' and Children's Exposures

There are no residential uses associated with this product, therefore exposures and risks for children from such uses are not a concern.

E. Cumulative Exposure to Substances with Common Mechanism of Toxicity

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

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

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

F. Aggregate Exposure and Risk Assessment/Characterization

1. *Acute aggregate exposure and risk.* As indicated from the acute dietary (food only) risk assessment, a high-end exposure estimate was calculated for these subgroups: general U.S. population, infants (< 1 year old), children (1–6 years old), females 13+ years, and males 13+.

Three of the population subgroups, general U.S. population, infants (<1 year old) and children (1–6 years old), yielded MOEs below 100%. However, given the limited acreage proposed for use in this action, the low percent crop actually treated, and the physical and chemical properties of this chemical (e.g.,it does not leach, is not persistent, degrades rapidly, etc.), and based on best scientific judgement, the Agency concludes with reasonable confidence that residues of triazamate in drinking water will not contribute significantly to the aggregate acute human health risk when considering the use proposed by this action.

2. *Short- and intermediate- term aggregate exposure and risk.* Triazamate is not currently registered for any residential uses. Therefore, a risk assessment for short- and intermediate-term aggregate risk is not required.

3. *Chronic aggregate exposure and risk.* For the U.S. population, 0.045% of the RfD is occupied by dietary (food) exposure. Triazamate is not currently registered for residential uses, thus, no chronic residential exposure is anticipated. The estimated average concentrations (EECs) of triazamate for the U.S. population and for children (1–6 years old) in surface and ground water are less than OPP's levels of concern for triazamate in drinking water as a contribution to chronic aggregate exposure when considering the use proposed by this action.

4. *Determination of safety (U.S. population, infants, and children).* Triazamate has been classified as a ''not likely'' human carcinogen, based on a lack of evidence of carcinogenicity in mice and rats at dose levels judged to be adequate to assess the carcinogenic potential. Thus, a cancer risk assessment is not required. Triazamate does not have residential uses; therefore, no residential risk assessment is required.

Acute dietary (food + water) risk estimates do exceed the Agency's level of concern for the U.S. population and for infants and children. Chronic dietary (food + water) risk for the U.S. population and for infants and children do not exceed the Agency's level of concern. However, given the limited acreage proposed for use in this action, the low percent crop actually treated, and the physical and chemical properties of this chemical (e.g., it does not leach, is not persistent, degrades rapidly, etc.), and based on best scientific judgement, the Agency concludes with reasonable confidence that residues of triazamate in drinking

water will not contribute significantly to the aggregate acute and chronic human health risk when considering the use proposed by this action.

III. Other Considerations

Endocrine Disruption. EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect....'' The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endrocrine disrupter effects.

IV. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of triazamate. No previous Experimental Use Permits have been requested for triazamate and no permanent or temporary tolerances have been established for residues of triazamate or its metabolites in/on raw agricultural or animal commodities.

V. Analytical Method

Nitrogen phosphorus detector/gas liquid chromatography (NPD/GLC) (Method TR–34–89–37) has been submitted and validated.

VI. Conclusion

Therefore, the tolerance is established for combined residues of triazamate (RH–7988) and its metabolite (RH–0422) in or on apples at 0.1 ppm.

VII. Objections and Hearing Requests

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

Any person may, by February 22, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300702] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

IX. Regulatory Assessment Requirements

A. Other Acts and Executive Orders

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

B. Executive Order 12875

Under Executive Order 12875, entitled Enhancing Intergovernmental

Partnerships (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Executive Order 13084

Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

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

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. house of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **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 180

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

Dated: November 18, 1998.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 —— [AMENDED]

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

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

2. Section 180.536 is added to read as follows:

§ 180.536 Triazamate; tolerances for residues.

(a) *General.* Time-limited tolerances are established for the combined residues of triazamate (RH-7988) ethyl(3-tert-butyl-1-dimethylcarbamoyl-1*H*-1,2,4-triazol-5-ylthio)acetate and its metabolite (RH0422) in or on the following commoditie(s):

Commodity	Parts per million	Expiration/ Revocation Date
Apples	0.1	12/31/01

(b) *Section 18 emergency exemptions.*

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

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

[FR Doc. 98–33633 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

Federal Disaster Assistance for Disasters Declared On or After November 23, 1988

CFR Correction

In title 44 of the Code of Federal Regulations, revised as of October 1, 1998, on page 471, § 206.207 was inadvertently removed. The removed text should read as follows:

§ 206.207 Administrative and audit requirements.

(a) *General.* Uniform administrative requirements which are set forth in 44 CFR part 13 apply to all disaster assistance grants and subgrants.

(b) *State administrative plan.* (1) The State shall develop a plan for the administration of the Public Assistance program that includes at a minimum, the items listed below:

(i) The designation of the State agency or agencies which will have the responsibility for program administration.

(ii) The identification of staffing functions in the Public Assistance program, the sources of staff to fill these functions, and the management and oversight responsibilities of each.

(iii) Procedures for:

(A) Notifying potential applicants of the availability of the program;

(B) Conducting briefings for potential applicants and application procedures, program eligibility guidance and program deadlines;

(C) Assisting FEMA in determining applicant eligibility;

(D) Participating with FEMA in conducting damage surveys to serve as a basis for obligations of funds to subgrantees;

(E) Participating with FEMA in the establishment of hazard mitigation and insurance requirements;

(F) Processing appeal requests, requests for time extensions and requests for approval of overruns, and for processing appeals of grantee decisions;

(G) Compliance with the administrative requirements of 44 CFR parts 13 and 206;

(H) Compliance with the audit requirements of 44 CFR part 14;

(I) Processing requests for advances of funds and reimbursement; and

(J) Determining staffing and budgeting requirements necessary for proper program management.

(2) The Grantee may request the RD to provide technical assistance in the preparation of such administrative plan.

(3) In accordance with the Interim Rule published March 21, 1989, the Grantee was to have submitted an administrative plan to the RD for approval by September 18, 1989. An approved plan must be on file with FEMA before grants will be approved in a future major disaster. Thereafter, the Grantee shall submit a revised plan to the RD annually. In each disaster for which Public Assistance is included, the RD shall request the Grantee to prepare any amendments required to meet current policy guidance.

(4) The Grantee shall ensure that the approved administrative plan is incorporated into the State emergency plan.

(c) *Audit*—(1) *Nonfederal audit.* For grantees or subgrantees, requirements for nonfederal audit are contained in FEMA regulations at 44 CFR part 14 or OMB Circular A–110 as appropriate.

(2) *Federal audit.* In accordance with 44 CFR part 14, appendix A, para. 10, FEMA may elect to conduct a Federal audit of the disaster assistance grant or any of the subgrants.

[55 FR 2304, Jan. 23, 1990; 55 FR 5458, Feb. 15, 1990]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96–83; FCC 98–273]

Preemption of Local Zoning Regulation of Satellite Earth Stations and Restrictions on Over-the-Air Reception Devices: Television Broadcast, Direct Broadcast Satellite and Multichannel Multipoint Distribution Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Second Report and Order amends the Over-the-Air Reception Devices Rule, which prohibits governmental and non-governmental restrictions that impair a viewer's ability to receive video programming through devices designed for over-the-air reception of DBS, MDS, or television broadcast signals. This Order concludes that the rule will be expanded to apply to antenna restrictions on rental property where the viewer has exclusive use or control. This Order also concludes that antenna restrictions that apply to common or restricted access areas are beyond the scope of the statutory authority for this rule, and that the rule, therefore, cannot apply to antenna restrictions on common or restricted access.

EFFECTIVE DATES: January 22, 1999.

FOR FURTHER INFORMATION CONTACT: Eloise Gore at (202) 418–1066 or via internet at egore@fcc.gov or Darryl Cooper at (202) 418–1039 or via internet at dacooper@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Report and Order, CS Docket No. 96–83, adopted October 14, 1998 and released November 20, 1998. This Order is in response to the Further Notice of Proposed Rulemaking (CS Docket No. 96–83, FCC 96–328, 61 FR 46557). The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, or may be purchased from the Commission's copy contractor, International Transcription Service (''ITS''), (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036, or may be reviewed via internet at http://www.fcc.gov/Bureaus/Cable/WWW/csb.html. For copies in alternative formats, such as braille, audio cassette or large print, please contact Sheila Ray at ITS.

Paperwork Reduction Act: This Second Report and Order contains information collection requirements for which the Commission already has clearance from the Office of Management and Budget (''OMB''). The Commission submitted these information collection requirements to OMB for clearance under OMB control number 3060–0707 upon the August 6, 1996 release of the Report and Order. OMB subsequently issued its clearance to sponsor these requirements by means of a Notice of Action dated October 14, 1996.

OMB Approval Number: 3060–0707.

Title: Over-the-Air Reception Devices.

SYNOPSIS OF ORDER ON RECONSIDERATION

Introductory Background

1. This Second Report and Order resolves the issues regarding Section 207 of the Telecommunications Act of 1996 (''1996 Act'') (Pub. L. No. 104–104, 110 Stat. 114 (1996)), on which the Commission sought further comment in its Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking (''Report and Order'' and ''Further Notice''). Based on the Commission's review of the comments filed in response to the Further Notice, the Commission adopts an amendment to Section 1.4000 of the rules, 47 CFR 1.4000 (''Section 207 rules''), that prohibits restrictions on over-the-air reception devices covered by Section 207 (''Section 207 reception devices'') on rental property subject to the other terms and conditions of the Section 207 rules. Section 207 expressly covers over-the-air reception devices used to receive television broadcast signals, multichannel multipoint distribution service (''MMDS''), and direct broadcast satellite services (''DBS''). In the Report and Order, the Commission concluded that the rules implementing Section 207 should cover: (1) any type of multipoint distribution service, including not only MMDS but also instructional television fixed service (''ITFS'') and local multipoint distribution service (''LMDS'') provided the antenna is one meter or less in diameter or diagonal measurement; (2) medium-power satellite services using antennas of one meter or less, even though such services may not be technically defined as DBS elsewhere in the Commission's rules; (3) DBS antennas that are one meter or less in diameter or over one meter in Alaska (smaller DBS antennas do not work in Alaska); and television (''TVBS'') antennas without size limitation.

2. This amendment to the rules serves two federal objectives of promoting competition among multichannel video

providers and of providing viewers with access to multiple choices for video programming. The new amendment strikes a balance between the interests of tenants, who desire access to more video programming services, and the interests of landlords, who seek to control access to and use of their property. This Second Report and Order does not amend the rules to cover common property and restricted access property, as defined below, because Section 207 does not authorize the Commission to do so.

3. In practice, under the amendment to the rules, renters will be able, subject to the terms of the Section 207 rules, to install Section 207 reception devices wherever they rent space outside of a building, such as balconies, balcony railings, patios, yards, gardens or any other similar areas. Moreover, for renters who have not leased outside rental space where a Section 207 reception device could be installed, the new rules permit the installation of Section 207 devices inside rental units and anticipate the development of future technology that will create devices capable of receiving video programming signals inside buildings. One such device, LMDS, is already capable of receiving signals inside buildings. This amendment to the rules provides video programming alternatives to as many viewers as possible within the boundaries of Section 207's language.

4. Section 207 directs the Commission to remove restrictions on Section 207 reception devices:

> Within 180 days after the date of enactment of this Act, the Commission shall, pursuant to section 303 of the Communications Act of 1934, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.

5. Among other things, the Report and Order adopted rules that generally prohibit both governmental and nongovernmental restrictions that impair the installation, maintenance or use of Section 207 reception devices, unless the restriction serves a legitimate safety or historic preservation objective in a non-discriminatory manner that is no more burdensome than necessary to achieve the objective. In addition, the Section 207 rules adopted in the Report and Order applied only to property within the exclusive use or control of the viewer where the viewer has a direct or indirect ownership interest in the property.

6. In the Further Notice, the Commission sought comment on the question of whether the antenna restriction preemption rules should be extended to the placement of antennas on rental and other property not within the exclusive use or control of a person with an ownership interest. This includes, for instance, the question of whether Section 207 authorizes extending the Section 207 rules to (1) rental housing (e.g., apartment buildings and single family dwellings) where viewers would have possession and exclusive use of the leasehold in which Section 207 reception equipment would be placed; (2) common property—e.g., common property within condominiums, cooperatives, rental complexes or manufactured housing parks—where viewers may have access to, but not possession of and exclusive rights to use or control, the areas where Section 207 reception equipment would be placed; and (3) areas of a building to which viewers generally do not have access or possession, such as the rooftop, on which Section 207 reception equipment would be placed (''restricted access'' property). With regard to condominiums, the term ''common property'' herein refers to the common elements in which the condominium owner owns an interest with other condominium owners but over which the owner does not exercise exclusive use or control. The Section 207 rules already cover condominium balconies, decks, patios and similar areas over which the condominium unit owner exercises exclusive use and has a direct or indirect property interest even if he or she does not own 100% of that area.

7. In particular, the Further Notice sought comment on the impact of *Loretto* v. *TelePrompter Manhattan CATV Corp.*, 458 U.S. 419 (1982) and *Bell Atlantic Telephone Co.* v. *FCC*, 24 F.3d 1441 (D.C. Cir. 1994) on any such extensions of the rules. The Further Notice also invited commenters to ''address technical and/or practical problems or any other considerations they believe the Commission should take into account in deciding whether to adopt such a rule and, if so, the form such a rule should take.''

8. After analyzing the statute and the comments filed in response to the Further Notice, the Commission concludes that, in Section 207, Congress did not direct the Commission to impose affirmative duties on other parties to install Section 207 devices or to grant access to restricted areas to permit the installation of Section 207 reception devices, and in particular, Congress did not direct the Commission to require property owners to subject property to a Fifth Amendment taking. In addition, Congress gave the Commission the discretion to devise rules that would not create serious practical problems in their implementation. Section 207 obliges the Commission to prohibit restrictions on viewers who wish to install, maintain or use a Section 207 reception device within their leasehold because this does not impose an affirmative duty on property owners, is not a taking of private property, and does not present serious practical problems.

9. To effect the above changes, 47 CFR 1.4000 of the rules is amended as follows (new language underlined):

> (a) Any restriction, including but not limited to any state or local law or regulation, including zoning, land-use, or building regulations, or any private covenant, *contract provision, lease provision,* homeowners' association rule or similar restriction, on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership *or leasehold* interest in the property that impairs the installation, maintenance, or use of: * * *

10. We also revise the rule to provide the new Commission street address for purposes of filing petitions for waiver or declaratory ruling:

> (g) All allegations of fact contained in petitions and related pleadings before the Commission must be supported by affidavit of a person or persons with actual knowledge thereof. An original and two copies of all petitions and pleadings should be addressed to the Office of the Secretary, Federal Communications Commission, *445 12th St. S.W.*, Washington, D.C. 20554, Attention: Cable Services Bureau. Copies of the petitions and related pleadings will be available for public inspection in the Cable Reference Room in Washington, D.C. Copies will be available for purchase from the Commission's contract copy center, and Commission decisions will be available on the Internet.

11. In light of the decision to allow a tenant to install a Section 207 device within a leasehold without the landlord's permission, 47 CFR 1.4000 is further amended to delete paragraph (h) which required that the landlord consent to such an installation. The tenant's installation is subject to the terms of the Section 207 rules.

Application of the Section 207 Rules to Rental Property

Scope of Section 207

12. The starting point of the analysis is the statute. If Congress has directly spoken to the precise question at issue ''that is the end of the matter,'' and the Commission must give ''effect to the unambiguously expressed intent of Congress.'' (*See Chevron, U.S.A., Inc.* v.

NRDC, 467 U.S. 837, 842–43 (1984).) If, however, Congress has not spoken to the precise question at hand—i.e., if ''the statute is silent or ambiguous with respect to the specific issue''—the Commission may exercise its reasonable discretion in construing the statute.

13. As an initial matter, we agree with those commenters that argue that Section 207 applies on its face to all viewers, and that the Commission should not create different classes of ''viewers'' depending upon their status as property owners. For instance, if a local government imposed a zoning restriction that prohibited a landlord from installing a master antenna system for his tenants to receive over-the-air broadcast signals, such a restriction would be preempted, notwithstanding the fact that the viewers in that situation are renters.

14. Section 207 expressly directs the Commission only to ''prohibit restrictions'' that impair a viewer's ability to receive covered video programming; Section 207 does not grant the Commission the authority to require property owners or third parties to take affirmative steps to enable a viewer to receive such video programming. Accordingly, the Commission may prohibit restrictions that a property owner or third party may impose upon a viewer (e.g., local zoning ordinances or community association rules), but may not impose affirmative requirements on a property owner or a third party, such as a duty to install Section 207 reception devices for a viewer or give a viewer or video provider possession of restricted access areas or common areas for an installation. (''Community associations'' includes homeowners'' associations, townhome or townhouse associations, condominium associations, cooperative associations, planned unit development associations and similar associations and entities.) This distinction between prohibiting restrictions and imposing affirmative duties is consistent with Section 207's legislative history, which states that ''[e]xisting regulations, including but not limited to, zoning laws, ordinances, restrictive covenants or homeowners' association rules, shall be unenforceable to the extent contrary to this section.''

15. Removing a restriction on installing an antenna within a leasehold does not impose a duty on the landlord to relinquish property because the landlord has already voluntarily relinquished possession of the leasehold by virtue of the lease; therefore, the language of Section 207 permits the Commission to prohibit lease and other restrictions on a viewer's installation, maintenance or use of a Section 207 device within a leasehold subject to the terms and conditions of the Section 207 rules.

Constitutional Considerations

16. Under *Bell Atlantic,* where an agency authorizes ''an identifiable class of cases in which the application of a statute will necessarily constitute a taking,'' its authority is construed narrowly to defeat such an interpretation unless the statute grants express or implied authority to the agency to effect the taking. According to the *Bell Atlantic* court, implied authority may be found only where '' 'the grant [of authority] itself would be defeated unless [takings] power were implied.' '' Section 207 does not expressly authorize the Commission to permit the taking of private property, and we do not believe that it is necessary to authorize a taking of private property in order to comply with Congress' direction that we prohibit restrictions that impair a viewer's ability to exercise his or her rights under Section 207. The ''takings'' clause of the Fifth Amendment provides: ''[N]or shall private property be taken for public use, without just compensation.'' In general, there are two types of Fifth Amendment takings: ''per se'' takings and ''regulatory'' takings. (*See generally Yee* v. *City of Escondido,* 503 U.S. 519, 522–23 (1992).) Where the government authorizes the permanent physical occupation of property it constitutes a per se taking. Under *Loretto,* a permanent physical occupation of property is a taking without regard to the public interest that it may serve, the size of the occupation, or the economic impact on the property owner.

17. Where the government does not authorize a physical occupation of property but merely regulates its use, a court will examine the following factors identified in *Penn Central Transportation Co.* v. *City of New York,* 438 U.S. 104, 124 (1978) to determine whether a regulatory taking has occurred: (1) the character of the governmental action; (2) its economic impact; and (3) its interference with reasonable investment-backed expectations. Moreover, where the private property owner voluntarily agrees to the possession of its property by another, the government can regulate the terms and conditions of that possession without effecting a per se taking. In *FCC* v. *Florida Power Corp.,* 480 U.S. 245, 252 (1987), the utility company voluntarily agreed to the physical occupation of its poles by a cable operator's wires at certain lease rates; the utility claimed that a subsequent rate reduction ordered by the Commission for the occupation of its poles constituted a per se taking under *Loretto.* Rather, such regulations are analyzed under the *Penn Central* multifactor inquiry. As the *Florida Power* Court stated:

> [I]t is the invitation, not the rent, that makes the difference. The line which separates these cases from *Loretto* is the unambiguous distinction between a commercial lessee and an interloper with a government license.

18. Applying the above framework to the property at issue here, we agree with DIRECTV that a per se takings analysis would not apply to an expansion of the Section 207 rules to a leasehold where a landlord has invited a tenant to physically occupy and possess the property. In *Loretto,* the Court identified three rights ''to possess, use, and dispose of'' property that are destroyed by an uninvited permanent physical occupation of the property. However, by leasing his or her property to a tenant, the property owner voluntarily relinquishes the rights to possess and use the property and retains the right to dispose of the property. First, within his or her leasehold a tenant is an invitee with a possessory estate interest in the property, not ''an interloper with a government license.'' Second, to a large extent, the property owner relinquishes its right to control the use of its property when it leases the property. For example, tenants have the right to ''make changes in the physical condition of the leased property which are reasonably necessary in order for the tenant to use the leased property in a manner that is reasonable under all circumstances.'' Third, the property owner may retain the right to sell the property even if the property is leased. Thus, none of the property rights that *Loretto* held were ''effectively destroyed'' by a permanent physical occupation of property would be compromised by expanding the Section 207 rules to leased property, because the landlord voluntarily relinquishes two of those rights (possessing and using) and is free to retain the third right (disposing of the property) when entering into a lease. In contrast, in *Loretto,* the physical possession was on the building roof, possession of which was not leased to anyone but was retained by the property owner, Ms. Loretto.

19. Accordingly, it does not constitute a per se taking to prohibit lease restrictions that would impair a tenant's ability to install, maintain or use a Section 207 reception device within the leasehold. Indeed, prohibiting restrictions on the installation of a

satellite dish or other Section 207 device is not distinguishable in a constitutional sense from prohibiting restrictions on the installation of ''rabbit ears''—a Section 207 reception device—on the top of a television set. The *Loretto* Court recognized that its per se rule would not apply to regulations affecting a landlord-tenant relationship that did not require the occupation of the landlord's property by a third party; the Court acknowledged that such regulations would be analyzed under the *Penn Central* regulatory takings standard.

20. Contrary to the argument set forth in the dissent, the limits of the per se takings doctrine described in *Florida Power* are clearly applicable here. Under that doctrine, any permanent, physical occupation of property, no matter how small, constitutes a per se taking. But the right to assert a per se taking is easily lost: once a property owner voluntarily consents to the physical occupation of its property by a third party, any government regulation affecting the terms and conditions of that occupation is no longer subject to the bright-line per se test, but must be analyzed under the multi-factor inquiry reserved for nonpossessory government activity. In *Florida Power,* for instance, the utility company was not required to lease pole space to cable operators, but once it voluntarily did so, the government could regulate the terms and conditions of that physical occupation (i.e., the rates that the utility company could charge for the pole space) without effecting a per se taking.

21. The dissent attempts to muddy this clear dichotomy by arguing that a landlord retains the right to assert a per se taking claim whenever the government modifies the terms and conditions set forth in its lease. But this is the very argument that the Supreme Court squarely rejected in *Florida Power,* where it was argued that the utility company's consent to occupation of its pole space was based on the payment of a certain lease rate. Whether the terms and conditions of occupation relate to a lease rate (as in *Florida Power*) or to the ability to place a Section 207 reception device within the leasehold (as here), once a property owner voluntarily consents to the occupation of its property it can no longer claim a per se taking if government action merely affects the terms and conditions of that occupation. In other words, the per se takings doctrine protects a property owner's right to exclude all others from its property, but it does not protect a property owner's desire to impose conditions on the use of property that it has voluntarily invited others to occupy.

22. The dissent again confuses this crucial distinction by asserting that if the terms of a lease help explain why we are not giving tenants the right to place reception equipment on common and restricted access property, the lease should likewise inform our analysis within the leasehold itself. For takings purposes, the lease is relevant in defining the physical area of consensual occupation (e.g., the apartment but not the roof or exterior walls). Outside of such areas of consensual occupation, the property owner may retain its per se right to prohibit permanent occupation by third parties. Within the area of consensual occupation, however, the terms of the lease are no longer relevant to a per se analysis. As the *Florida Power* Court put it, it is ''the invitation [i.e. whether the occupation is voluntary], not the rent [i.e., the terms and conditions of that voluntary occupation], that makes the difference.''

23. Given the conclusion that this expansion of the Section 207 rules does not constitute a per se taking, we therefore turn to whether such an expansion of Section 207 rights would constitute a regulatory taking under the *Penn Central* factors: the character of the governmental action, its economic impact, and its interference with reasonable investment-backed expectations. Because the expansion of the Section 207 rules to leased property would not create an identifiable class of per se takings, *Bell Atlantic*'s narrowing construction of the statutory authority does not apply to this situation. First, Section 207 promotes the substantial governmental interests of choice and competition in the video programming marketplace. *See Turner Broadcasting System, Inc.* v. *FCC,* 117 S.Ct. 1174, 1181 (1997) (reaffirming important governmental interest in promoting fair competition in the market for television programming). The specific governmental action that we take today—the expansion of the rules to leased property—will bring that choice and competition to an additional segment of the population. Further, the expansion of the rules will promote the important governmental interest in enhancing viewers' access to ''social, political, esthetic, moral and other ideas.'' The Supreme Court has ''identified a * * * 'governmental purpose of the highest order' in ensuring public access to 'a multiplicity of information sources.' ''

24. Second, there is no evidence in the record that the economic impact on property owners will be significant. Generally, the amount of money that property owners may derive from restricting the video programming options of their residents is minimal in relation to their other income. Indeed, some commenters argue that a rule prohibiting restrictions on antenna usage enhances the value of the homeowner's property to prospective purchasers who want access to video programming services competitive with cable. Given property owners' ability to continue to use their property to generate rental income, extension of the Section 207 rules to restrictions on tenants' use of their leasehold would not deprive property owners of ''all economically beneficial or productive use'' of their property. Third, there is no evidence in the record that the expansion of the rules will interfere with reasonable investment-backed expectations.

25. Moreover, the government has broad power to regulate interests in land that interfere with valid federal objectives. In *Seniors Civil Liberties Ass'n* v. *Kemp,* 761 F. Supp. 1528 (M.D. Fla. 1991), aff'd, 965 F.2d 1030 (11th Cir. 1992), the court found no taking in an implementation of the Fair Housing Amendments Act (''FHAA'') that declared unlawful age-based restrictive covenants, thereby abrogating the homeowners' association's rules requiring that at least one resident of each home be at least 55 years of age and forbidding permanent residence to children under the age of 16. The court found that the FHAA provisions nullifying the restrictive covenants constituted a ''public program adjusting the benefits and burdens of economic life to promote the common good,'' and not a taking subject to compensation.

26. Finally, with regard to the argument of some commenters that this rule will impair exclusive contracts between MDU owners and cable companies, even assuming that this were the case, as we stated in the Report and Order with regard to homeowners' associations, condominium associations, and cooperative associations, Congress can change contractual relationships between private parties through the exercise of its constitutional powers, including the Commerce Clause (U.S. CONST. art. I, § 8, cl. 3). In *Connolly* v. *Pension Benefit Guaranty Corp.,* 475 U.S. 211 (1986), the Court stated:

> Contracts, however express, cannot fetter the constitutional authority of Congress. Contracts may create rights in property, but when contracts deal with a subject matter which lies within the control of Congress, they have a congenital infirmity. Parties cannot remove their transactions from the

reach of dominant constitutional power by making contracts about them.

If a regulatory statute is otherwise within the powers of Congress, therefore, its application may not be defeated by private contractual provisions. For the same reason, the fact that legislation disregards or destroys existing contractual rights, does not always transform the regulation into an illegal taking.

27. Accordingly, we conclude that interpreting Section 207 to reach rental property, i.e. property within a leasehold over which a tenant has possession, does not constitute an impermissible taking of private property. This rule will prohibit lease or other restrictions (subject to the other provisions of 47 CFR 1.4000, including the safety and historic preservation exceptions) on leased property under the exclusive use or control of the viewer. Typically, for apartments, this new ruling will include balconies, balcony railings, and terraces; for rented single family homes or manufactured homes which sit on rented property, it will typically include patios, yards or gardens within the leasehold. Generally, the lease of a house includes the land on which the house is situated and the surrounding real estate necessarily incident to its use as a home. This conclusion is similar to the current application of the Section 207 rules to condominiums, cooperatives and manufactured homes. In addition, while restrictions on placement of antennas on manufactured homes are already covered by the current rules, this new rule expands protection of the Section 207 rules to the leased property on which the manufactured home sits.

28. Because the record does not contain evidence that a university has the same relationship to a dormitory resident as a landlord to a tenant, that a dormitory room is a leasehold, that landlord-tenant law applies equally to dormitories, or that the practical problems associated with extending the rules to leaseholds can be similarly resolved with respect to dormitories, the Section 207 rules will not apply to college dormitories at this time. Where, however, the relationship between a university and a viewer bears sufficient attributes of a commercial landlord-tenant relationship (e.g., where a university leases a single family home to a faculty member), the Section 207 rules will apply. In addition, in response to commenters who requested an exception to the rule for commercial lessees, note that Section 207 does not provide an exception for commercial properties.

29. While some commenters have requested that the Commission preempt exclusive contracts between building owners and cable companies, this issue will be addressed in In re Telecommunications Services Inside Wiring, CS Docket No. 95–184. Exclusive contracts are already unenforceable to the extent that they impermissibly impair a viewer's rights under the currently effective Section 207 rules, and will be further unenforceable to the extent that they impermissibly impair a viewer's Section 207 rights upon the effective date of the revised rules adopted herein.

Practical Considerations

30. The practical concerns with respect to installation within the leasehold can be resolved under the current Section 207 rules, which permit the enforcement of restrictions that address legitimate safety objectives. In addition, unlike common areas, the leasehold (e.g., an apartment including a balcony or terrace) generally is under the exclusive use or control of one party (i.e., the lessee), thus enabling that party to address liability concerns. Moreover, state landlord-tenant law can address liability issues that may arise from incidents arising on leased property.

31. The current rules resolve concerns regarding damage to the building caused by installation. The rules prohibit restrictions that unreasonably delay or prevent installation. A restriction barring damage to the structure of the leasehold (e.g., the balcony to an apartment or the roof of a rented house) is likely to be a reasonable restriction on installation under 47 CFR 1.4000(a). Thus, for example, tenants could be prohibited from drilling holes through the exterior walls of their apartments. In addition, tenants could be prohibited from piercing the roof of a rented house in any manner given the risk of serious damage, and there are methods of installing a Section 207 device on a roof that do not require piercing; e.g, securing it to a chimney or using ballast as a non-penetrating roof mount. On the other hand, it would likely not be a reasonable restriction to prohibit an installation that merely caused ordinary wear and tear (e.g., marks, scratches, and minor damage to carpets, walls and draperies) to the leasehold. We also note that the Order on Reconsideration clarifies that a landlord or community association may restrict installation of individual antennas based on the availability of a central or common antenna, provided the restriction does not impose unreasonable delay, unreasonable expense, or preclude reception of an acceptable quality signal, including the particular programming service chosen by the viewer.

Application of the Section 207 Rules to Common and Restricted Access Areas

Scope of Section 207

32. Section 207 does not authorize the Commission to permit a viewer to install a Section 207 device on common or restricted access property over the property owner's objection or to require a landlord to provide video programming reception equipment to tenants. As discussed, Section 207 authorizes the Commission to remove restrictions; Section 207 does not authorize the Commission to impose independent affirmative obligations on a property owner or a third party to enable the viewer to use a Section 207 device. Interpreting Section 207 to grant viewers a right of access to possess common or restricted access property for the installation of the viewer's Section 207 device would impose on the landlord or community association a duty to relinquish possession of property. Just as the plain language of the statute does not require a property owner to permit his or her neighbor to install a Section 207 reception device on the owner's property (e.g., if the neighbor were unable to receive an acceptable signal on his or her own property), we do not believe the statute requires a landlord or community association to relinquish possession of common or restricted access property. There is no distinction in this regard between a neighbor's property and a landlord's property that the landlord has not leased to a tenant: both situations would impose affirmative duties not intended by the statute.

33. Likewise, we disagree with commenters that the Commission can require landlords to provide video programming reception equipment to their residents. Requiring property owners to purchase and install reception equipment for their residents' benefit does not remove a restriction, but rather imposes an affirmative duty which is outside the mandate of Section 207. Therefore, under the language of Section 207, the Commission cannot extend the Section 207 rules to reach common and restricted access property.

Constitutional Considerations

34. As discussed above, Section 207 does not expressly authorize the Commission to permit a taking in order to enable a viewer to install Section 207 reception devices. In the context of common and restricted access property, we do not believe that the statutory directive to prohibit restrictions implies

a takings authority given that a taking requires the Commission to impose affirmative duties on third parties which, as discussed above, is not contemplated by Section 207.

35. The commenters raise serious concerns that the extension of the Section 207 rules to common and restricted access property would constitute a taking and assert that the Commission should interpret the statute so as to avoid constitutional issues. While by virtue of a lease a landlord invites a tenant to take possession of property within the leasehold, the landlord does not invite the tenant to take possession of common and restricted access property. If the Commission were to extend the Section 207 rules to permit a tenant to have exclusive possession of a portion of the common or restricted access property where a lease has not invited a tenant to do so, the tenant would possess that property as an ''interloper with a government license'' thereby presenting facts analogous to those presented in *Loretto.* Similarly in a community association, home and unit owners are not invited to possess restricted access areas, such as the roof or exterior walls, and are not granted exclusive or permanent possession of common areas.

36. Under these circumstances, we agree with those commenters that argue that the permanent physical occupation found to constitute a per se taking in *Loretto* appears comparable to the physical occupation of the common and restricted access areas at issue here. In *Loretto,* the physical occupation of the landlord's property consisted of the direct attachment of cable television equipment to the landlord's property, occupying the space immediately above and upon the roof and along the building's exterior. Likewise, the physical occupation here would involve the direct attachment of video reception devices to common areas such as hallways or recreation areas, or to restricted areas such as building rooftops.

37. Loretto is not distinguishable on the grounds asserted by the commenters. First, we disagree that the potential occupation in this instance would be temporary, not permanent. In *Loretto,* the Court found that the cable operator's occupation was ''permanent'' because so long as the property remained residential and a cable company wished to retain the installation, the landlord must permit it. The occupation here would be similarly ''permanent'' because so long as an individual viewer wished to receive one of the services covered by Section 207, the property owner would be forced to accept the installation of the necessary reception devices.

38. Second, we are not persuaded by those who contend that as long as the entitlement under Section 207 belongs to the tenant and not to a ''stranger,'' *Loretto* does not apply. In advancing this argument, commenters rely primarily upon the following statement in footnote 19 in *Loretto*:

> If [the New York statute] required landlords to provide cable installation if a tenant so desires, the statute might present a different question from the question before us, since the landlord would own the installation. Ownership would give the landlord rights to the placement, manner, use, and possibly the disposition of the installation.

39. This argument overlooks a critical aspect of footnote 19: that ownership of the property (i.e., the hypothetically required cable equipment) must rest with the landlord. So long as a tenant owns the reception device placed in a common or restricted access area, and the terms of the tenant's lease, the community association's bylaws, or other agreement do not give the tenant the right to exclusively possess any portion of this property, the landlord's or association's property would be subjected to an uninvited permanent physical occupation. As the *Loretto* Court stated: ''[T]he power to exclude has traditionally been considered one of the most treasured strands in an owner's bundle of property rights.'' This type of ''required acquiescence is at the heart of the concept of occupation.'' Even giving the property owner control over the installation and maintenance of the equipment, the property owner would still lose the right to possess that space for its benefit or the benefit of its other residents, and would lose the ability to exclude others from that space. In contrast, where the viewer has exclusive use of the property or it is within the viewer's leasehold, the community association or landlord is already excluded from the space and does not have the right to possess or use it.

40. Thus, because there is a strong argument that modifying the Section 207 rules to cover common and prohibited access property would create an identifiable class of per se takings, and there is no compensation mechanism authorized by the statute, the Commission concludes that Section 207 does not authorize us to make such a modification.

41. Nor is *Florida Power* on point. In *Florida Power,* the Court assumed the utility company had voluntarily agreed to the cable company's physical occupation; thus, the Court found that the Commission's subsequent rate regulation did not effect a per se taking but merely regulated the terms and conditions of the agreed-upon occupation. Here, the agreed-upon scope of the physical possession is set forth in the lease or other controlling document; individual residents generally do not have the right to possess and use the common areas for their exclusive benefit over the property owner's objection. While the tenant may have been invited to use the common property for certain purposes (e.g., ingress, egress, use of the exercise room), these rights are voluntary and temporary; the proposal here, by contrast, would be involuntary and—so long as the tenant wished to keep his or her property in the common areas—permanent. In any event, there can be no argument that the resident has been invited in any manner to possess and use restricted access areas, such as rooftops.

Practical Considerations

42. We believe that commenters have raised several practical concerns suggesting that, even in the absence of the Constitutional takings issue, it may not serve the public convenience, interest and necessity to extend the Section 207 rules to common and restricted access property. First, it is difficult to discern what limits could be set, if any, on the number of reception devices that a viewer could install and maintain on common property. For instance, not only would every tenant have the right to run wiring through the hallways and on the roof of their apartment building in order to install reception devices, but they would have the right to install the particular device of their service provider (or providers) of choice. With potentially hundreds of separate wires and antennas being installed in a single building, we believe that space constraints could limit the number of residents that would be able to install Section 207 devices, and involve the Commission and local courts in countless disputes about the feasibility of installing additional reception devices in a building. Moreover, it would be difficult to determine whether any limit could be set on how often a viewer could reasonably switch service providers and require the property owner to suffer another disruption of the common or restricted access areas. Any limits on these rights, such as DIRECTV's proposal to require property owners to accommodate only two MVPDs on the property, seem arbitrary and unsupported by the statutory language.

43. These difficulties would not be solved by relying on the common

antenna option originally proposed by CAI. As clarified in the Order on Reconsideration, a landlord or community association may prohibit residents from installing individual antennas as long as this prohibition does not impose unreasonable delay, unreasonable expense or preclude reception of an acceptable quality signal, including the programming an individual could obtain with an individual antenna. The common antenna option is purely voluntary; a landlord or community association could choose not to establish a common antenna and simply permit any resident who wished to receive a Section 207 service to install an individual antenna on the resident's own property. Giving residents the right to use the common or restricted access areas, by contrast, could require the association to maintain as many separate antennas as there are service providers, without the option of simply requiring the resident to install individual reception equipment on his or her own property.

44. We are also concerned about the potential for structural damage and injuries to third parties. It is not clear from the record that an individual tenant could obtain liability insurance for common or restricted access areas, and, even if it were possible, that such insurance would be affordable. Further, not all of these issues can be resolved by devising a rule that would indemnify the owner and place liability on the tenant for injury or damage caused by the installation of a Section 207 reception device.

45. In the context of a statutory provision that simply provides for elimination of restrictions, the practical difficulties inherent in giving viewers the right to install Section 207 reception devices on common or restricted access property weigh heavily against an extension of the rules to cover such property.

First Amendment and Equal Protection Claims

First Amendment

46. As discussed, the Supreme Court has found that ''assuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First Amendment.'' *Turner Broadcasting System,* 114 S.Ct. at 2470. Additional sources of information enhance a viewer's access to ''social, political, esthetic, moral and other ideas.'' *See Time Warner,* 93 F.3d at 975 (quoting *Red Lion Broadcasting Co.* v. *FCC,* 395 U.S. 367, 389 (1969)). Based in part on these important government purposes, the Commission extended the Section 207 rules to prohibit certain restrictions, subject to the terms and exceptions of the Section 207 rules, on the placement of Section 207 devices within rental property.

47. Despite our regard for these important government purposes, we are not persuaded by the record that the First Amendment compels us to interpret Section 207 without regard to the impact on third parties' property rights, the creation of affirmative duties not intended by Section 207, and the legitimate and serious practical concerns. To the contrary, as noted above, *Loretto* held that a permanent physical occupation of property is a taking without regard to the public interest that it may serve.

48. We disagree with the argument that *Red Lion* requires the Commission to interpret Section 207 in such a way as to guarantee viewers' access to the video programming service of their choice. *Red Lion* does not require the Commission to promulgate regulations to ensure that every viewer has access to every available video programming service regardless of the constitutional and practical burdens imposed on third parties.

49. Likewise, we disagree that *Pruneyard Shopping Center* v. *Robins,* 447 U.S. 74 (1980) provides authority that would permit the Commission to issue a rule superseding a property owner's property rights. Pruneyard was a 21-acre shopping center in which a group of students, acting under color of a California state constitutional provision providing access to shopping centers, placed a card table and began soliciting petition signatures. Performing a *Penn Central* takings analysis, the Court held that because the center was ''open to the public at large'' and could adopt time, place and manner restrictions to minimize any interference with the center's operations, Pruneyard's property rights had not been unconstitutionally infringed: ''In these circumstances, the fact that [the students] may have 'physically invaded' appellants' property cannot be viewed as determinative.'' The *Loretto Court* explicitly distinguished *Pruneyard* from the permanent occupation in *Loretto* by noting that ''the invasion [of the shopping center] was temporary and limited in nature, and * * * the owner had not exhibited an interest in excluding all persons from his property.'' Likewise, *Pruneyard* is distinguishable here because the evidence in the record does not persuade us that rental buildings have taken on a ''public forum'' character, that the owners have invited an occupation of their common property, or that the occupation would be temporary instead of permanent.

50. The facts are altogether different regarding leaseholds. In *Pruneyard,* because the students were invited to the shopping center, the California constitution could require the shopping center to allow the students to bring a card table with them for the duration of their visit without infringing the shopping center's Fifth Amendment property rights. Similarly, when a landlord invites a tenant to possess a leasehold for the duration of the lease, permitting the tenant to have a Section 207 device within the leasehold during the lease term does not infringe the landlord's Fifth Amendment property rights.

Equal Protection

51. Because Section 207 does not provide access rights to common and restricted access property, renters whose individual leaseholds cannot accommodate a Section 207 device will be unable to gain access to the full range of video programming providers. As a result, Section 207 may unintentionally have a disproportionate effect upon low income and minority viewers, to the extent they may comprise a disproportionate percentage of renters. However, the amended rule eliminates any per se distinction between viewers who own and those who rent and that many renters may avail themselves of the Section 207 rules by either installing a Section 207 reception device on a balcony or any other outside area included in their leasehold or installing an LMDS-type device inside their dwelling. While we are sympathetic towards those renters who are unable to take advantage of the Section 207 rules, no Fifth Amendment equal protection violation results from applying Section 207 according to its terms and not extending its coverage to common and restricted access property.

52. A statutory classification that does not proceed along ''suspect lines'' or infringe upon a fundamental right will receive a ''strong presumption of validity'' and will be examined under a ''rational basis'' equal protection analysis. *Heller* v. *Doe,* 509 U.S. 312, 319 (1993); *FCC* v. *Beach Communications, Inc.,* 508 U.S. 307, 314 (1993). Commenters have not adduced any authority that recognizes renters or MDU residents as a protected class. Moreover, even if minorities, who are a protected class, comprise a significant portion of MDU residents, in a case alleging that a protected class is

harmed by the disparate impact of a facially neutral regulation, the regulation will not be examined under strict scrutiny unless it can be shown that the disparate impact was intentional. We do not believe that such an intent has been alleged or demonstrated here. As noted above, the distinctions made in this Second Report and Order were not made based on race, but on the limitations on the authority granted by Section 207. Moreover, any disparate impact on renters has been mitigated by the new rules permitting renters to install Section 207 reception devices within their leaseholds.

53. Under the rational basis equal protection scrutiny, a classification need only be rationally related to a legitimate governmental interest. We believe that the Section 207 rules clearly satisfy this standard because the language of Section 207 supports the conclusion not to extend our rules to cover common and restricted access property.

FINAL REGULATORY FLEXIBILITY ANALYSIS

54. As required by the Regulatory Flexibility Act (''FRA'') (5 U.S.C. 603), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice. The Commission sought written public comment on the proposals in the Further Notice, including comment on the IRFA. The comments received are discussed below. This Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.

Need for, and Objectives of, This Second Report and Order

55. The rulemaking implements Section 207 of the Telecommunications Act of 1996, Pub. L. 104–104, 110 Stat. 56. Section 207 directs the Commission to promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through certain devices designed for over-the-air reception, including MMDS, LMDS, DBS, TVBS and ITFS (''Section 207 devices''). This action is authorized under the Communications Act of 1934 § 1, as amended, 47 U.S.C. 151, pursuant to the Communications Act of 1934 § 303, as amended, 47 U.S.C. 303, and by Section 207 of the Telecommunications Act of 1996.

56. On August 6, 1996, the Commission implemented part of Congress' directive by releasing rules set forth in 47 CFR 1.4000 (''Section 207 rules'') that prohibit restrictions that impair a viewer's ability to install, maintain and use devices designed for over-the-air reception of video programming through Section 207 devices on property within the exclusive use or control of the viewer in which the viewer has a direct or indirect ownership interest. The rule exempts regulations and restrictions which are clearly and specifically designed to preserve safety or historic districts, allowing for the enforcement of such restrictions even if they impair a viewer's ability to install, maintain or use a reception device.

57. The rule adopted in this Second Report and Order prohibits the same types of restrictions on a viewer who desires to place Section 207 devices on property that the viewer has leased and is within the exclusive use or control of the viewer. The same exemptions applicable to the initial Section 207 rules apply to this rule.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

58. The Commission, in its Report and Order, invited comment on the IRFA and the potential economic impact the proposed rules would have on small entities. The only comment submitted was a joint response filed by the National Apartment Association, et al. (collectively ''NAA''). NAA argues that removing restrictions on a viewer's use of a Section 207 device in the viewer's leased dwelling constitutes a Fifth Amendment taking of the property owners' rights. In addition, NAA argues that, due to the small staffs and limited resources of small businesses, the rules would interfere with the ability of small businesses to ensure compliance with safety codes, to protect the safety of other tenants, and to prevent damage to the building. Finally, NAA argues that Congress did not intend for Section 207 to preempt lease restrictions.

59. The Commission has taken the arguments and views of NAA into account in this Second Report and Order. NAA's comments on behalf of small businesses in response to the IRFA essentially track its objections to the rule overall, which we have already fully addressed. As analyzed in the Second Report and Order, the rules removing use restrictions on Section 207 devices from leases do not constitute a taking under the Fifth Amendment. Removing the use restrictions does not constitute a per se possessory taking under Loretto because the landlord has voluntarily entered into a commercial relationship with the tenant and has given the tenant possession of the leased property. Furthermore, removing restrictions on the use of leased property does not constitute a Penn Central regulatory taking, given, as discussed above, the character of the government action, the minimal economic impact on the landlord, and the minimal impact on the landlord's reasonable investment-backed expectations.

60. Regarding the practical concerns of small businesses, as set forth in the Second Report and Order, these practical concerns may be addressed under the current rules. For example, safety restrictions are permitted exceptions to the Section 207 rules. Likewise, a restriction barring substantial damage to the building would likely be a reasonable restriction under 47 CFR 1.4000.

61. Finally, we disagree with NAA's last argument that Congress did not intend for Section 207 to cover lease restrictions. The express language of Section 207 contains no such limitation. Moreover, the legislative history of Section 207 demonstrates that Congress acknowledged that there might be restrictions that would be covered by Section 207 that it had not considered when adopting Section 207 into law.

62. Although local governments did not file comments on the IRFA contained in the Further Notice, they did file joint comments in response to the IRFA's contained in International Bureau (IB) Docket No. 95–59 (DBS Order and Further Notice) and in Cable Services Bureau (CS) Docket No. 96–83 (TVBS–MMDS Notice), and we will consider those comments with respect to the new rule. National League of Cities (''NLC'') commented that the proposed preemption of restrictions on property where the viewer had a direct or indirect property interest and over which the viewer exercised exclusive use or control would have a ''substantial economic and administrative impact'' on over 37,000 small local governments. NLC states that the proposed rule would require ''local governments to amend their laws and to file petitions at the FCC * * * for permission to enforce those laws.''

63. In the Report and Order, we addressed these concerns:

> The Commission has modified its proposed rule and has addressed the concerns raised by NLC by providing greater certainty regarding the application of the rule, and by clarifying that local regulations need not be rewritten or amended. The Commission recognizes that some regulations are integral to local governments' ability to protect the safety of its citizens. The rule that we adopt exempts restrictions clearly defined as necessary to ensure safety, and permits enforcement of safety restrictions during the pendency of any challenges. In addition, limiting the rule's scope to regulations that ''impair,'' rather than the proposed preemption of regulations that ''affect,'' will minimize the impact on small local

governments, while effectively implementing Congress' directive. Finally, the inclusion in the Report and Order of examples of permissible and prohibited restrictions will minimize the need for local governments to submit waiver or declaratory ruling petitions to the Commission, decreasing the potential economic burden.

We do not believe that preempting government restrictions on viewers residing on rental property will have any greater impact than preempting government restrictions on viewers residing on property that they own.

64. The Commission also notes the positive economic impact the new rule will have on many small businesses. The new rule will allow small businesses that use video programming services to select from a broader range of providers, which could result in significant economic savings; because providers will be competing for customers, more services will be available at lower prices. In addition, small business video programming providers will be faced with fewer entry hurdles, and will thus be able to develop their markets and compete more effectively, achieving one of the purposes of Section 207.

Description and Estimate of the Number of Small Entities To Which Rules Will Apply

65. The Regulatory Flexibility Act defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction,'' and ''the same meaning as the term 'small business concern' under Section 3 of the Small Business Act.'' The rule applies to small organizations, small governmental jurisdictions, and small businesses.

66. The term ''small governmental jurisdiction'' is defined as ''governments of * * * districts, with a population of less than fifty thousand.'' There are 85,006 governmental entities in the United States. This number includes such entities as states, counties, cities, utility districts and school districts. We note that restrictions concerning antenna installation are usually promulgated by cities, towns and counties, not school or utility districts. Of the 85,006 governmental entities, 38,978 are counties, cities and towns; and of those, 37,566, or 96%, have populations of fewer than 50,000. One commenter estimates that there are 37,000 ''small governmental jurisdictions'' that may be affected by the proposed rule.

67. Section 601(4) of the Regulatory Flexibility Act defines ''small organization'' as ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This definition includes homeowner and condominium associations that operate as not-for-profit organizations. An industry association estimates that there were 150,000 associations in 1993. Given the nature of a neighborhood association, we assume for the purposes of this FRFA that all 150,000 associations are small organizations.

68. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Industry sources estimate that the following SIC codes apply to this industry: SIC Codes 6512 (operators of nonresidential buildings), 6513 (operators of apartment buildings), and 6514 (operators of dwellings other than apartment buildings). The SBA defines a small entity in each of these codes as one with less than $5,000,000 in gross annual revenues. Based on census data that lists businesses according to these SIC codes and their total revenue, industry sources state that there are 28,089 operators of nonresidential buildings and 39,903 operators of apartment buildings. Industry sources state the Bureau of Census includes operators of dwellings other than apartment buildings in the same category as other types of businesses, but states that the figures for this category as a whole show that the number of operators of dwellings other than apartment buildings are similar to the numbers of operators covered by SIC codes 6512 and 6513.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

69. The rules adopted will result in no changes to reporting, recordkeeping, or other compliance requirements beyond those already required under the Section 207 rules.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Rejected

70. In the Report and Order, the Commission analyzed steps to minimize the impact on small entities, and because the steps the Commission took in the Report and Order also minimize the impact on the small entities impacted by the new rule, we reiterate here the steps taken in the Report and Order:

The Commission considered various alternatives that would have impacted small entities to varying extents. These included a rebuttable presumption approach, the use of the term ''affect'' in the rule, and a rule that allowed for adjudicatory proceedings in courts of competent jurisdiction, all of which were adopted in the DBS Order and Further Notice and proposed in the TVBS–MMDS Notice. The rule we adopt today replaces the rebuttable presumption with a simpler preemption approach, adheres to the statutory language by using the term ''impair'' rather than ''affect'' in the rule, and allows for adjudication at the Commission. * * * We believe that we have effectively minimized the rule's economic impact on small entities.

In the DBS Order and Further Notice and the TVBS–MMDS Notice, we adopted and proposed, respectively, a rebuttable presumption approach to governmental regulations, and proposed strict preemption of nongovernmental restrictions. We acknowledged in the DBS Order and Further Notice that a rule relying on a presumptive approach would be more difficult to administer than a rule based upon a per se prohibition, and we sought comment in the TVBS–MMDS Notice on less burdensome approaches. Under the rebuttable presumption approach, local governments would have been required to request a declaratory ruling from the Commission every time they sought to enforce or enact a restriction; and neighborhood associations would not have been able to enforce or enact any restrictions that impaired a viewer's ability to receive the signals in question. The rebuttable presumption approach was adopted to ensure the protection of local interests, including local governments. Based on the record, the Commission recognizes that the burden of rebutting a presumption could strain the resources of local authorities. The Commission has rejected the rebuttable presumption approach for a less burdensome preemption approach. In addition we have provided recourse for both neighborhood associations and municipalities. The rule we adopt today provides for a per se prohibition of restrictions that impair a viewer's ability to install, maintain or use devices designed for over-the-air reception of video programming services. The Report and Order provides examples of reasonable regulations that can be enforced without a waiver application. The Commission believes that the Report and Order provides such clarity as will make the enforcement of the rule the most efficient and least burdensome for local governments, neighborhood associations, and this Commission.

In adopting the new rule, the Commission rejected the alternative of preempting all restrictions that ''affect'' the reception of video programming services through devices designed for over-the-air reception of TVBS, MMDS and DBS services. The new rule prohibits only those local restrictions that ''impair'' a viewer's ability to receive these signals and exempts restrictions necessary to ensure safety or to preserve historic districts. In defining the term ''impair'' we reject the interpretation that impair means prevent because that definition would not properly implement Congress' objective of promoting competition. We find that a restriction impairs a viewer's ability to receive over-the-

air video programming signals, if it (a) unreasonably delays or prevents installation, maintenance or use of a device used for the reception of over-the-air video programming signals by DBS, TVBS, or MMDS; (b) unreasonably increases the cost of installation, maintenance or use of such devices; (c) precludes reception of an acceptable quality signal. The use of the term impair will decrease the burden on small entities while implementing Congress' objective. * * *

Waiver proceedings will be paper hearings, allowing the Commission to alleviate the negative potential economic impact from costly litigation. Further, any regulations necessary to the safeguarding of safety will remain enforceable pending the Commission's resolution of waiver requests. The Commission believes that the rule we adopt today effectively implements Congress' intent while minimizing any significant economic impact on small entities.

Report to Congress: The Commission will send a copy of this Second Report and Order, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

71. Accordingly, it is ordered that, pursuant to authority found in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 303, and Section 207 of the Telecommunications Act of 1996, that the amendments to 47 CFR 1.4000 discussed in this Second Report and Order are adopted. These amendments shall become effective 30 days after publication in the **Federal Register**.

72. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et. seq.

List of Subjects in 47 CFR Part 1

Antenna, Satellite, Telecommunications, Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309.

2. Section 1.4000 is revised to read as follows:

§ 1.4000 Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a)(1) Any restriction, including but not limited to any state or local law or regulation, including zoning, land-use, or building regulations, or any private covenant, contract provision, lease provision, homeowners' association rule or similar restriction, on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership or leasehold interest in the property that impairs the installation, maintenance, or use of:

(i) An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter or is located in Alaska;

(ii) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement;

(iii) An antenna that is designed to receive television broadcast signals; or

(iv) A mast supporting an antenna described in paragraphs (a)(1)(i), (a)(1)(ii) or (a)(1)(iii) of this section;

is prohibited to the extent it so impairs, subject to paragraph (b) of this section.

(2) For purposes of this section, a law, regulation or restriction impairs installation, maintenance or use of an antenna if it:

(i) Unreasonably delays or prevents installation, maintenance or use,

(ii) Unreasonably increases the cost of installation, maintenance or use, or

(iii) Precludes reception of an acceptable quality signal.

(3) Any fee or cost imposed on a viewer by a rule, law, regulation or restriction must be reasonable in light of the cost of the equipment or services and the rule, law, regulation or restriction's treatment of comparable devices. No civil, criminal, administrative, or other legal action of any kind shall be taken to enforce any restriction or regulation prohibited by this section except pursuant to paragraph (c) or (d) of this section. In addition, except with respect to restrictions pertaining to safety and historic preservation as described in paragraph (b) of this section, if a proceeding is initiated pursuant to paragraph (c) or (d) of this section, the entity seeking to enforce the antenna restrictions in question must suspend all enforcement efforts pending completion of review. No attorney's fees shall be collected or assessed and no fine or other penalties shall accrue against an antenna user while a proceeding is pending to determine the validity of any restriction. If a ruling is issued adverse to a viewer, the viewer shall be granted at least a 21-day grace period in which to comply with the adverse ruling; and neither a fine nor a penalty may be collected from the viewer if the viewer complies with the adverse ruling during this grace period, unless the proponent of the restriction demonstrates, in the same proceeding which resulted in the adverse ruling, that the viewer's claim in the proceeding was frivolous.

(b) Any restriction otherwise prohibited by paragraph (a) of this section is permitted if:

(1) It is necessary to accomplish a clearly defined, legitimate safety objective that is either stated in the text, preamble or legislative history of the restriction or described as applying to that restriction in a document that is readily available to antenna users, and would be applied to the extent practicable in a non-discriminatory manner to other appurtenances, devices, or fixtures that are comparable in size and weight and pose a similar or greater safety risk as these antennas and to which local regulation would normally apply; or

(2) It is necessary to preserve a prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion on, the National Register of Historic Places, as set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, and imposes no greater restrictions on antennas covered by this rule than are imposed on the installation, maintenance or use of other modern appurtenances, devices or fixtures that are comparable in size, weight, and appearance to these antennas; and

(3) It is no more burdensome to affected antenna users than is necessary to achieve the objectives described in paragraph (b)(1) or (b) (2) of this section.

(c) Local governments or associations may apply to the Commission for a waiver of this section under § 1.3. Waiver requests must comply with the

procedures in paragraphs (e) and (g) of this section and will be put on public notice. The Commission may grant a waiver upon a showing by the applicant of local concerns of a highly specialized or unusual nature. No petition for waiver shall be considered unless it specifies the restriction at issue. Waivers granted in accordance with this section shall not apply to restrictions amended or enacted after the waiver is granted. Any responsive pleadings must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies must be filed within 15 days thereafter.

(d) Parties may petition the Commission for a declaratory ruling under § 1.2, or a court of competent jurisdiction, to determine whether a particular restriction is permissible or prohibited under this section. Petitions to the Commission must comply with the procedures in paragraphs (e) and (g) of this section and will be put on public notice. Any responsive pleadings in a Commission proceeding must be served on all parties and filed within 30 days after release of a public notice that such petition has been filed. Any replies in a Commission proceeding must be served on all parties and filed within 15 days thereafter.

(e) Copies of petitions for declaratory rulings and waivers must be served on interested parties, including parties against whom the petitioner seeks to enforce the restriction or parties whose restrictions the petitioner seeks to prohibit. A certificate of service stating on whom the petition was served must be filed with the petition. In addition, in a Commission proceeding brought by an association or a local government, constructive notice of the proceeding must be given to members of the association or to the citizens under the local government's jurisdiction. In a court proceeding brought by an association, an association must give constructive notice of the proceeding to its members. Where constructive notice is required, the petitioner or plaintiff must file with the Commission or the court overseeing the proceeding a copy of the constructive notice with a statement explaining where the notice was placed and why such placement was reasonable.

(f) In any proceeding regarding the scope or interpretation of any provision of this section, the burden of demonstrating that a particular governmental or nongovernmental restriction complies with this section and does not impair the installation, maintenance or use of devices designed for over-the-air reception of video programming services shall be on the party that seeks to impose or maintain the restriction.

(g) All allegations of fact contained in petitions and related pleadings before the Commission must be supported by affidavit of a person or persons with actual knowledge thereof. An original and two copies of all petitions and pleadings should be addressed to the Secretary, Federal Communications Commission, 445 12th St. S.W., Washington, D.C. 20554, Attention: Cable Services Bureau. Copies of the petitions and related pleadings will be available for public inspection in the Cable Reference Room in Washington, D.C. Copies will be available for purchase from the Commission's contract copy center, and Commission decisions will be available on the Internet.

Note: The following statements will not appear in the Code of Federal Regulations:

Separate Statement of Chairman William E. Kennard

In the Matter of Implementation of Section 207 of the Telecommunications Act of 1996:

Preempting Restrictions on Over-the-Air Reception Devices

Today we complete our proceeding to remove restrictions on consumers' ability to access video programming offered by means other than cable. I am proud of the Commission's work to expand the Over-the-Air Reception Devices rule up to the limits of the authority Congress gave us in Section 207 of the Telecommunications Act of 1996.

As a result of Section 207 and our rules, thousands of consumers now are able to receive television programming through small satellite dishes, wireless cable or traditional ''stick'' antennas. The action we take today extends that ability to consumers who rent their homes or apartments and have a place within their rental property to install an antenna. Our rule brings choice to renters who live in high-rise buildings and have a balcony on which to install an antenna, just as owners of condominium units may install an antenna on their balconies and owners or renters of townhouses may have an antenna on their patios. The Commission has thus eliminated the have-and-have-not distinction that gave homeowners access to the competitive video market but denied it to all apartment dwellers.

I am disappointed that Section 207 did not permit us to go as far as we might have to promote competition and eliminate barriers for all consumers. In my view, it is vitally important that *all* consumers have the ability to select the video programmer of their choice. However, Section 207 directed us only to ''prohibit restrictions'' on the receipt of video programming and, as this Second Report and Order describes, prohibiting restrictions can only take us part of the way. Section 207 does not authorize the Commission to impose an affirmative duty on landlords to provide access for competitive video providers, and the statute does not clearly address the Constitutional requirement for ''just compensation'' that may be necessary to give consumers access to the roof or common areas of the landlord's property. Nonetheless, I am committed to working toward a complete solution to this problem.

When we released the Fourth Annual Competition Report at the beginning of this year, I mentioned my hope that Congress and the Commission would work together to evaluate statutory proposals to eliminate barriers to competition. I am especially interested in working with Congress to find ways to provide access to competitive video services for more consumers.

Statement of Commissioner Harold Furchtgott-Roth, Dissenting in Part In the Matter of Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service, CS Docket No. 96–83

I fully concur in the Commission's excellent decision not to extend our section 207 rules to cover common and restricted access property. I also join in the conclusions reached with respect to the Equal Protection Clause and First Amendment. For the well-articulated reasons that such property should not be governed by these rules, however, neither should rental property. I therefore respectfully dissent from that part of today's Report & Order (''R&O'') which subjects leased property to regulation under section 207.

In deciding that application of our over-the-air reception device (''OTARD'') regulations to common and restricted access property would raise grave questions under the Takings Clause, the R&O reasons that, as in *Loretto* v. *Teleprompter Manhattan CATV Corp,* 458 U.S. 419 (1982), ''the physical occupation here would involve the direct attachment of video reception devices to'' the property. *Supra* at para. 36. Such an attachment, the R&O continues, would constitute a ''permanent physical occupation'' and consequently a per se taking. *Id.* But the very same ''direct attachment of video reception devices'' to property would occur in the rental property context. Thus, the attachment of reception devices to rental property is as much a ''permanent physical occupation'' within the meaning of the Takings Clause as the attachment of such devices to common and restricted access property.

Nevertheless, the R&O concludes that extension of the OTARD rules to rental property would occasion no per se taking. For this conclusion, the R&O relies on the proposition that when ''the private property owner voluntarily agrees to the possession of its property by another, the government can regulate the terms and conditions of that possession without effecting a per se taking.'' *Supra* at para. 17 (citing *FCC* v. *Florida Power,* 480 U.S. 245 (1987)). Although the Commission attempts to frame this rule in terms of ''possession,'' *Florida Power* clearly speaks in terms of the ''occupation'' of the relevant property. *See* 480 U.S. at 252; *see also Yee* v. *Escondido,* 503 U.S. 519, 527

(1992). Thus, the Commission's emphasis on possession does not exist in the relevant case law. It is the occupation, i.e., the ''required acquiescence,'' *Florida Power,* 480 U.S. at 252, that counts under the Takings Clause. It is that act that could theoretically slice through an owner's bundle of property rights—rights that include the ability not just to possess, but also to use and dispose of property. *See Loretto,* 458 U.S. at 435.

I must doubt the applicability of *Florida Power,* however, and for this fundamental reason: the particular occupation to which the landlord has ''voluntarily agree[d]'' is necessarily defined by the terms of the lease. That legal document is the primary determinant of the property rights that have, or have not been, transferred from owner to tenant, and there are myriad allocations of property rights to which landlords and tenants might agree. For this reason, I think the R&O goes too far when it states that ''[t]ypically, for apartments, [leased property under the exclusive possession of the viewer] will include balconies, balcony railings and terraces'' and that for ''rented single family homes or manufactured homes which sit on rented property, it will typically include patios, yards or gardens within the leasehold.'' *Supra.* We cannot prescribe general federalized lease terms (although I fear that may be the logical implication of this decision), and the very nature of contracts is that their terms can be customized to suit the particular circumstances in which the parties find themselves. Where a landlord has expressly included lease provisions prohibiting the attachment of certain equipment to rental property, it cannot be said that he has consented to such an occupation of his property.

In other words, if the landlord has not agreed to a certain occupation or use of his property, there can be no theory of consent with respect to the prohibited occupation or use that would prevent application of the Takings Clause. Cf. Declaration of Charles M. Haar in Support of Reply Comments of National Apartment Association et al., at 24–25 (''The notion of implied consent to use the property * * * is not applicable here where the owners are careful to delineate the boundaries of the demised property to exclude areas such as the roof and exterior walls.''). Admittedly, a tenant who occupies property subject to certain contractual limitations is not a complete stranger to the property, but as far as contractually restricted uses of that property are concerned, the law does indeed deem him ''an interloper.'' *Florida Power,* 480 U.S. at 252.

Indeed, the R&O repeatedly recognizes this very point—namely, that the government can regulate property use only within the boundaries of the property rights that have actually been conferred upon the tenant—in the discussion of common and restricted access property. For instance, in rejecting the argument that the Commission could strike down lease provisions limiting tenant usage of, or access to, common and other property, the R&O correctly explains that ''[s]o long as a tenant owns the reception device placed in a common or restricted access area, and the terms of the tenant's lease * * * or other agreement do not give the tenant the right to exclusively possess any portion of this property, the landlord's * * * property would be subjected to an uninvited permanent physical occupation.'' *Supra* at para. 39 (emphasis added). If placement of a reception device on property such as a balcony or exterior wall adjoining a tenant's apartment is barred by the rental contract, however, then the landlord would be equally subject to an ''uninvited'' invasion of his property—the forced introduction of the prohibited attachment—if the tenant nevertheless affixed a device on that property. Just as ''the landlord does not invite the tenant to take possession of common and restricted access property,'' *supra* at para. 35, so too the landlord has not invited the tenant to use the property for the attachment of reception devices. Accordingly, to say that the attachment of devices to rental property is like the attachment of ''rabbit ears'' to a television set, see *supra* at para. 19, does not advance the ball in this game: the critical question is whether the person who owns the equipment is the same person who owns the property to which it is permanently affixed, which the R&O makes clear in its section on restricted access property. *See supra* at para. 39 (noting ''critical'' issue that ''ownership of the property (i.e., the hypothetically required cable equipment) must rest with the landlord''). And, if the rabbit ears are the property of some third party and their placement is mandated by the government, that would raise the issue of a per se Taking.

Similarly, in declining to rely on *Florida Power* in the context of restricted and common property, the R&O notes that ''the agreed-upon scope of the physical possession is set forth in the lease or other controlling document.'' *Supra* at para. 41. As noted, *supra,* it is the permanent, physical occupation of the owner's property (which could be a number of different kinds of invasions), not just the extent of the possession of the property (which is only one of several kinds of property rights that might be adversely affected by an occupation of the property), that triggers the Takings Clause. As discussed above, the same is true in the rental property situation. Location of a reception device on an exterior wall when such action is barred by the lease is no more ''agreed-upon'' than placement of a reception device on a rooftop when that particular action is prohibited by the lease. In both cases, what matters is the ''agreed-upon scope'' of the tenant's legal rights with respect to the property in question. Although the majority counters that ''[f]or takings purposes, the lease is [only] relevant in defining the physical area of consensual occupation (e.g., the apartment but not the roof or exterior walls),'' *supra* at para. 22, no support for that assertion is provided.

Given the primacy of the lease agreement in defining the respective property rights of landlords and tenants in leased property, the standard adopted in this Order—namely, that tenants can attach devices to property ''within their leasehold,'' *supra* at para. 8—is entirely circular. The property rights that are ''within a leasehold'' can only be ascertained by reference to the lease, but this item prohibits any lease restrictions that impair attachments, and so it is impossible to limit our regulation in this area to property rights actually possessed by the leaseholder. Accordingly, it is hard to see, as a matter of black letter contract law, what it means for attachment to be authorized ''within a leasehold'' and yet undertaken ''without the landlord's permission.'' *Supra* at 11.

I question the force of *Florida Power* in the context of this R&O for another reason: that case was about what the Supreme Court called ''economic regulation'' of commercial agreements. As the Court explained, ''statutes regulating the economic relations of landlords and tenants are not per se takings'' under *Loretto.* 480 U.S. at 252 (emphasis added). While it is certainly true that simple price regulation would fall within this standard—and those were the facts in *Florida Power*—this item, by contrast, does not involve the regulation of the economic status of landlords with respect to tenants. Rather, it involves the regulation of their respective property rights; it transfers from the landlord to the tenant a previously unpossessed and intentionally retained aspect of the right to use the property. And it does so without providing for any compensation to the landlord, much less ''just'' compensation. What I question here, primarily, is the logic of the distinction that the majority has drawn in concluding that the application of OTARD rules presents a per se taking in one area where a tenant lacks the necessary property rights but not in the other. Even if there is no per se Taking in these situations, however, the extension of section 207 to rental property certainly creates a potential regulatory taking. *See* Declaration of Charles M. Haar in Support of Reply Comments of National Apartment Association et al., at 6–9 (arguing that, under the factors set forth in *Penn Central Transportation Co.* v. *New York City,* 438 U.S. 104 (1978), subjecting rental property to OTARD regulation would occasion a regulatory taking).

If the foregoing does not create a Takings Clause problem, then at least the circularity of the amendment adopted today indicates that, as a structural matter, section 207 was probably never intended to apply to viewers who had no ownership interest in the relevant property. When section 207 is limited to governmental and homeowners' association limits on reception devices, as opposed to lease restrictions, this problem of circularity disappears.

Finally, I note that in erecting its distinction between the legal significance of attaching devices to rental property and to common/restricted access property, the R&O appears to assume that just because a landlord has agreed to the exclusive possession of certain property by a tenant, he has thereby transferred to the tenant an absolute right to use that property. This is in error.

A landlord is not obliged to turn over to a tenant the entire ''use'' strand in his bundle of property rights. If he chooses, and the tenant agrees, he can confer a limited right to use upon the tenant. Even the language of the R&O belies this fundamental premise. *See,* e.g., para. 18 (noting that ''to a large extent [but not entirely, if contractual usage

limitations exist!], the property owner relinquishes its right to control the use of its property when it leases the property''); id. (noting ''that (absent a valid restriction) a tenant may put the leased premises to whatever lawful purpose it so desires'') (citation omitted). In fact, use restrictions on property that tenants have the exclusive right to occupy and possess are commonplace. For example, I may possess the exclusive right to occupy the patio adjacent to my apartment, and I may also have an exclusive right generally to use it. But the landlord can, by power of private contract, restrict my use of the balcony: that is, notwithstanding my exclusive right to occupy and generally use the balcony, I may not be legally entitled to, say, hang laundry on its rails or store my bicycle there. The landlord has chosen not to bargain away those aspects of his right to use the property and thus retains them.

I do not think that section 207 authorizes us to deprive landlords of their right to retain aspects of the right to use their property. Conversely, I do not think that section 207 authorizes us to bestow new property rights upon tenants—here, the right to use property for certain purposes—at the expense of landlords. Although the item reasons that the statute does not ''direct the Commission to impose affirmative duties on'' non-viewers ''to grant access to restricted areas to permit the installation of'' reception devices, *supra,* that is exactly what the rules governing rental property do. They require landlords to transfer certain usage rights to tenants in order to allow them to attach devices; that is surely an affirmative act and, now, a federal obligation.

To be sure, the language of section 207 is exceedingly broad, obliging us to adopt regulations ''to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception'' of services. But we should always read these kinds of statutes against the backdrop of the Takings Clause, as *Bell Atlantic Co.* v. *FCC* teaches. *See* 24 F.3d 1441 (D.C. Cir. 1994). Because of the Takings issues that are at least arguably raised here, I would stop short of extending these rules to viewers who lack an ownership interest in the property to which they wish to affix reception devices. There is no question but that the Commission met its obligation under section 207 in the first R&O by outlawing governmental and homeowners' association rules that impair viewers' abilities to employ reception devices. There is no statutory need to go further and create constitutional problems by extending the rules to property in which viewers lack any ownership interest.

To sum up, it is not clear to me that there is a significant difference, for purposes of Takings Clause analysis, between lease provisions that prohibit the installation of reception devices in common/restricted access areas and lease provisions that do so in other rental property areas. Under *Florida Power,* the constitutionality of the OTARD rules in either context turns on the question of consent and, thus, on the terms of the particular agreement between the landlord and the tenant. It seems to me that if one of these situations presents Takings problems, as this item concludes, then so does the other. Moreover, the circularity of the standard adopted today suggests that section 207 was never meant to apply outside the context of property in which the viewer has an ownership interest. For these reasons, and because the decision to extend OTARD rules to leased property is a generally unnecessary incursion on private property rights, I respectfully dissent.

[FR Doc. 98–33869 Filed 12–22–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 26

[ET Docket No. 94–32; FCC 98–212]

Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: The Federal Communications Commission has adopted a Memorandum Opinion and Order (MO&O) responding to petitions for reconsideration of the First Report and Order and Second Report and Order regarding the General Wireless Communications Service (GWCS). The MO&O grants in part a petition for reconsideration of the Second Report and Order filed by the Wireless Cable Association International (WCAI), to the extent that it modifies the rule on antenna structure clearance procedures to conform with streamlined rules applicable to all services. The MO&O dismisses in part and denies in part a petition for reconsideration of the First Report and Order filed by several organizations (Joint Petitioners), and a petition for reconsideration of the Second Report and Order filed by the Association for Maximum Service Television, Inc. (MSTV).

EFFECTIVE DATE: January 22, 1999.

FOR FURTHER INFORMATION CONTACT: Peter G. Wolfe, Policy Division, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Memorandum Opinion and Order in ET Docket No. 94–32, FCC 98–212 , adopted on August 26, 1998, and released on November 25, 1998. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036.

Synopsis of Memorandum Opinion and Order

1. The Commission adopts a Memorandum Opinion and Order (MO&O) which grants in part a petition for reconsideration of the Second Report and Order (Second R&O) in this proceeding (60 FR 40712, August 9, 1998), filed by the Wireless Cable Association International (WCAI). The MO&O denies WCAI's request that all GWCS licensees be permitted to partition their service areas because the Commission intends to address this issue in another proceeding. The MO&O denies a request by WCAI to license GWCS in Basic Trading Areas (BTAs) rather than Economic Areas (EAs), and denies in part and dismisses in part a petition for reconsideration of the First Report and Order (First R&O) (60 FR 13071, March 10, 1995) filed by the Association for Maximum Service Television Inc. (MSTV) and several other organizations (Joint Petitioners) and a petition for reconsideration of the Second R&O filed by MSTV. The latter two petitions both claim that the Commission exceeded its statutory authority in creating GWCS and therefore that the Commission should revisit its decision to establish a licensing structure for the service.

2. The MO&O first considers a petition for reconsideration of the First R&O filed by the Joint Petitioners, claiming that the general allocation of the 4660–4685 MHz band to the Fixed and Mobile services is overly broad because it will permit an unidentified mix of services to operate in the band. The Commission disagrees with this argument, finding that the petitioners merely restate the issues examined and decided in the First R&0. The MO&O also dismisses the Joint Petitioners' argument that the specific allocation of the 4660–4685 MHz band to GWCS is not in the public interest, because the Commission had not designated the frequency band for GWCS at the time the petition was filed, and that the Commission subsequently found in the Second R&O that the designation to GWCS is in the public interest.

3. The MO&O also denies MSTV's petition for reconsideration of the Second R&O dealing with the specific designation of the band for GWCS. MSTV contends that the Commission should suspend this allocation and related assignments pending the resolution of assignment of spectrum to the Broadcast Auxiliary Service in other

proceedings. The Commission determines that the arguments and concerns raised by MSTV were considered and decided in the Second R&O and that MSTV petition and comments and petitions filed by parties in support of MSTV provide no new information or arguments that persuade the Commission that the actions taken in the Second R&O should be changed or set aside.

4. The MO&O denies a request made by WCAI to license GWCS using geographic areas known as BTAs rather than EAs. WCAI argues that the decision made in the Second R&O will seriously prejudice those service providers (including wireless cable operators) that intend to utilize GWCS in conjunction with other services that are licensed on the basis of BTAs. The Commission in denying the request stresses the importance of providing flexibility for a wide range of services without favoring any particular existing service. The Commission finds it particularly appropriate to use a geographical service area designation that is capable of accommodating a broad range of services where, as here, the Commission does not have any firm information as to what the uses of the services are likely to be.

5. WCAI also requests that the Commission should expand the partitioning option adopted in the Second R&O to allow all GWCS licensees, not just rural telephone companies, to partition their service area. The Commission dismisses this request noting that the issue will be resolved in the Geographic Partitioning and Spectrum Disaggregation proceeding, WT Docket 96–148 (Report and Order at 62 FR 00653, January 6, 1997, and Further Notice of Proposed Rule Making at 62 FR 00696, January 6, 1997).

6. The MO&O grants the portion of WCAI's petition which asks that the Commission amend its rules to permit the mounting of antennas on existing structures that have previously received a ''no hazard'' determination from the Federal Aviation Administration (FAA) without any additional Commission authorization.[1] The Commission finds that it amended its antenna structure clearance procedures after the adoption of the Second R & O, and that these amended rules allow mounting of antennas on existing structures that have already received a ''no hazard'' determination from the FAA and have been registered with the Commission without prior Commission approval. Therefore, the Commission grants WCAI's request by amending part 26 of the rules to reflect current antenna structure requirements.

Revised Final Regulatory Flexibility Analysis

7. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA),[2] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the First Notice of Proposed Rulemaking (First NPRM)[3] and a Further Initial Regulatory Flexibility Analysis (FIRFA) was incorporated in the Second Notice of Proposed Rulemaking (Second NPRM).[4] The Commission sought written public comments on the proposals in the First NPRM and the Second NPRM, including on the IRFA and the FIRFA. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the Commission's First R&O in this proceeding and in the Commission's Second R&O. The Commission's Revised Final Regulatory Flexibility Analysis (RFRFA) in this MO&O conforms to the RFA, as amended by the Contract With America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA).[5]

I. Need For and Objective of the Rules

8. This MO&O streamlines the antenna structure clearance procedures for General Wireless Communications Services (GWCS) which were adopted in the Second R&O to conform with the procedures applicable to all wireless services. The new antenna structure clearance procedures eliminate the need for Commission approval of antenna structures that have already been approved by the Federal Aviation Administration (FAA). A petition for reconsideration contended that no Commission approval should be required for the mounting of antennas on existing structures which have received an FAA ''no hazard'' determination. The Commission concludes that it is in the public interest to apply to GWCS the streamlined antenna structure clearance rules which were adopted for all services subsequent to the adoption of the Second R&O.

II. Summary of Issues Raised by the Public Comments in Response to the Final Regulatory Flexibility Analysis

9. No comments were submitted in direct response to the Initial or Final Regulatory Flexibility Analyses. However, WCAI filed a Petition for Reconsideration of the Second R&O which contended that the Commission should amend its rules to permit the mounting of antennas on existing structures that have previously received a ''no hazard'' determination from the FAA, without any additional Commission authorization.

III. Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule

10. None. The rule merely requires that GWCS licensees conform to the applicable antenna structure rules.

IV. Description and Estimate of Small Entities Subject to the Rules

11. The rule adopted in this MO&O will apply to prospective GWCS licensees. In the Second R&O, the Commission established rules for the auction of 875 GWCS licenses, and provided that small businesses would have the benefit of preferential bidding credits and installment payments. In the Second R&O, the Commission also adopted the small business definition applicable to broadband PCS, *i.e.*, any firm, together with its attributable investors and affiliates, with average gross revenues for the three preceding years not in excess of $40 million.[6] Since auctions have not been held for GWCS, we cannot estimate the number of licensees that fit within this category. Under the Small Business Administration (SBA) rules applicable to radiotelephone companies, a small entity is a radiotelephone company employing fewer than 1,500 persons.[7]

12. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[8]

[1] WCAI indicates that 47 CFR 26.309(a) provides that a GWCS antenna structure may not be 200 feet or more above ground level without prior Commission approval.

[2] Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164 (enacted Sept. 19, 1980) (Regulatory Flexibility Act).

[3] 59 FR 59292, November 17, 1994.

[4] 60 FR 13102, March 10, 1995.

[5] Title II of the CWAAA is ''The Small Business Regulatory Enforcement Fairness Act of 1996,'' (SBREFA), codified at 5 U.S.C. 601.

[6] In the Fourth Report and Order in this proceeding (63 FR 56573, October 22, 1998), the Commission revised the rules applicable to GWCS to provide that, in calculating gross revenues for the purposes of small business eligibility, applicants will be required to count the gross revenues of the de facto and de jure controlling interests of the applicant and its affiliates.

[7] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

[8] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–2S–1, Subject Series, Establishment and Firm Size, Table 5,

Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective GWCS licensees can be made, we assume, for purposes of our evaluations and conclusions in this revised FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

V. Steps Taken To Minimize the Burdens on Small Entities

13. The rule adopted in the MO&O reduces the burdens on small entities placed upon them by the rule adopted in the Second R&O. The rule adopted in the MO&O accomplishes this objective by permitting the mounting of antennas on existing structures that have previously received a ''no hazard'' determination by the FAA, without any additional Commission authorization, and by applying streamlined antenna clearance procedures which have been applied to all services.

VI. Significant Alternatives Considered and Rejected

14. The Commission made this change in the antenna clearance rules in response to a Petition for Reconsideration. The Commission could have retained the original rule, but the Commission found that its new antenna clearance rules minimize burdens on all licensees, without having a negative impact on the public interest or public safety.

VII. Report to Congress

15. The Commission shall send a copy of this Revised Final Regulatory Flexibility Analysis, together with the MO&O, in a report to Congress pursuant of the Small Business Regulatory Enforcement Fairness Act of 1996.[9] A copy of the MO&O and this RFRFA (or summary thereof) shall be sent to the Chief Counsel for Advocacy for the Small business Administration.

Ordering Clauses

16. As required by Section 603 of the Regulatory Flexibility Act,[10] the Commission has prepared a Revised Final Regulatory Flexibility Analysis of the expected impact on small entities of the changes in our rules adopted herein The Revised Final Regulatory Flexibility Analysis is in this document and in Appendix B of the full text of the MO&O.

17. This action is taken pursuant to sections 4(i), 5(c), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i), 155(c), 302, 303(c), 303(f), 303(g), 303(r).

18. Accordingly, it is ordered that the petition for reconsideration of Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, ET Docket No. 94–32, First Report and Order and Second Notice of Proposed Rulemaking, filed by the Association for Maximum Service Television, Inc., the Association of America's Public Television Stations, Capital Cities/ABC, Inc., CBS, Inc., the Fox Television Group of companies, the National Association of Broadcasters, the National Broadcasting Company, Inc., the Public Broadcasting Service, Inc., and the Radio-Television News Directors Association is dismissed in part and otherwise is denied.

19. It is further ordered that the petition for reconsideration of Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, ET Docket No. 94–32, Second Report and Order, filed by Association for Maximum Service Television, Inc., is denied, and the petition for reconsideration filed by Wireless Cable Association International is granted in part to the extent discussed , and otherwise is denied.

20. It is further ordered that Part 26 of the Commission's Rules is amended and will become effective January 22, 1999.

21. It is further ordered that the Director, Office of Public Affairs, shall send a copy of this Order, including the Revised Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

List of Subjects in 47 CFR Part 26

Radio, General wireless communications service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 26 of title 47 of the Code of Federal Regulations is amended as follows:

PART 26—GENERAL WIRELESS COMMUNICATIONS SERVICE

1. The authority citation for part 26 continues to read as follows:

Authority: 47 U.S.C. sections 154, 301, 302, 303, 309, and 332, unless otherwise noted.

2. Add a new section 26.56 to read as follows:

§ 26.56 Antenna structures; air navigation safety.

Licensees that own their antenna structures must not allow these antenna structures to become a hazard to air navigation. In general, antenna structure owners are responsible for registering antenna structures with the FCC if required by part 17 of this chapter, and for installing and maintaining any required marking and lighting. However, in the event of default of this responsibility by an antenna structure owner, each FCC permittee or licensee authorized to use an affected antenna structure will be held responsible by the FCC for ensuring that the antenna structure continues to meet the requirements of part 17 of this chapter. See § 17.6 of this chapter.

(a) *Marking and lighting.* Antenna structures must be marked, lighted and maintained in accordance with part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration.

(b) *Maintenance contracts.* Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) may enter into contracts with other entities to monitor and carry out necessary maintenance of antenna structures. Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) that make such contractual arrangements continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

§ 26.309 [Removed]

3. Section 26.309 is removed.

[FR Doc. 98–33979 Filed 12–22–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015–8287–08; I.D. 042597B]

RIN 0648–AI84

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations; Correction

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

Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

[9] 5 U.S.C. 801(a)(1)(A).

[10] 5 U.S.C. 603.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule pertaining to the Harbor Porpoise Take Reduction Plan in the Gulf of Maine and Mid-Atlantic waters published in the **Federal Register** on December 2, 1998.

DATES: This action becomes effective December 18, 1998.

FOR FURTHER INFORMATION CONTACT: Donna Wieting, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

In final rule FR Doc. 98–31957, Taking of Marine Mammals incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations, published in the **Federal Register** on December 2, 1998 (63 FR 66464), implementing a harbor porpoise take reduction plan in the Gulf of Maine and Mid-Atlantic waters, three errors were published in § 229.33 in the description of the Mid-coast and Offshore Closure Areas.

Correction

Two incorrect latitude coordinates and one omitted entry were listed in the December 2, 1998, **Federal Register**.

§ 229.33 [Corrected]

1. On page 66488, in § 229.33(a)(2), in the first column, in the table titled ''MID-COAST CLOSURE AREA'', in the second column of the table, in the sixth line, ''42°00′'' is corrected to read ''43°00′'' and in the eighth line, ''43°00′'' is corrected to read ''43°30′.''

2. On the same page, in § 229.33(a)(5), in the second column, in the table titled ''OFFSHORE CLOSURE AREA'', an entry is correctly added in numerical order, in the first column of the table under the heading ''Point'', add ''OFS6''; in the second column of the table, under the heading ''N. Lat.'', add ''42°50′'' and in the third column of the table, under the heading ''W. Long.'', add ''69°30′''.

NMFS is correcting these errors and is making no substantive change to the document in this action.

Dated: December 18, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–34000 Filed 12–18–98; 2:43 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 246
Wednesday, December 23, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Modification of the Orlando Class B Airspace Area, FL; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice changes the dates of two fact-finding informal airspace meetings. The purpose of these meetings is to provide interested parties the opportunity to present views, recommendations, and comments on the planned modification to the Orlando Class B airspace area, and the Sanford, FL Class D airspace area.

DATES: The informal airspace meetings originally were scheduled for Wednesday, February 17; and Thursday, February 18, 1999. However, due to the high level of public interest in these meetings, the FAA finds that it is necessary to reschedule the meeting dates. The public meetings will take place on Wednesday, January 27, and Thursday, January 28, 1999, starting at 7:00 p.m.

Comments must be received on or before February 26, 1999.

ADDRESSES: *Meetings:* On January 27, 1999, the meeting will be at the A.K. Shumaker Terminal Building, Suite 200 Conference Room, Orlando-Sanford International Airport, Sanford, FL. On January 28, 1999, the meeting will be at Kissimmee Municipal Airport Terminal Building, 301 N. Dyer Blvd., Kissimmee, FL.

Comments: Send or deliver comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Nancy Shelton, Air Traffic Division, ASO–500, FAA, Southern Regional Office, telephone (404) 305–5585.

SUPPLEMENTARY INFORMATION: The FAA recognizes that it is providing less than the standard 60-days' notice of the meeting dates. The FAA will follow all special notification procedures, including sending notices of the meeting dates to all known licensed pilots, airport managers/operators, and operators of parachute, sailplane, ultralight, and balloon clubs within a 100-mile radius of the Orlando-Sanford International Airport. In addition, the FAA will provide notice of the meeting dates to the local newspapers.

Meeting Procedures

The following procedures will be used to facilitate the meeting:

(a) The meetings will be informal in nature and will be conducted by a representative of the FAA Southern Region. Representatives from the FAA will present a formal briefing on the proposed changes to the Class B airspace area. Each participant will be given an opportunity to deliver comments or make a presentation at the meetings.

(b) The meetings will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter.

(d) The meetings will not be adjourned until everyone on the list has had an opportunity to address the panel.

(e) Position papers or other handout material relating to the substance of the meetings will be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) The meetings will not be formally recorded. However, a summary of the comments made at the meetings will be filed in the docket.

Agenda for the Meetings

Opening Remarks and Discussion of Meeting Procedures.

Briefing on Background for Proposals.

Public Presentations and Comments.

Closing Comments.

Issued in Washington, DC, on December 16, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–33852 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–011]

Standards for Business Practices of Interstate Natural Gas Pipelines

December 17, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend § 284.10 of its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines. The Commission is proposing to incorporate by reference the most recent version of the standards, Version 1.3 promulgated July 31, 1998, by the Gas Industry Standards Board (GISB).

DATES: Comments are due January 22, 1999.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0507

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all

interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, DC 20426. The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Federal Energy Regulatory Commission (Commission) is proposing to amend § 284.10 of its regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines. The Commission is proposing to adopt the most recent version, Version 1.3, of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB).

I. Background

In Order Nos. 587, 587–B, 587–C, 587–G, and 587–H,[1] the Commission adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In those orders, the Commission incorporated by reference consensus standards developed by GISB, a private, consensus standards developer composed of members from all segments of the natural gas industry.

On November 9, 1998, GISB filed with the Commission its most recent revision of its standards, Version 1.3. GISB also provided a description of its ongoing activities.

II. Discussion

The Commission is proposing to adopt Version 1.3 of GISB's consensus standards with an implementation date on the first of the month occurring 90 days after publication of the final rule in the **Federal Register**. Version 1.3 of the GISB standards updates and improves the standards, with the principal changes occurring in the areas of confirmation practices, further standardization of the information provided on pipeline Internet web sites, and revisions to the data sets.[2] Commission adoption of these standards will keep the Commission regulations current.

Because the Version 1.3 standards include the nomination and intra-day nomination standards adopted by the Commission in Order No. 587–H, separate reference to these standards in the regulations is no longer necessary and is proposed to be removed. The Commission also is continuing its previous practice by proposing to exclude standards 2.3.29 dealing with operational balancing agreements (OBAs), 2.3.30 dealing with netting and trading of imbalances, and 4.3.4 dealing with retention of electronic data. The Commission has issued its own regulations in these areas,[3] so that incorporation of the GISB standards is unnecessary and may cause confusion as to the applicable Commission requirements.

GISB approved the standards under its consensus procedures.[4] As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In § 12(d) of the National Technology Transfer and Advancement Act (NTT&AA) of 1995, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like GISB, as means to carry out policy objectives or activities.[5]

In addition, in Order No. 587–G, the Commission deferred implementation of its OBA regulation[6] and its imbalance trading regulation[7] until GISB had an opportunity to develop standards related to OBAS and imbalance trading. GISB reports that it has approved a model Operational Balancing Agreement and that its OBA standards are completed.[8] In a contemporaneous order, the Commission is establishing an April 1, 1999 date for the pipelines to comply with the regulation requiring them to enter into OBAs with interconnecting interstate and intrastate pipelines.

GISB is continuing to work on its standards relating to imbalance trading, and according to GISB's schedule, these standards are scheduled for completion

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997), Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998), Order No. 587–H, 63 FR 39509 (July 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,063 (July 15, 1998).

[2] The following reflects the changes from the Version 1.2 standards previously adopted by the Commission. The list does not include the intra-day nomination standards that already were adopted in Order No. 587–H. Revised standards are: 1.3.3, 1.3.14, 1.3.24, 1.3.27, 2.3.9, 2.3.16, 2.3.20, and 4.3.16. New standards are: 1.3.35 through 1.3.38, 1.3.45, 1.3.46, 3.3.22, 4.1.16 through 4.1.21, 4.2.1 through 4.2.8, and 4.3.17 through 4.3.35. Revised data sets are: 1.4.1 through 1.4.6, 2.4.1 through 2.4.6, 3.4.1 through 3.4.3, 5.4.1 through 5.4.9, 5.4.11 through 5.4.13, 5.4.16, and 5.4.17. New data sets are: 1.4.7 and 3.4.4.

[3] 18 CFR 284.10(c)(2)(i) (OBAs), (c)(2)(ii) (netting and trading of imbalances), and (c)(3)(v) (record retention).

[4] This process first requires a super-majority vote of 17 out of 25 members of GISB's Executive Committee with support from at least two members from each of the five industry segments—interstate pipelines, local distribution companies, gas producers, end-users, and services (including marketers and computer service providers). For final approval, 67% of GISB's general membership must ratify the standards.

[5] Pub L. 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[6] 18 CFR 284.10(c)(2)(i).

[7] 18 CFR 284.10(c)(2)(ii).

[8] GISB's November 9, 1998 filing, Docket No. RM96–1–010, Appendix 5.

by the end of 1998.[9] Since development of imbalance trading standards is not yet complete, the Commission will not establish a firm implementation date for its imbalance trading regulation. However, given the importance of imbalance trading, the Commission expects such implementation to take place prior to the 1999 heating season.

III. Notice of Proposed Use of Standards

Office of Management and Budget Circular A–119 (§ 11) (February 10, 1998) provides that federal agencies publish a request for comment in a Notice of Proposed Rulemaking (NOPR) when the agency is seeking to issue or revise a regulation that contains a standard identifying whether a voluntary consensus standard or a government-unique standard is being proposed. In this NOPR, the Commission is proposing to use Version 1.3 (July 31, 1998) of the voluntary consensus standards developed by GISB.

IV. Information Collection Statement

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimates include the costs for complying with GISB's Version 1.3 standards which update and improve the existing Version 1.2 standards. The burden estimates are primarily related to start-up for implementing the latest version of the standards and data sets and will not be on-going costs.

Data collection	Number of respondents	Number of responses per respondent	Hrs. per response	Total number of hrs.
FERC–545	93	1	38	3,534
FERC–549C	93	1	2,610	242,730

Total Annual Hours for Collection

(Reporting and Recordkeeping, (if appropriate) = 246,264.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost per respondent to be the following:

	FERC–545	FERC–549C
Annualized Capital/Startup Costs	$2,008	$137,888
Annualized Costs (Operations & Maintenance)	0	0
Total Annualized Costs	2,008	137,888

OMB regulations[10] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Proposed collections.

OMB Control No.: 1902–0154, 1902–0174.

Respondents: Business or other for profit (Interstate natural gas pipelines (Not applicable to small business.))

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of Information: This proposed rule, if implemented, would upgrade the Commission's current business practice and communication standards to the latest edition approved by GISB (Version 1.3). The implementation of these standards is necessary to increase the efficiency of the pipeline grid.

The information collection requirements of this proposed rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of the industry's operations. The Commission's Office of Pipeline Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

Internal Review: The Commission has reviewed the requirements pertaining to business practices and electronic communication with natural gas interstate pipelines and made a determination that the proposed revisions are necessary to establish a more efficient and integrated pipeline grid. Requiring such information ensures both a common means of communication and common business practices which provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

[9] GISB's November 9, 1998 filing, Docket No. RM96–1–010, Appendix 5.

[10] 5 CFR 1320.11.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202)208–1415, fax: (202)273–0873 email: michael.miller@ferc.fed.us].

Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395–3087, fax: (202)395–7285]

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[11] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[12] The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[13] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[14] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The proposed regulations would impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to reduce the difficulty of dealing with pipelines by all customers, including small businesses. Accordingly, pursuant to § 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VII. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. January 22, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 and should refer to Docket No. RM96–1–011.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 6.1 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM 96–1–011; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM96–1–011. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions or comments on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed and printed remotely via the Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C 7101-7532; 43 U.S.C 1331–1356.

2. In section 284.10, paragraphs (b)(1)(i) through (v) are revised to as follows:

§ 284.10 Standards for pipeline business operations and communications.

* * * * *

(b) * * *

(1) * * *

(i) Nominations Related Standards (Version 1.3, July 31, 1998);

(ii) Flowing Gas Related Standards (Version 1.3, July 31, 1998) with the exception of Standards 2.3.29 and 2.3.30;

(iii) Invoicing Related Standards (Version 1.3, July 31, 1998);

(iv) Electronic Delivery Mechanism Standards (Version 1.3, July 31, 1998) with the exception of Standard 4.3.4; and

(v) Capacity Release Related Standards (Version 1.3, July 31, 1998).

* * * * *

[FR Doc. 98–33985 Filed 12–22–98; 8:45 am]

BILLING CODE 6717–01–P

[11] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶30,783 (1987).

[12] 18 CFR 380.4.

[13] See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[14] 5 U.S.C. 601–612.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116099–98]

RIN 1545–AB43, 1545–AF52

Withdrawal of Proposed Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of proposed regulations.

SUMMARY: This document withdraws proposed regulations amending the income tax regulations. This action is taken to remove from the IRS' inventory of regulations projects those proposed regulations that are in an inactive status and would remain in an inactive status for the foreseeable future.

DATES: These proposed regulations are withdrawn December 23, 1998.

FOR FURTHER INFORMATION CONTACT: George Bradley of the Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224. Telephone (202) 622–4920, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

This document withdraws certain proposed regulations previously published in the **Federal Register** by the IRS. These proposed regulations are being withdrawn because they are part of regulations projects that will not be pursued in the foreseeable future, and there are no current plans to adopt the proposed regulations as final regulations.

Drafting Information

The principal author of this withdrawal notice is George H. Bradley, Office of the Assistant Chief Counsel (Income Tax & Accounting) within the Office of the Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and the Treasury Department participated in developing the withdrawal notice.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the following proposed amendments to 26 CFR part 1 are withdrawn:

Amendments Relating to Proposed Regulations Section:	FR Citation and Project Number	Subject
1.162, 1.162–16, 1.461–1(a)(3)(iii), 1.1016, 1.1253, 1.1253–1, 1.1253–2, 1.1253–3.	FR Doc. 71–9954 Published 7/15/71 36 FR 13148.	Transfer of Franchises, Trademarks, and Trade Names.
1.381(c)(4)–1(c)(1), 1.381(c)(4)–1(c)(3) Example (5), 1.381(c)(4)–1(d)(1)(iii), 1.381(c)(5), 1.381(c)(5)–1.	FR Doc. 72–14187 Published 8/23/72 37 FR 16947.	Carryover of Inventories and Accounting Methods in Certain Corporate Acquisitions.
1.351–1(c)(1)(ii), 1.351–1(c)(4), 1.351–1(c)(5)(i), 1.351–1(c)(5)(ii), 1.351–1(c)(6) Examples (3) & (4),, 1.368–4.	FR Doc. 80–40833 Published 1/7/81 46 FR 1744 (LR–135–76).	Limitations on Reorganization Treatment for Investment Companies.
1.278–2, 1.464–1, 1.464–2	FR Doc. 83–30789 Published 11/15/83 48 FR 51936 (LR–144–76).	Farming Syndicate Expenditures.
1.453–2	FR Doc. 84–891 Published 1/13/84 49 FR 1742 (LR–184–80).	Installment Obligations Received From Liquidating Corporations.
1.6050J–2	FR Doc. 84–23131 Published 8/31/84 49 FR 34518 (LR–182–84).	Returns Relating to Transfers of Security to Persons Other Than the Lender.
1.131–1	FR Doc. 85–2718 Published 2/1/85 50 FR 4702 (LR–83–83).	Exclusion From Gross Income for Certain Foster Care Payments.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–33868 Filed 12–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–113–FOR]

Virginia Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment provides clarification of an existing State directive concerning permit revisions. The amendment is intended to improve the operational efficiency of the State program.

DATES: Written comments must be received by 4:00 p.m., on January 22, 1999. If requested, a public hearing on the proposed amendment will be held on January 19, 1999. Requests to speak at the hearing must be received by 4:00 p.m., on January 7, 1999.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303

or

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523–8100

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated November 17, 1998 (Administrative Record No. VA–959), the Virginia Department of Mines, Minerals and Energy (DMME) submitted a clarification dated September 18, 1998, to its existing policy for implementing its regulations at 4VAC 25–130–774.13(b)(2) concerning permit revisions. The clarification informs permittees of the informational and procedural requirements for revisions that propose to change an existing permit boundary.

The proposed clarification is as follows:

The following information provides guidance to improve consistency and to enable you to properly plan for any addition of acreage to your permit. The Virginia law and regulation dealing with such additions conform to the federal definitions.

The Virginia Regulation at 4 VAC 25–130–774.13 (d) requires: Request to change permit boundary. Any extension to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit.

Consistent with this regulation, any request for a non-incidental extension to the area covered by an existing permit shall be made by application for a new permit using the Division's permit application forms DMLR–PT–034e, DMLR–PT–034p, DMLR–PT–034o. It should be noted that these new forms are the same forms that the Division will use to implement Electronic Permitting in a few months. Implementing usage of these forms at this time will be a precursor to Electronic Permitting and will allow permittees to become familiar with the format of what will be required for Electronic Permitting. Permittees may use one of two options in submitting the application for a new permit:

1. The application may be for a completely new permit for the proposed area, with a new permit number issues and new issuance, expiration and anniversary dates assigned; or

2. The application may combine the existing permit area with the proposed additional area. The permit number would remain the same, as well as the permit issuance, expiration and anniversary date. This application may reference any applicable parts of the previously approved permit plans (with copies of the relevant sections included), but it shall provide all the information necessary for a new permit on the proposed additional area. This new information shall also include any portions of the plans for the previously approved permit area, if they are affected by the addition of the new area and shall be revised. The application will be processed as a new permit application.

With these two options, the applicant retains the discretion to apply for a separate and distinct permit for the new area, resulting in two separate permits with different permit numbers or to retain the existing permit number. However, when DMLR finds the new area is not a functional extension of the existing permit, but rather a separate operation, the Division may require an application for a separate permit.

Incidental boundary revisions (IBR) include only minor changes to permit boundaries that are incidental to the approved operations; such as road alignment, drainage alignment, parking areas, additional entries/punch-outs for underground operations, or other non-coal removal functions necessary for the orderly and continuous conduct of the approved operation.

A proposal to increase the area available for coal removal will not be treated as an IBR unless the coal removal is incidental to the primary purpose of the revision. For example, if the realignment of a road also involved mining a small amount of coal in the road cut, and/or the increase in area is minor then it may be deemed an IBR. The Division may also approve small adjustments to the permit boundary as an IBR when there is no net increase in the permitted area.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Virginia satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on January 7, 1999. If no one requests an opportunity to comment at a 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 comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Hearing

If only one person requests an opportunity to comment 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 amendments may request a meeting at the Big Stone Gap Field Office 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 in advance at the locations listed under **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

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**.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory

programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 16, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–33920 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–114–FOR]

Virginia Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment clarifies the State's interpretation of its regulations concerning the disposal of excess spoil. The amendment is intended to improve the operational efficiency of the Virginia program.

DATES: Written comments must be received by 4:00 p.m., on January 22, 1999. If requested, a public hearing on the proposed amendment will be held on January 19, 1999. Requests to speak at the hearing must be received by 4:00 p.m., on January 7, 1999.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contracting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303

or

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523–8100.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated November 24, 1998 (Administrative Record No. VA–961), the Virginia Department of Mines, Minerals and Energy (DMME) submitted a clarification to its interpretation of its regulations at 4 VAC 25–130–816/817.76 concerning the disposal of excess spoil.

The proposed amendment is as follows:

The Division of Mined Land Reclamation proposed to clarify the interpretation of 4 VAC 25–130–816.76. The regulation states that excess spoil may be placed on ''another area under a permit issued pursuant to the Act, or on abandoned mine lands under contract for reclamation according to the Abandoned Mine Land (AML) Guidelines and approved by the Division of Mines Land Reclamation.'' The Virginia Division of Mined Land Reclamation interprets this regulation to mean excess spoil from a permitted coal mining operation may be used by the Division of Mined Land Reclamation to reclaim a bond forfeiture site or an AML project site. Through any of the contracting procedures available to the agency, including negotiated, non-cost, or competitively bid contracts, the agency may cause the placement of excess spoil on the forfeiture or AML site in accordance with the provisions of a contract executed between the Division and a contractor. The spoil material removed from the permitted area will be demonstrated to be excess spoil and unnecessary for the achievement of approximate original contour within the permitted area.

The forfeiture or AML project must be:

1. Located in general proximity to the permit area;

2. On the AML inventory list or bond forfeiture list; and

3. Referenced in the permit plans, along with the demonstration that the spoil is excess and identified on the permit map. However, the forfeiture or AML site will not be included in the permit acreage; will not be subject to the requirements for permits, performance bonds; and will not delay or otherwise affect bond release on the permitted area.

In the event the contractor fails to perform the work specified in the ''no-cost contract,'' the Division will invoke the appropriate

contract sanctions to cause completion of the contract terms. When the contractor and the mine operator happen to be one and the same, the contract will include an additional default provision. In this case, the contract will specify that the mine operator will revise the permit boundary to include the area upon which the excess spoil was placed pursuant to the ''no-cost contract.'' The permit performance bond requirements will become applicable.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on January 7, 1999. If no one requests an opportunity to comment at a 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 comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment 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 amendments may request a meeting at the Big Stone Gap Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meeting will be posted in advance at the locations listed under **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

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**.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 16, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–33919 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

Privacy Act; Implementation

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Department of the Treasury, Internal Revenue Service (IRS) gives notice of a proposed amendment to exempt a new system of records, the IRS Audit Trail Lead Analysis System—Treasury/IRS 34.020, from certain provisions of the Privacy Act. The exemptions are intended to comply with the legal prohibitions against the disclosure of certain kinds of information and to protect certain information, about individuals, maintained in this system of records.

DATES: Comments must be received no later than January 22, 1999.

ADDRESSES: Please submit comments to Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20220. Persons wishing to review the comments should call 202–622–6240 to make an appointment with the Office of Governmental Liaison and Disclosure.

FOR FURTHER INFORMATION CONTACT: Michael Sincavage, Director, 6103/ Privacy Operations, Governmental Liaison and Disclosure, Internal Revenue Service, at 202–622–6240.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a, if the system is investigatory material compiled for law enforcement purposes. The IRS compiles records in this system for law enforcement purposes. Treasury/ IRS 34.020—IRS Audit Trail Lead Analysis System (ATLAS) contains records that enable the IRS to investigate and monitor the activities of individuals who access its information systems which process taxpayer information. The IRS will use the information to ensure the protection and confidentiality of tax returns and return information for the detection and deterrence of unauthorized access and abuse of electronic records. The ATLAS electronically identifies possible unauthorized accesses to taxpayer information through matching of records using search criteria indicative of probable unauthorized accesses and/ or fraudulent use of IRS information systems. ATLAS then generates leads for the Office of Chief Inspector/ Treasury Office of Inspector General for Tax Administration for evaluation and analysis. After the Office of Chief Inspector/Treasury Office of Inspector General for Tax Administration completes evaluation and analysis of the leads, the information received from ATLAS will be disposed of as appropriate in one of the following ways: (1) Information obtained from this application will become part of Conduct Investigation Files, Inspection (Treasury/IRS 60.003); Miscellaneous Information Files, Inspection (Treasury/ IRS 60.007); and Special Inquiry Investigation Files (Treasury/IRS 60.009); and will be retained in accordance with procedures established in Records Disposition Handbooks, IRM 1(15)59.1 through IRM 1(15)59.32, and IRM Exhibit (10)100–2; (2) information relevant to an investigation that results in judicial or administrative action is retained for 10 years after the date of the action; or (3) information obtained from this computer match that does not become part of the files in (1) above will not be retained in any form searchable by individual identifier. Summary or statistical data may be retained as part of audit or integrity project workpapers.

The IRS is hereby giving notice of a proposed rule to exempt Treasury/IRS 34.020 (ATLAS) from certain provisions of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H), (I) and (f) because the system contains investigatory material compiled for law enforcement purposes. The data will be utilized to enforce 26 U.S.C. 7213, 7213A, 7214, and 18 U.S.C. 1030(a)(2)(B). The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

(1) **5 U.S.C. 552a(c)(3).** This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provisions are:

(i) The release of disclosure accounting would put the subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure was made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and the scope of the investigation and could aid the individual in impeding or compromising investigations by those agencies.

(2) **5 U.S.C. 552a (d)(1), (d)(2), (d)(3), (d)(4), (e)(4)(G), (H), and (f).** These provisions of the Privacy Act relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requested access to records; the agency procedures relating to access to records and the contest of the information contained in such records and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons for exempting this system of records from the foregoing provisions are as follows: To notify an individual at the individual's request of the existence of an investigative file pertaining to such individual or to grant access to an investigative file pertaining to such individuals could interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and, disclose investigative techniques and procedures.

(3) **5 U.S.C. 552a(e)(4)(I).** This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. In cases where an exemption from this provision has been claimed, the reasons are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures;

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

(4) **5 U.S.C. 552a(e)(1).** This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The IRS will limit its inquiries to information that is necessary for the enforcement and administration of computer security laws and tax laws. However, an exemption from the foregoing provision is needed because, particularly in the early stages of an investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may subsequently be determined to be irrelevant or

unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(iii) When information is received by the IRS relating to violations of law within the jurisdiction of other agencies, the Service processes this information through the Service systems in order to forward the material to the appropriate agencies.

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 of Title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301, 31 U.S.C. 321, subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

§ 1.36 [Amended]

2. Section 1.36, under the heading ''The Internal Revenue Service,'' is amended by removing in paragraph (a)(1) the entry ''Integrated Data Retrieval System (IDRS) Security Files—34.018'' and in paragraph (b)(1) by adding the following entry in numerical order to read as follows:

* * * * *

(b) * * *

(1) * * *

Name of system	No.
* * * * *	
Audit Trail Lead Analysis System	34.020
* * * * *	

* * * * *

Dated: November 10, 1998.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

[FR Doc. 98–33905 Filed 12–22–98; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6205–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete Yellow Water Road Dump Superfund Site from the National Priorities List (NPL): request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Yellow Water Road Dump from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before January 22, 1999.

ADDRESSES: Comments may be mailed to: David Lloyd, Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303, Telephone No. (404) 562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Baldwin Town Hall, 10 U.S. 90 West, Baldwin, Florida 32234. U.S.

FOR FURTHER INFORMATION CONTACT: David Lloyd, Remedial Project Manager, U.S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562-8917.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Yellow Water Road Dump Site, Duval County, Florida from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the Site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Yellow Water Road Dump Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response action required;

(ii) All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substance, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, the selected remedy is protective of human health and the environment. EPA will conduct a five-year review for the Site and if new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA issued a Final Close Out Report indicating that the remedial actions at the Site were completed in accordance with the two Records of Decisions for the Site and that no further remedial action is necessary to ensure protection of human health and the environment; (2) The Florida Department of Environmental Protection concurs with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review at the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations and does not preclude eligibility for future response actions. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the regional office.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Site Background and History

The Yellow Water Road Dump Site is located off Yellow Water Road (Florida State Road 217) about one mile south of Baldwin, Duval County, Florida. The Site encompasses approximately 14 acres. The land adjacent to the Site is used for commercial and residential purposes.

In October 1981, the property owner and several independent companies formed an enterprise with the intent of incinerating PCBs on the property. PCB-contaminated liquid and equipment were stored at the Site. The incinerator permit was never obtained, and the PCB-contaminated materials continued to be stored on site. Valuable metals such as copper were salvaged from the transformer carcasses, spilling PCB liquid and causing soil contamination at the Site.

During an emergency removal action conducted by EPA in November 1984, 719 transformers were drained, steam cleaned, and stored on site. Approximately 100,000 gallons of PCB-contaminated fluid were transferred to secured, on-site holding tanks, and approximately 3,000 cubic yards of PCB-contaminated soil were excavated and stockpiled on a concrete pad.

The Yellow Water Road Dump Site was proposed for inclusion on the NPL on September 18, 1985 (50 FR 37950) and placed on the NPL on June 10, 1986.

In May 1988, EPA entered into an Administrative Order on Consent with a group of Potentially Responsible Parties (PRPs) to perform an interim surface removal action at the Site. The PRPs completed the removal action in July 1988. The removal activities included the demolition and disposal of an on-site warehouse, off-site disposal of the stockpiled contaminated soil, off-site incineration of 78,854 gallons of PCB-containing liquid, disposal of 704 transformers, and disposal of 18,690 pounds of capacitors.

Under an Administrative Order on Consent the PRPs began a Remedial Investigation/Feasibility Study (RI/FS) in 1990. The RI included an investigation of surface water, soil, sediment, air and ground water associated with the Site. The investigation included a wide range of analyses to detect volatile organic compounds, base/neutral compounds, pesticides, polychlorinated biphenyls (PCBs), and inorganic compounds. The Risk Assessment identified PCB compounds as the only contaminants of concern at the Site. Total PCB concentrations of up to 660 mg/kg in Site soil and sediment were identified, and total PCB concentrations of up to .029 mg/l were detected in Site groundwater.

B. Response Actions

Based on the results of the RI/FS work and the Risk Assessment, EPA issued two Records of Decision (RODs). The Operable Unit One (OU–1) ROD, issued on September 28, 1990 called for excavation and solidification/stabilization of PCB-contaminated soil and sediment. The Operable Unit Two (OU–2) ROD, dated June 30, 1992 called for a long term ground water monitoring remedy, with a contingency for ground water pump and treat.

Under an EPA Unilateral Administrative Order issued by EPA, the PRP's contractor completed a Remedial Design for the soil and sediment remedy in September 1992. A Consent Decree between EPA and the PRPs provided for the implementation of the remedy for both operable units. The Consent Decree was entered on October 11, 1995. A separate agreement under which several federal PRPs would participate in implementing the remedy was embodied in an Administrative Order on Consent. In January 1996, EPA approved Remedial Action Work Plans prepared by the engineering contractor for the OU–1 and non-contingent OU–2 remedies. The construction contractor mobilized to the Site and began implementing these remedies on May 9, 1996. A volume of 4,472 cubic yards of contaminated soil and sediment was excavated, stabilized and solidified using portland cement, and placed in an on-site monolith. A September 17, 1996 construction inspection revealed that all components of the OU–1 remedy and the non-contingent portion of the OU–2 remedy were constructed in accordance with RD/RA plans and specifications.

A Remedial Action Report dated November 1996, documents the completion of the Remedial Action for OU–1 and completion of the non-contingent portions of the remedy for

OU–2. EPA approved the RA Report on February 26, 1997.

On April 6, 1998 an Explanation of Significant Difference (ESD) for the OU–2 ROD was finalized. The ESD clarifies the OU–2 ROD to indicate that the ground water remedy, based on four consistent monitoring events with no detectable PCBs, had attained its performance goal of 0.5 ppb. On this basis, no further ground water monitoring or contingent remedial activities are required.

C. Cleanup Standards

The remedial action cleanup activities at the Yellow Water Road Dump Site are consistent with the objectives of the NCP and provide protection to human health and the Environment. The cleanup standards for soil PCBs are 10 mg/kg. The cleanup standards for PCBs in ground water are 0.5 ppb. All soil containing PCBs at concentrations greater that 10 mg/kg was excavated, treated via stabilization/solidification, placed in an on-site monolith, covered with one foot of clean soil and vegetated. Treated soil achieved performance standards of greater than 50 psi for compressive strength and less than 60 ug/l for total leachable PCBs (TCLP). Extensive confirmatory sampling verifies that the Site has achieved the cleanup standards for both soil and ground water and that performance standards were achieved or exceeded for treated soil.

D. Operation and Maintenance

The Operation, Maintenance and Monitoring Plan was approved by EPA on May 1, 1997. Ongoing operation, maintenance and monitoring activities include semi-annual inspections of the Site monolith to evaluate the presence of, or potential for, surface cover failures and/or intrusions including surface cracking, establishment of deep-rooted vegetation, animal burrow holes, wash-outs and soil erosion; assessment of Site fencing and vegetative cover inspection; and evaluation of the monolith integrity. Pursuant to the existing Consent Decree, the Yellow Water PRP Group has assumed all responsibility for O&M until the thirty year anniversary of the Consent Decree entry in 2026. Following this date, federal PRPs will conduct the O&M.

E. Five Year Review

Because treated waste will remain on site in the monolith, a five year review of this project is necessary to ensure continued protection of human health and the environment. The five year time frame begins with the date of remedial action mobilization to the Site which, for this project, is May 9, 1996. Therefore, the five year review should be completed prior to May 9, 2001 and will be conducted pursuant to OSWER Directive 9355.7–02, ''Structure and Components of Five Year Reviews.''

F. Community Involvement

EPA published its community Relations Plan in May 1990, after interviews with local residents and officials. An information repository was established at the Baldwin Town Hall and all of the documents used to make remedy decisions were placed there before the Records of Decisions were signed. Other community involvement activities included an on-site public meeting, routine publication of fact sheets at all important milestones during the project and ongoing direct communication with the public as the need for information arose.

G. Applicable Deletion Criteria

One of the three criteria for deletion specifies that responsible parties or other parties have implemented all appropriate response actions required. EPA, with concurrence of Florida Department of Environmental Protection, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the deletion docket.

H. State Concurrence

EPA has consulted with the Florida Department of Environmental Protection (FDEP) in evaluating the Site for deletion. FDEP has concluded that activities at the Site have been completed in accordance with the site Records of Decision and the remedy is protective of human health and the environment.

Dated: November 30, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–33742 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 441

[FRL–6209–1]

Notice of Data Availability; Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: On December 17, 1997, EPA proposed pretreatment standards for pollutants discharged to publicly owned treatment works (62 FR 66181). This notice presents a summary of the data received since the proposal, and an assessment of the usefulness of the data in EPA's analyses; presents a modified technology option suggested by commenters; presents a modified no regulation option suggested by commenters; discusses a voluntary industry program, and discusses other specific issues raised by commenters including the methodology for the passthrough analysis. EPA solicits public comments regarding any of the information presented in this notice of data availability and the record supporting this notice.

DATES: Submit an original and three copies of your comments postmarked by February 8, 1999.

ADDRESSES: Submit comments to Ms. Marta E. Jordan at the following address: US EPA, Engineering and Analysis Division (4303), 401 M. St. SW, Washington, DC 20460.

The data and analyses being announced today are available for review in the EPA Water Docket at EPA Headquarters at Waterside Mall, room EB–57, 401 M. St. SW, Washington, DC 20460. For access to the docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For additional technical information, contact Ms. Marta E. Jordan at (202) 260–0817 or at the following e-mail address: Jordan.Marta@epa.gov. For information on economic information contact Mr. George Denning at (202) 260–7374 or at the following e-mail address: Denning.George@epa.gov.

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I. Purpose of This Notice

On December 17, 1997 (62 FR 66181), EPA proposed regulations to reduce discharges to publicly owned treatment works of toxic, conventional, and nonconventional pollutants in wastewater from the industrial laundries industry. EPA has received numerous comments and data submissions concerning the proposal. In this notice, EPA is making these new data submissions available for comment and is providing discussion of the analyses performed relating to specific issues raised by commenters. EPA also solicits information and comments on a variety of other issues or questions.

II. Data Acquired Since the Proposal

Since proposal, EPA has obtained additional data and information from the industry, publicly owned treatment works (POTWs), and the Agency's continued data collection activities. The Agency has included these new data and information and the preliminary results of the evaluation of this data and information in Sections 14 through 22 of the supporting record of this notice for review by interested parties. The industry and POTW information and data submittals are related to cost of treatment, effluent pollutant levels after treatment, passthrough of pollutants at POTWs, and a presentation by the industry of a voluntary environmental stewardship and pollution prevention program. The new data collected by the Agency include: performance data from a facility operating chemical precipitation technology and data identifying some of the major individual constituents of the Total Petroleum Hydrocarbon [TPH (measured as SGT-HEM)] parameter using Method 1664. The study identifying constituents of TPH relates to EPA's pass-through analysis and EPA's cost-effectiveness analysis.

EPA closed the comment period on March 19, 1998 for all aspects of the proposed rule except for treatment performance data. EPA received comments from approximately 300 commenters by the March 19 deadline. Some of the comments received on or before the March 19 deadline included data submittals.

In order to provide additional time for the generation of treatment performance data, EPA extended the deadline for comments on the proposed rule to April 20, 1998 for commenters who would be providing data which could be used in calculating limits. EPA received three comment submittals for the April 20 deadline, although none of the submittals contained performance data that could be used in calculating limits for either technology upon which the proposed rule was based. One of these submittals contained five days of POTW treatment performance data for TPH as measured by Method 1664. Other submittals received by EPA included comments on EPA's analytical sampling data validation procedures, an economic survey of the industry conducted by Uniform and Textile Service Association (UTSA) and Textile Rental Services Association (TRSA), and comments that some of the proposed limitations were too stringent.

EPA received several comments after the April 20 deadline; however, only one of these was a data submittal. This data submittal included 11 days of final effluent data from one industrial laundry for the conventional pollutants (oil and grease, total suspended solids, biochemical oxygen demand and pH). In addition to data submitted in comments and data collected by EPA, the trade associations conducted a survey to update treatment-in-place information contained in EPA's 1993 survey data base. The trade associations also developed and submitted to EPA for consideration as an alternative to regulation, a voluntary program for the industry. This voluntary program has five main components: (1) the establishment of industry-wide program goals; (2) a statement of environmental principles; (3) a menu of specific voluntary initiatives; (4) an implementation plan; and (5) a system for assessing program performance.

Below are brief descriptions of each type of new data and the results of additional analyses of these data by the Agency, and a summary of the environmental voluntary program initiative submitted by the industry trade associations.

A. POTW Data

EPA received comment submittals from over 40 commenters pertaining to POTW data that relate to the passthrough analysis. These commenters included: individual POTWs, local control authorities, the Association of Metropolitan Sewerage Agencies (AMSA), the Association of Nonwoven Fabrics (INDA), the Uniform and Textile Service Association (UTSA) and the Textile Rental Services Association (TRSA). Individual POTWs primarily provided data related to the following subjects: the method used to measure TPH, estimated POTW percent removals, influent and effluent concentration values to be used in the calculation of POTW percent removals for the passthrough analysis, industrial laundry facility monitoring data, and local limits covering industrial laundry facilities. These data and results of any evaluations of these data are contained in Section 17 of the rulemaking record.

EPA's preliminary evaluation of the submitted POTW performance data indicates that the only data that may be usable were submitted by one of the local control authorities (Los Angeles County) and the industry trade associations (UTSA and TRSA). The Los Angeles County pretreatment control authority submitted five days of influent and effluent TPH data (measured as SGT-HEM) using Method 1664. However, only three of the days contained usable paired data for calculating TPH removals. Two of the days of data could not be used because one day had an effluent value greater than the influent value, and the other day did have a reported influent concentration. An additional limitation of the three paired data sets that were used to calculate the percent removal for TPH did not result in a precise estimate, but only a lower bound estimate. Because the effluent concentrations were below the method detection level, a percent removal could only be calculated as ''greater than'' some value. The greater than values ranged from 37.5 percent to 73.7 percent. For the purpose of this Notice, EPA used the daily data with the highest influent concentration, resulting in a percent removal estimate of 74 percent for the revised passthrough

evaluation discussed in Section III. This value for POTW removal of TPH is also used in the revised cost-effectiveness determination.

UTSA and TRSA provided the *Final Report of Updated Local Discharge Standards for the City of Portland, OR* as an attachment to their comments. Data in this report include historical POTW percent removals over the past 18 years for 15 metals, percent removals for 21 metals during a one-year sampling program, and influent and effluent data for 21 metals based on the one-year sampling program.

B. Industrial Laundry Data and Trade Association Voluntary Program

EPA received 65 data submittals from the industrial laundry and related industries to be considered for use in developing the final rule. These 65 data submittals were from 12 individual comment submittals. These comment submittals were from nine industrial laundry companies, the Uniform and Textile Service Association (UTSA), the Textile Rental Services Association (TRSA), the National Ship Building Association and the Association of American Railroads.

The data received included: effluent data, cost data, data presenting the constituents of TPH, data on the analytical variability of bis(2-ethylhexyl) phthalate, and data on local limits. The industrial laundries and the laundry trade associations also submitted reports and case studies to be considered in the development of the final rule. Reports and studies submitted by commenters ranged in content from data pertaining to the calculation of the toxic weighting factor for total petroleum hydrocarbons (TPH) to general economic and industry profiles for the industrial laundries industry. A general summary of the data submitted by commenters is presented in Section 17 (Memorandum: Review of Data Submitted on the Proposed Pretreatment Standards for Existing and New Sources for the Industrial Laundries Point Source Category (DCN L06041)) of the Industrial Laundries record. The data are contained in Section 14 of the rulemaking record.

EPA reviewed the effluent data submitted by industry and found that in many cases the commenter did not provide enough detail for EPA to use the data to revise its calculations of appropriate effluent limits. EPA currently does not expect to use the data if the following information was not included with the effluent data: the amount of production at the facility, the item mix, type of treatment technology, what portion of wastewater was being treated, performance (influent and effluent concentrations) of the technology, and methods used for analyzing the reported pollutant parameters. EPA is continuing to evaluate whether any of this additional data can be used in evaluating treatment technology performance and solicits comment on this issue.

Cost data submitted by commenters included: general annual and capital costs for both chemical precipitation and DAF, the annual costs associated with treating 1,000 gallons of wastewater with DAF, analytical cost data, and the costs associated with the construction of a new building for an industrial laundry facility. In most cases the usefulness of this cost data is limited due to the lack of detail on the equipment covered by the costs and indirect costs included.

The industrial laundries associations (UTSA and TRSA) submitted a voluntary multi-media environmental stewardship and pollution prevention program in order to support the ''no regulation'' option. The centerpiece of the voluntary program is a series of initiatives seeking to achieve a reduction of up to 25 percent in industry water, energy, and washroom chemical usage (on a per pound of textiles laundered basis) by the year 2002. According to the trade associations, industrial laundries do not have direct control of a significant amount of toxic pollutants contained in industrial laundry wastewater, since these pollutants come primarily from their customers. The industry's direct control is related to water, energy, and washroom chemical use, thus the emphasis on voluntary control of these activities. The program would be initiated by UTSA and TRSA surveying the industry to develop a 1998 ''benchmark'' against which progress towards these reduction goals will be measured. In an effort to reduce further the amount of pollutants in industrial laundries wastewaters, the industry also would develop and implement a comprehensive customer pollution prevention outreach program. The industry is not in a position to project specific reduction goals from its customers at this time, but UTSA and TRSA would establish a baseline and measure the success of the outreach program in future years. EPA believes that goals setting a level of reduction of pollutants in the discharge are an important element of any such voluntary program.

UTSA and TRSA would guide implementation of the voluntary program. Because the membership of the two trade associations accounts for over 90 percent of the sales generated by the laundry industry, leadership at the association level would help ensure significant participation from the industry as a whole. The proposed voluntary program would cover the entire laundry industry, not just the sectors included in the proposed pretreatment standards. The effort would be directed by an implementation committee established under the auspices of UTSA and TRSA and include representatives from the two trade associations, industry suppliers, and customers. The industry's description of the program is contained in Section 16 of the record for this notice.

C. EPA Sampling Data From a Facility Operating Chemical Precipitation Treatment

After proposing the rule, EPA sampled an additional facility operating a chemical precipitation (CP) unit to obtain more data concerning treatment performance that could be used in evaluating appropriate pretreatment standards based on chemical precipitation. The sampling took place during the week of February 9, 1998; a detailed report of the results can be found in the sampling episode report in Section 16 of the rulemaking record. EPA has included this data in recalculating the proposed pretreatment standards for the CP option and in calculations of standards for other options being evaluated. EPA recalculated the standards for all of the proposed regulated parameters using the same methodology as in the proposal. For the proposed CP option, the inclusion of the new data does not change the standards significantly. EPA compared the proposed standards to the recalculated standards and for TPH, the proposed standards were slightly higher than the recalculated standards (e.g., the maximum daily values are 27.5 mg/L versus 21.8 mg/L). For the metals EPA proposed to regulate, the proposed standards were lower than the recalculated standards. For the organics, the proposed standards were higher than the recalculated standards for all except bis (2-ethylhexyl) phthalate and tetrachloroethene . See Section 21 of the record for comparisons of recalculated standards for all of the options and for more detail describing the development.

Following the proposal, EPA received comments stating that the data used to develop the proposed pretreatment standards were not representative of chemical precipitation treatment because the data source was a facility that operated steam tumbling for printer towels, used chemical emulsion

breaking wastewater treatment prior to the chemical precipitation unit, and that the influent levels of the regulated parameters were low. EPA believes the data used for the proposed standards are representative of chemical precipitation treatment for this industry for several reasons. First, the chemical emulsion breaking unit was not operating properly during the sampling episode. Second, the steam tumbling unit was not effectively removing TPH or most of the organic pollutants as demonstrated by comparing data for a steam tumbled load of printer towels to data for a load of printer towels that was not steam tumbled. The steam tumbling unit showed removals for only 6 of the 11 pollutants proposed for regulation, with removal efficiencies ranging from 27 to 91 percent. Third, with respect to the influent levels identified at the chemical precipitation treatment unit being too low, design and operational characterization of chemical precipitation technology can be varied such that the technology is capable of performing at a level that enables a higher influent concentration to be reduced sufficiently to meet the limitations. Finally, the additional chemical precipitation data collected by EPA since proposal confirm that chemical precipitation technology is capable of achieving the effluent pollutant concentrations reflected by the proposed pretreatment standards with much higher influent concentrations of the pollutants.

Commenters also stated that EPA did not account for variability in wastewater concentrations among industrial laundries in setting the limitations. EPA believes it has accounted for variability in wastewater concentrations because the laundries used for developing limits represented facilities with a wide range of items and production reflecting what the industry as a whole launders. In examining priority organics and metals, conventionals, and nonconventional parameters at six facilities operating dissolved air flotation (DAF) or CP units, EPA determined these facilities represented a broad range of influent pollutant concentrations.

Commenters further criticized EPA for basing the TPH (measured as SGT-HEM) on one CP facility data set. EPA recognizes that at proposal, EPA only had data from one CP facility under the current method for SGT-HEM upon which to base the proposed TPH limit under the CP-IL option. In examining TPH concentrations from all five facilities used for proposal, EPA found that DAF and CP treat TPH to approximately the same effluent concentration level regardless of the concentration in the influent. From an engineering standpoint, EPA would expect this to be the case because both technologies rely on the efficiency of chemical coagulation which can be adjusted for variable wastewater pollutant concentrations through proper selection of coagulants and proper mixing. Since proposal, EPA has evaluated and compared the TPH results from an additional CP facility with those from the CP facility used at proposal and the three DAF facilities. For the three facilities operating DAF systems, the range of 5-day average influent and effluent TPH concentrations were 245–681 mg/L and 10.4–41.4 mg/L, respectively. For the facilities operating CP systems, the range of 5-day average influent and effluent TPH concentrations were 164–2,280 mg/L and <7.20–<10.6 mg/L, respectively. At the newly sampled CP facility, the influent and effluent TPH concentrations were 987 and < 9.35 mg/L respectively, which both fall within the concentration ranges found at the other facilities EPA sampled operating DAF or CP.

Note that EPA does not conclude from the data above that the chemical precipitation treatment systems are necessarily able to achieve lower effluent levels than the DAF facilities since the DAF facilities may not need to operate their treatment system optimally because they are subject to higher local limits. For this reason and based on the data EPA has concerning the comparative performance of DAF and CP, EPA continues to believe that DAF and CP would both constitute BAT and could form the basis for final effluent limits.

D. Total Petroleum Hydrocarbons (TPH) Characterization Study Using Method 1664 and Gas Chromatography/Mass Spectroscopy (GC/MS)

In the proposed rule, EPA used TPH for two different analyses, the passthrough analysis and the cost effectiveness analysis. EPA has further analyzed the constituents of TPH to improve both analyses. Each analysis is discussed in turn below.

As explained in the proposal, to set pretreatment standards, EPA determines whether the pollutant passes through or interferes with the operation of a POTW. In the proposed passthrough analysis, EPA compared the performance of the candidate technology for PSES in removing TPH to the performance of well-operated POTWs achieving secondary treatment in removing TPH. In the proposal, EPA based the TPH removal at POTWs on removals of three n-alkanes. EPA received comments that this was inappropriate because, according to the commenters, EPA had no data on TPH removals at POTWs and failed to explain its assumption that the three selected n-alkanes are proper surrogates for TPH. In response to these comments, EPA conducted a study to evaluate the TPH parameter in order to identify the constituents comprising the TPH measurement. The study was conducted by sampling the influents and effluents of the DAF and CP treatment units at the facilities used in the proposal options bases, analyzing these samples for TPH and oil and grease (as SGT-HEM and HEM, respectively) using Method 1664 and evaluating the 1664 extracts using gas chromatography and mass spectroscopy (GC/MS) methods. Based on this analysis, several constituents that are part of the TPH measurement were identified. However, only a small portion of the constituents of the TPH measurement could be identified. Results of these analyses are shown in Section 16 of the record for this Notice. Most of the constituents identified in the influent samples are alkanes, as well as naphthalene, bis(2-ethylhexyl) phthalate and 2-methylnaphthalene. These constituents make up approximately 2 percent of the measured SGT-HEM. EPA used the constituents analysis to examine passthrough of the constituents rather than TPH. EPA also received data following the proposal on POTW treatment of TPH. (See Section III below).

EPA received comments on its cost effectiveness analysis criticizing the toxic weighting factor (TWF) used for TPH arguing that it overstated the toxicity of TPH. While cost effectiveness is not required to be analyzed to establish BAT, NSPS, PSES, or PSNS, EPA performs this analysis to compare options. According to the commenters, EPA developed a TWF for TPH based on improper data and calculation procedures and consequently inappropriately inflated the TWF, resulting in an overestimate of the benefits and cost-effectiveness of the proposed rule. As stated above EPA found that only 2% of the constituents are identified and measured by the SGT–HEM method. Based on only 2% of the constituents, EPA estimates an average toxic weighting factor (TWF) for TPH measured as SGT–HEM of 0.009 for the identified constituents. Given the small percentage of constituents identified and measured by this method, EPA questions the usefulness of the cost-effectiveness analysis. EPA

provides details for estimating the TWF in Section 22 of the record.

III. Analysis of Pretreatment Standards for Existing Sources (PSES) Options Identified in the Proposal

A. New Data Related to the Passthrough Analysis of Regulated Parameters Other Than TPH

EPA received data on POTW treatment performance from five separate commenters. These commenters included the industrial laundries trade associations (TRSA and UTSA), the Association of Metropolitan Sewerage Agencies (AMSA), the Hampton Roads Sanitation District (HRSD), the Metropolitan Council Environmental Service (MCES), and the LA County Sanitation District. EPA reviewed these submittals and determined the potential uses and limitations of the data.

UTSA and TRSA provided the *Final Report of Updated Local Discharge Standards for the City of Portland, OR* as an attachment to their comments. Data in this report include historical POTW percent removals over the past 18 years for 15 metals, percent removals for 21 metals during a one-year sampling program, and influent and effluent data for 21 metals based on the one-year sampling program.

AMSA submitted average POTW removal rates for five organic pollutants from seven POTWs in the Metropolitan Water Reclamation District (MWRD) of Greater Chicago. AMSA also submitted average paired influent and effluent data for bulk conventional and nonconventional parameters for nine POTWs in the Hampton Roads Sanitation District (HRSD). These data were also submitted by HRSD in a separate comment. The MWRD data were provided as percent removals, with no individual influent and effluent concentrations presented. The HRSD data do not include any of the pollutants evaluated by EPA in the pass through analysis, and therefore could not be used in calculating POTW percent removals for the pass through analysis.

MCES presented POTW removal rates for metals, BOD, TSS, phenols, toluene, and TPH in the text of the comment submittal. However, data presented are general percent removals and in some cases are estimated. More detailed information on the data submitted can be found in Section 17 of the rulemaking record.

EPA may use the data from UTSA/TRSA (City of Portland) and the data from LA County in the final passthrough analysis. On average, the difference between the POTW percent removals used in developing the proposal and the City of Portland POTW percent removals is only minor because only for a few parameters was the percent removal used for proposal lower than the percent removal from the City of Portland data set. For metals (copper, lead and zinc), the City of Portland percent removals are close to or slightly lower than those used for proposal. The percent removal for TPH using one day of data from LA County (the day with the highest influent concentration) is 74 percent, compared to 65 percent POTW removal for TPH used in the proposed rule. This value is still significantly lower than the 94–98 percent removals determined for the pretreatment technologies.

B. TPH (measured as SGT–HEM) as an Indicator

Commenters stated that TPH is well treated by POTWs or does not pass through and thus should not be regulated. EPA believes that whether the final passthrough analysis shows pass through or not, that TPH is a good indicator that pretreatment standards will affect removals of significant pounds of toxic and nonconventional pollutants. In addition, the variability of a relatively inexpensive monitoring method for TPH justifies regulating TPH rather than the host of pollutants controlled by a limitation on TPH.

IV. Results of Analyses of Proposed and Newly Acquired Data With Respect to Various Comment Issues

A. Towel Only Option (Modified Heavy Option)

During the comment period, some commenters indicated that EPA should consider regulating only facilities that launder shop and printer towels, because these items have the highest pollutant loadings of all items laundered by industrial laundries. In the proposal, EPA evaluated ''heavy'' options based on the use of DAF and CP technologies. The heavy options treated the heavy wastewater stream which consisted of shop towels, printer towels, mops, filters, and fender covers. As a result of the comments, EPA is evaluating and soliciting comments on a modified heavy option that would require only facilities that launder shop towels, printer towels, furniture towels, or other industrial towels/rags to meet the proposed standards (''Towel Only Option''). The Towel Only option is based upon treating only the wastewater from laundering industrial towels, then mixing the treated wastewater with other wastewater from laundering all other items prior to monitoring and discharge from the facility.

The modified option is based on using DAF technology to set the standards since EPA does not have treatment performance data characterizing chemical precipitation treatment of only shop and printer towels. EPA considered the same methodology as in the proposed rule to calculate pretreatment standards for this option and these calculated numbers are presented in Section 21 of the record.

The total estimated capital cost for the Towel Only option is $179 million (1997 dollars) and the annual operating and maintenance cost is $72 million, for a total annualized pretax cost of $91.1 million per year (1997 dollars) (posttax cost of $62.0 million per year). This is significantly less than the estimated annualized compliance costs for the CP–IL and DAF–IL options discussed in the proposed rule, which were $136.4 million per year pretax ($93.9 million per year posttax) and $176.8 million per year pretax ($118.6 million per year posttax), respectively (adjusted to 1997 dollars). Under the Towel Only option, 1,333 facilities would be covered by the rule, while under the proposed CP–IL or DAF–IL options 1,606 facilities would be covered by the rule. The recalculated pollutant removals for the Towel Only option would be 28,000 toxic-weighted pounds per year, taking into consideration treatment by POTWs. This is a reduction from the 51,000 toxic weighted pounds per year for the proposed CP–IL option (These numbers reflect the revised TWF for TPH). EPA believes that the Towel Only option would reduce the economic impacts of the rule. EPA is today soliciting comments on the Towel Only option.

EPA investigated the potential economic impacts of the Towel Only option and found that the option would be economically achievable and would improve the impacts discussed in the proposal. The analyses were run assuming no other special exclusions such as the proposed exclusion for facilities laundering less than 1 million pounds of total laundry and less than 255,000 pounds of shop towels) applied and assuming the worst-case scenario that no compliance costs could be passed through to customers. As a result of this preliminary analysis, given the costs currently estimated for the Towel Only option, EPA estimates that this option would result in a maximum of 32 facilities closing as a result of compliance costs. This is 2 percent of all facilities in the facility-level analysis and 2.4 percent of all in-scope facilities.

EPA estimates a total direct job loss of 361 full time equivalents (1 FTE= 2,080

hours) as a result of the facility closures projected under this option. Total direct, indirect, and induced losses throughout all sectors of the economy total 621 FTEs. The employment losses associated with closures overstate actual net losses to the industry, because some employment gains in the industry will occur (although the gains may not occur in the same geographic location or at the same time as the losses). These gains include operators of pollution control systems that might be hired and additional labor to expand some production at facilities located in market areas with facility closures (lost production from closures is estimated to exceed the amount of the reduction required to meet market equilibrium conditions). Under the assumptions about production losses and employment gains expected to occur as a result of the rule, as outlined in the economic analysis for the proposal, EPA estimates the actual net losses in the industrial laundries industry would be 212 FTEs lost (0.16 percent of total industry employment), considerably less than the number of direct losses predicted solely on the basis of closures.

In addition to these closures, EPA predicts this option would affect the ability of a maximum of 44 firms (all of which are single-facility firms) to raise the capital needed to purchase and install the pollution control equipment. This impact may result in the loss of financial freedom for these firms, up to and including the sale of the firms to larger multifacility firms. This impact does not mean that these firms will close; all these firms are viable at the facility level and are thus considered likely to be of interest to other firms for acquisition and possible continued operation.

The failure- and closure-based employment loss results indicate that the direct losses at closing facilities and failing firms (under the worst-case assumption that failing firms might close) total a maximum of 1,186 full-time equivalents (FTEs), or about 0.9 percent of total industry employment. Total direct, indirect and induced employment losses throughout the economy total a maximum of 2,040 FTEs. These losses do not include likely employment gains in the industry and in the U.S. economy due to the need to manufacture, install, and operate pollution control equipment. If gains are accounted for, there will most likely be small gains in employment in the nonclosing facilities and nonfailing firms and net gains in employment in the U.S. economy.

EPA has also performed an economic impact analysis for the industrial laundries industry to compare the impacts of the Towel Only option with the Chemical Precipitation (CP–IL) and Dissolved Air Flotation (DAF–IL) options. Note that the options that were discussed at proposal (CP–IL and DAF–IL) reflect an exclusion for facilities processing less than 1 million pounds of total laundry and less than 255,000 pounds of shop towels/printer rags, whereas the Towel Only Option reflects a reduced scope which only covers facilities that launder only shop towels/printer rags with no such similar production cutoff. Under a zero cost pass through assumption, the CP–IL option is estimated to result in 5 facility closures and 85 single-facility firm failures (i.e., production ceases under closure; production continues under failure). No multifacility firms fail under any option. The DAF–IL option is estimated to result in 35 facility closures and 85 single-facility firm failures. The closure numbers for the DAF–IL and CP–IL options under zero cost pass through are different from those that were presented at proposal due to an updated financial data element for one facility. This facility has a survey weight of 31. In follow up to the economic analysis presented in the proposal, EPA found that data submitted by this facility for one data element for one year was an extreme outlier, not only compared to the other two years of data submitted by the same facility, but also compared to data submitted by other facilities in the same strata. Furthermore, other financial information in the survey did not support the data point reported. This update resulted in 31 fewer facilities estimated to close under each of the two options discussed at proposal.

Because these analyses assume that no compliance costs would be passed through to customers, EPA considers this a worst-case scenario and believes that, for all options and cutoffs, the impacts will be considerably less than those estimated. See pages 5–9, 5–10 and Appendix A from the economic assessment (EA) of the proposed rule.

EPA is also considering an exclusion in the Towel Only option, such that facilities laundering small amounts of industrial towels per year would be exempt from the rule, including reporting and monitoring requirements. The exclusion would be based on laundering a certain number of pounds of industrial towels per year. Facilities laundering more than that amount in any year would no longer be excluded from the rule. EPA is soliciting comment on a low production exclusion for the Towel Only option.

EPA considered five low production cutoffs (4,800 pounds of industrial towels, 26,000 pounds of industrial towels, 31,300 pounds of industrial towels, 42,000 pounds of industrial towels, and 52,000 pounds of industrial towels) in its analysis. For these cutoffs, EPA estimated the posttax annualized costs (1997 dollars) to be $60.9 million, $58.8 million, $50.0 million, $48.9 million, and $ 48.2 million, respectively. EPA also estimates 32 facilities closing as a result of compliance costs for the 4,800 pound cutoff. For the remaining cutoffs, EPA estimates a maximum of 25 facilities might close as a result of incurring compliance costs. These low annual production cutoffs within the Towel Only option would also affect the ability of a maximum of 44 firms (all of which are single-facility firms) to raise the capital needed to purchase and install the pollution control equipment for all but the 52,000 pound cutoff, which would affect only 13 firms. For the 4,800 pound cutoff, direct losses at closing facilities total a maximum of 361 FTEs, or about 0.3 percent of total industry employment, and direct losses at closing facilities and failing firms total 1,186 FTEs (0.9 percent of total industry employment). For the remaining four cutoffs, EPA estimated direct losses at closing facilities of a maximum of 246 FTEs, or about 0.2 percent of total industry employment. EPA estimated direct losses at closing and failing firms of a maximum of 1,071 FTEs (0.8 percent of total industry employment) for three of the remaining four cutoffs and 606 FTEs (0.5 percent of total employment) for the last cutoff.

In addition to these potential cutoffs, EPA is continuing to investigate additional exclusions that would further mitigate impacts of the rule. These additional exclusions might be used with or in place of the various cutoffs used above. Examples of exclusions EPA is considering include an exclusion for facilities, or possibly single-facility firms only, who are exclusively industrial launderers (that is, they undertake no other business at that firm or facility) and who process less than 1 million pounds of laundry per year. EPA also is considering a revenue exclusion. Under this approach, facilities, or, more likely, single-facility firms, would be excluded if their revenues are less than $1 million annually.

A somewhat higher cutoff for pounds of industrial towels might also be considered. EPA solicits comments on these additional potential exclusions.

B. Clean Room Items

As part of comments on the proposed rule, EPA received data on clean room items. The term ''clean room items'' refers to specialty items used in particle- and static-free environments by computer manufacturing, pharmaceutical, biotechnology, aerospace, and other customers to control contamination in production areas. EPA evaluated the data and determined that the concentrations of pollutants found in clean room item wastewater were lower than the concentrations found in wastewater from most other items defined as industrial laundry items in the proposed rule, and the characteristics of the clean room wastewater were similar to linen supply laundry wastewater. Thus, the data support the removal of clean room items from the definition of industrial textile items, which would exclude laundering of clean room items from the scope of the regulation. The clean room data are presented in Section 17 of the record.

C. Summary of 1998 Data Collected by UTSA and TRSA

Since the publication of the proposed rule, the industrial laundries trade associations, the Uniform and Textile Service Association (UTSA) and the Textile Rental Services Association (TRSA), have performed a survey of all facilities that were sent an EPA 1993 detailed questionnaire. The purpose of the survey as stated by UTSA and TRSA was to provide EPA with updated data to calculate new baseline information on the industry, because the EPA questionnaire data are for the 1993 operating year. Of the 193 facilities that EPA used to model compliance costs and pollutant loading reductions for the proposed rule, 165 responded to the UTSA/TRSA survey. EPA has performed a preliminary review of the data from the survey. To conduct this review, EPA compared, for each facility, the treatment system description contained in the UTSA/TRSA survey to the treatment system components reported in the EPA 1993 detailed questionnaire. Treatment system descriptions reported in the UTSA/TRSA questionnaire did not include design parameters, and often did not include the portion of the wastewater treated by the system. Based on this review, EPA has made several assumptions to use the data the trade associations provided in estimating compliance costs and pollutant removals discussed below.

In general, the trade association data show that 18 facilities that did not have treatment at the time of EPA's 1993 detailed questionnaire now have installed wastewater treatment for all or part of their wastewater flow. Most facilities that have installed treatment since 1993 (13 of 18) have installed dissolved air flotation. Other types of treatment installed include two facilities that have installed chemical emulsion breaking, two facilities that have installed chemical precipitation, and one facility that may have installed biological treatment. In addition, some facilities have changed their main treatment technology since 1993: four facilities have changed from chemical precipitation to dissolved air flotation, one facility changed from chemical emulsion breaking to dissolved air flotation, and one facility changed from ultrafiltration to chemical emulsion breaking. To incorporate the most accurate facility level information into the baseline for compliance costs and pollutant loadings calculations, EPA would have to perform extensive follow up with the facilities to obtain more detailed information on production, treatment, and financial status. Because EPA is under a court order to take final action on this rule by June of 1999, EPA does not have sufficient time for such follow up. However, in order to utilize the data in some capacity, EPA has performed estimated calculations of the changes in compliance costs and pollutant removals that would occur if the baseline were changed to incorporate the trade association data given certain assumptions in order to use the data. To calculate the changes in compliance costs and pollutant removals, EPA made the following assumptions when reviewing the UTSA/TRSA survey data:

- For facilities that reported that they treat a portion of their wastewater and did not indicate the percentage of wastewater treated, EPA assumed that they are treating only a small portion of their total wastewater.
- For facilities that reported DAF, chemical precipitation, or chemical emulsion breaking treatment, EPA assumed that the facility is operating these systems in a manner equivalent to the treatment technology options costed.
- For facilities that provided treatment system descriptions that were not detailed enough for EPA to make judgement regarding the treatment system, EPA assumed that they are still operating the treatment system reported in the 1993 detailed questionnaire.
- For a facility that reported possible biological treatment, EPA assumed that it does not have treatment in place equivalent to any of the treatment technology options.
- For a denim prewash facility that operated a partial treatment system, EPA assumed that it treats wastewater from all items except for the denim prewash, which is not included in the scope of the rule.
- EPA did not reduce costs to reflect for ancillary treatment technologies (e.g., screens, filter presses, equalization tanks); added since the 1993 detailed questionnaire.
- EPA did not make any changes in the 1993 baseline year in the costs for ten facilities that reported closing or rebuilding since 1993.
- For facilities that reported that they planned to install treatment systems in the future, EPA assumed that they are still operating the treatment system reported in the 1993 detailed questionnaire.

EPA solicits comments and additional data that would shed light on the validity of these assumptions.

Based on these revisions since proposal, for the proposed CP-IL option, total capital and annual costs for the 1,606 industrial laundry facilities covered by the proposed rule would decrease by $17 million and $6.7 million per year, respectively (1997 dollars). The corresponding toxic weighted pollutant removals would decrease by 124,000 pound equivalents per year. For the proposed DAF-IL option, total capital and annual costs for the 1,606 industrial laundry facilities covered by the proposed rule would decrease by $100 million and $11 million per year, respectively. The corresponding toxic weighted pollutant removals would decrease by 135,000 pound equivalents per year.

V. Solicitation of Data and Comments

In addition to soliciting comments and data relating to any of the material presented in this notice, EPA is interested in receiving comments and data regarding a number of specific issues which are discussed below. In commenting or providing data with respect to a specific issue, commenters should refer to the specific issue which the comments address.

A. Additional Data To Support Comments Received on the Proposed Rule

As presented in Section II of this Notice, EPA received 302 individual comment submittals on the proposed rule. Of these 302 submittals, only 38 commenters (88 data submittals) provided data that supported their claims. Many commenters stated that EPA underestimated compliance costs and that EPA overestimated the treatment performance of chemical

precipitation and DAF. However, many commenters did not present data to substantiate these claims. Without additional data to support these claims, EPA will rely on data obtained prior to proposal (vendor quotes, previously submitted cost data, and sampling data) and data acquired since proposal through EPA's data collection activities to determine compliance costs and treatment performance.

In order to obtain data to support unsubstantiated comments made on the proposed rule, EPA contacted some commenters directly to request additional information. EPA developed a set of four questions that requested specific information required by EPA to incorporate the commenter's information into the final rule. In compliance with the Paper Work Reduction Act, EPA was only able to send letters to nine commenters that submitted unsubstantiated comments. The methodology used to select these nine commenters and copies of the letters sent to each of the commenters are presented in Section 14.6.1 of this rulemaking record. As of November 20, 1998, EPA has received responses from four of these commenters.

Because EPA was limited in the number of substantiation letters that could be sent directly to commenters, EPA is at this time requesting information from additional commenters who submitted unsubstantiated comments. Commenters indicating that EPA underestimated compliance costs or treatment performance are requested to provide specific cost or performance data to support those claims. Additional details on the information requested by EPA are provided below.

B. Compliance Cost Estimates

EPA received numerous comments on proposal indicating compliance costs were underestimated. At this time, EPA is requesting additional information from industry on costs for installing wastewater treatment systems in industrial laundries. Ideally, EPA requests that the data submitted be presented in the format used in the attachments to the substantiation letters. (These attachments can be found in Section 14.6.1 of the rulemaking record.) This format will allow EPA to fully analyze and incorporate industry data. At a minimum, EPA requests that capital costs be broken down in terms of treatment system equipment costs, installation costs, delivery costs, accessory costs (e.g., probes), instrumentation, piping, contractor fees, pumps, construction of buildings or other structures to house major treatment units, and engineering costs. EPA requests that annual costs be broken down into the following components, if available: chemical costs, electric costs, operation and maintenance (O&M) labor costs, O&M material costs, and residual disposal costs. EPA also requests that general data pertaining to the relevant facility be supplied. This includes a detailed description of the treatment system (average operating days per year and hours per day, treatment system unit descriptions and capacities, average wastewater flows in and out of treatment units, chemical addition type and location) and general production data for the facility (include total annual production and a breakdown of annual production by item type).

C. Treatment Performance Data

EPA received several comments indicating that the treatment performance of both chemical precipitation and DAF were overestimated. EPA's sampling data indicate that chemical precipitation can treat to the proposed standards. However, in order to obtain more data, EPA is requesting data on the treatment performance of chemical precipitation and DAF. EPA is particularly interested in the treatment performance of chemical precipitation and DAF technologies treating only industrial towel (shop, furniture and/or printer towel) wastewaters.

EPA requests commenters provide any monitoring data (from self-monitoring or POTW monitoring) that has not been previously submitted. Data of particular use to EPA include paired influent and effluent data related to chemical precipitation and DAF or, if these data are not available, provide paired influent and effluent data for each overall treatment system. In addition, commenters should provide a copy of local limits and/or monitoring requirements including analytical methods used and method detection limits for any non-detect values.

In order to fully evaluate the treatment performance data and the appropriateness of its inclusion in the development of the final rule, EPA requests that commenters provide information concerning each wastewater treatment system design and each facility's laundry production. Ideally, EPA requests that supporting data be provided in the format requested in questions 1 and 2 of the attachments to the substantiation letters. These attachments are found in Section 14.6.1 of the rulemaking record. At a minimum, EPA requests that general data pertaining to the commenter's facility be supplied. This includes a detailed description of your treatment system (average operating days per year and hours per day, treatment system unit descriptions and capacities, average wastewater flows in and out of treatment units, chemical addition type and location) and general production data for the commenter's facility (including total annual production and a breakdown of annual production by item type).

D. Passthrough Analysis

EPA received a number of comments on its proposal to reconsider the data used for the publicly owned treatment works (POTW) passthrough analysis. The Agency solicits influent and effluent pollutant concentration data from POTWs operating secondary treatment. These data may be used in recalculating POTW passthrough. EPA is particularly interested in any treatment data for total petroleum hydrocarbons (TPH measured as SGT-HEM) measured using the proposed EPA Method 1664, however EPA also solicits data resulting from existing (Freon extraction) methods. While this is not the current method, this data still provides essential information about performance. Commenters should provide monitoring data, the portion of the total wastewater treated at the POTW that is industrial (percentages and flow rates), the number of industrial laundries currently discharging to the POTW and the approximate flow rates of these laundries. In addition, provide the sample date, the number of sampling points, and detection limits for data below the detection limit in order to fully evaluate the data.

E. Volatile Organic Treatment Technologies Used at Industrial Laundries

At proposal, EPA analyzed the treatment performance and cost effectiveness of volatiles control by steam tumbling printer towels prior to water washing. At this time, EPA is requesting additional data on volatiles control. This includes data on steam tumbling, carbon adsorption, air stripping followed by a scrubbing device, and filtration of water streams through sand or diatomaceous earth. Commenters should provide treatment performance data, including paired influent and effluent data, and corresponding flow and production data. They should also provide, where available, the costs associated with implementing the treatment technology. Ideally, EPA requests that the data be provided in the format requested in the attachments to the substantiation letters.

These attachments are found in Section 14.6.1 of the rulemaking record. At a minimum, EPA requests that capital costs be broken down in terms of treatment system equipment costs, installation costs, delivery costs, accessory costs (e.g., probes), instrumentation, piping, contractor fees, pumps, construction of buildings or other structures to house major treatment units, and engineering costs. EPA requests that annual costs be broken down into the following components, if available: chemical costs, electric costs, operation and maintenance (O&M) labor costs, O&M material costs, and residual disposal costs. EPA also requests that general data pertaining to the commenter's facility be supplied. This includes a detailed description of the treatment system (average operating days per year and hours per day, treatment system unit descriptions and capacities, average wastewater flows in and out of treatment units, chemical addition type and location) and general production data for the facility (include total annual production and a breakdown of annual production by item type).

F. Pollution Prevention Activities

EPA proposed a no regulation option at the time of proposal. If EPA decides to go forward with the no regulation option, EPA may require specific pollution prevention/reduction activities to be implemented at industrial laundry facilities. EPA is soliciting information on in-process pollution prevention activities designed to minimize the level of pollutants in the influent at industrial laundries. Commenters should provide a description of the pollution prevention activity and information on the pollutant reduction due to implementation of this practice.

EPA also solicits comment on whether a best management practice (BMP) option, in lieu of an end-of-pipe regulation using any of the previously identified options controlling organic compounds, should be promulgated. This option would require control of organic solvents prior to the wash cycle by treating industrial towels only. In this case, the BMP could specify a certain technology (e.g., centrifuges, hydraulic presses, mechanical wringers) in lieu of a performance standard and could be used in conjunction with the industry's proposed voluntary program.

G. Space Limitations and New Building Costs for Industrial Laundries

EPA received several comments indicating that space requirements and expansion costs for industrial laundries were underestimated. EPA is soliciting comments and data from industrial laundry facilities that in the past five years have installed pretreatment equipment that required them to either purchase addition land and/or construct a building to house pretreatment equipment. For facilities that purchased additional land to install pretreatment equipment, please provide information on the amount of land purchased, the cost of the land, and the location of the facility. For facilities that constructed buildings to house pretreatment equipment, please provide a detailed description of the building (including size, construction materials, and any additional uses of the building) and a detailed cost breakdown (including construction costs, secondary containment costs, HVAC costs, etc.).

H. Alternative Approach to ''No Regulation'' Option

EPA has received from UTSA and TRSA a proposal that would serve as an alternative to the pretreatment standards proposed by EPA. This document, which is available in Section 16 of the public record for this rulemaking, outlines a voluntary multi-media environmental improvement and pollution prevention program. The programs contains five elements: (1) The establishment of industry-wide program goals; (2) a statement of environmental principles; (3) a menu of specific voluntary initiatives; (4) an implementation plan; and (5) a system for assessing program performance. EPA solicits comment on whether this program or some combination of elements of this program should take the place of the final rule, or be part of an option for those facilities excluded from numeric standards based on some sort of size cutoff to embark upon in place of complying with standards contained in the final rule. EPA has also received comments supporting EPA to go forward with the promulgation of pretreatment standards for this industry. These comments can be found in Section 14 of the record.

Dated: December 16, 1998.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 98–34037 Filed 12–22–98; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Parts 514 and 530

[Docket No. 98–30]

Service Contracts Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission (''Commission'' or ''FMC'') proposes to revise its regulations governing service contracts between shippers and ocean common carriers to reflect changes made to the Shipping Act of 1984 (''1984 Act''), the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998). Specifically, the Commission proposes to revise its regulations implementing section 8(c) of the 1984 Act and create a new regulation which would govern only service contract filings. The Commission is proposing to establish new rules for service contract filing and essential terms publication, revise its regulations to include the newly permitted agreement and multiple shipper-party service contracts, and make other conforming changes. The Commission is also proposing an electronic filing system for service contracts which is intended to reduce the filing burden on parties and accommodate the efficient processing and review of what is predicted to be a large number of filed contracts.

DATES: Submit comments on or before January 22, 1999.

ADDRESSES: Address all comments concerning this proposed rule to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001.

FOR FURTHER INFORMATION CONTACT:

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, (202) 523–5740

Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, (202) 523–5796

SUPPLEMENTARY INFORMATION: The Ocean Shipping Reform Act of 1998, Pub. L. 105–258, 112 Stat. 1902 (''OSRA'') was signed into law on October 14, 1998. OSRA makes several changes to the existing system by which the Federal Maritime Commission (''FMC'' or ''Commission'') regulates ocean shipping in the foreign commerce of the

United States. OSRA makes significant changes to the provisions governing service contracts under the 1984 Act. On November 13, 1998, the Coast Guard Authorization Act of 1998, Pub. L. 105–383, 112 Stat. 3411, was signed by the President. That Act also amends the 1984 Act by redefining the term ''common carrier.'' Accordingly, the Commission now proposes to update, redesignate and clarify its rules to implement the changes mandated by these laws. This supplemental information presents these changes in detail.

The proposal seeks to carry over existing regulations (particularly 46 CFR 514.7 and 514.17) where they comport with the revisions to the 1984 Act made by OSRA and where they represent a sound approach. The purpose, scope, applicability and definition sections, found in proposed regulations §§ 530.1, 530.2, 530.3 and 530.4 are adapted from current §§ 514.1(b) (purpose), 514.1(a) (scope) and 514.2 (definitions). These proposed rules envision an electronic filing system for service contracts, and coordinate the publication of essential terms under section 8(c) of the 1984 Act with the publication of tariffs under proposed regulation 46 CFR part 520.

OSRA fundamentally revises the statutory scheme for tariffs and service contracts. Tariffs are no longer required to be filed with the Commission. Service contracts, on the other hand, are required to be filed confidentially with the Commission, and must contain specified essential terms. Similarly, while OSRA preserves the requirement that certain essential terms be published, that requirement has been significantly scaled back and includes only the following terms: (1) Origin and destination port ranges; (2) the commodity or commodities involved; (3) the minimum volume or portion; and (4) the duration of the service contract. Just as significant to service contracting is the repeal of the ''me-too'' right for similarly situated shippers. Carriers will no longer be required to offer the same contract terms to similarly situated shippers.

Another significant change made by OSRA is the authorization of non-conference ocean common carrier agreements to enter into service contracts. Furthermore, under OSRA, unrelated, multiple shippers may enter into service contracts without necessarily being members of shippers' associations. These changes significantly free parties to make service contracts centered around the realities of the marketplace.

The Commission is mindful of several competing interests regarding the filing of service contracts. First, the filing requirements must be crafted with an appreciation for regulated entities' interests in simple, speedy and straightforward filing procedures. Second, they must enable the Commission to fulfill its statutory duty to guard against section 10 violations and section 6(g) matters. This responsibility on the part of the Commission is especially important now that service contracts will be confidential; potentially aggrieved parties will rely on Commission oversight. This will be complicated by the predicted increase in the sheer number of service contracts filed. It is with these goals in mind that the Commission proposes the following regulations, designed to enable the Commission to fulfill its regulatory mandate while imposing a minimal burden on regulated parties.

The Proposed Rule

The proposed rule redesignates the Commission's rules on service contracts currently in 46 CFR part 514 into a new part, 46 CFR part 530. The following discussion covers the proposed rule's treatment of service contract filings; essential terms publications; carrier duty to disclose to collective bargaining agreements; confidentiality; excepted commodity (''mixed'') and global contracts; re-rating; and miscellaneous matters.

General filing requirements

Filing requirements in the existing regulations (46 CFR part 514) as well as in the proposed regulations, govern initial filings, amendments, and notices of correction and cancellation. In an attempt to update and streamline the filing system, as well as enable the Commission to fulfill its statutory monitoring duty over service contracts, the Commission is proposing to initiate a filing system which would be completely electronic. Due to the volume of service contract filings the Commission expects after May 1, 1999, adoption of an electronic, as opposed to a paper-based, system appears to be the most practical approach.

Given the exceptionally short legislative deadlines and limitations on resources available to the Commission, the only viable approach to implementing an electronic filing system at this juncture would be to create a system adapted from the Commission's currently used filing system for the Essential Terms (''ETs'') of service contracts. The proposed rule reflects this approach. It envisions accepting only electronic filings (including amendments to service contracts filed prior to May 1, 1999); amendments to paper-filed service contracts would also necessitate the re-filing in electronic form of the underlying, *i.e.* initial, contract itself.

While the creation of an entirely new, tailor-made service contract filing system could have benefits over the proposed approach in terms of simplicity or flexibility, the creation of such a new system simply is not possible before May 1, 1999. The Commission invites comments on approaches to establishing such a new system, however, and if warranted and financially feasible could pursue such a strategy as a longer-term goal, treating the proposed system as a transitional solution.

The Commission has determined not to propose continuing the paper filing of service contracts, based on an assessment that an increased volume of contracts would create unworkable administrative burdens on both the industry and the agency and could substantially impair the Commission's ability to fulfill its oversight, enforcement, and monitoring responsibilities. However, commenters are welcome to address this matter as well.

The proposed regulation includes the details of this system. See, § 530.9 and Appendix A. The Commission solicits from the industry its views on the benefits and limitations of this approach and any suggested alternatives.

Registration of filers

The proposed rule carries over the existing filing fees for service contract and amendment filings, and for corrections to service contracts. Also, provision has been made to ''grandfather'' organizations currently registered to file essential terms publications, with no requirement that they submit a further registration fee. All individuals who presently possess an organization maintenance log-on be issued a new log-on and password for the new system. All other potential service contract filers must pay the requisite fee and be registered for service contract filing prior to filing service contracts. The proposed rule would also ''grandfather'' software which was certified by the old system, but would allow software providers to test their filing software if they so desired for the same certification fee.

Publication of essential terms

OSRA continues to require the publication of certain essential terms of service contracts. Section 8(c)(3) instructs carrier parties to service contracts to make these essential terms

available to the public ''in tariff format.'' The proposed regulation suggests that carriers and conferences should be able to satisfy this obligation in the same way they publish their tariff information under proposed 46 CFR part 520. Comments are solicited on any other options which might also be feasible and which would affect compliance with the publication requirement of the Act.

In an effort to assist the shipping public find statements of essential terms published according to this part, the Commission anticipates making a list of the locations of all such publications available on the FMC website. 46 CFR 530.13(f). The Commission requests comments this proposal.

OSRA removes the requirement that carriers and conferences provide ''me-too'' rights to similarly situated shippers on their service contracts. Similarly, OSRA no longer requires carriers and conferences to publish most of the essential terms of service contracts filed with the Commission. It appears that allowing carriers and conferences to publish their (non-confidential) essential terms by the same method they publish their tariffs is the most efficient approach to the publication requirement. Therefore, the proposed rule cross-references the technical requirements of the newly proposed tariff publication regulations to effectuate the essential terms publication required under this part.

Agreements and service contracting

Commission regulation governing the filing of individual carrier and conference service contracts remains, for the most part, the same as it had been under previous Commission regulation. However, there has been one significant change by OSRA: The additional authority for an ''agreement'' (as opposed to only a ''conference'') to enter into service contracts. This raises several issues which the Commission will address in this rulemaking.

Often, non-conference agreements do not create a central secretariat or authority to act on the agreement's behalf, nor do they maintain a common tariff. Unlike conferences, therefore, such agreements may have no uniform or standard method for filing or publishing the agreement service contract matters.[1]

With regard to non-conference agreements, the proposed rule indicates that any of the agreement parties to the service contract may file; if none of the parties properly files, the liability for such failure to file would rest equally on all agreement members party to the contract.

The question arises of how to require publication of statements of essential terms by agreements which do not have a common tariff. The proposed rule requires that each member of a non-conference agreement publish the statement of essential terms in its individual tariff, and reflect in its statement of essential terms the identity of the other carrier parties. 46 CFR 530.13(b). The Commission welcomes any comments as to alternative approaches by which non-conference agreement carriers may satisfy the publication requirement of section 8(c)(3) of the Act as revised by OSRA.

A similar issue arises with the Commission's policy regarding the filing by conferences of service contracts to which fewer than all members are parties. In the past, the Commission's policy has been to impose on the conferences the duty to file and publish the service contract material for service contracts entered into under the conference agreement, in which fewer than all the members would participate. 46 CFR 514.4(d)(5)(B). For service contracts outside the scope of the conference, the conference retained the authority to file on behalf of its member(s), but the carrier(s) involved also had a separate duty to file. 46 CFR 514.4(d)(5)(B)(2)(ii).

It appears necessary to revisit these policies at this time. A requirement that conferences file service contracts entered into by a subset of its membership would seem inconsistent with OSRA's new prohibition on agreement members being required to disclose the terms of their contracts, as well as other provisions regarding independent and confidential service contracting. Therefore, we are proposing that, for filing and publication purposes, contracts entered into by some, but not all, of a conference's members be treated in the same manner as non-conference agreement contracts. 46 CFR 530.5, 530.13.

Finally, the Commission must resolve how to handle re-rating issues which might arise under non-conference agreement service contracts. By definition, agreements do not have common tariffs at which carriage under a terminated or canceled contract could be re-rated. Therefore, if a service contract is rejected for not meeting the filing requirements, deadlines, etc., the issue of which rate should be applied to cargo which moved under that contract presents itself. One approach to this problem would be to re-rate the cargo at the tariff rate for that commodity of the carrier which actually moved the cargo. 46 CFR 530.16. While this is the approach presented in the proposed regulations, the Commission is interested to hear any others which might be suggested in the comments.

Duty to Disclose to Labor Organizations

In light of the confidentiality of service contracts and some of their essential terms, OSRA amends section 8(c)(4) to require that a carrier which is a party to or is subject to a collective bargaining agreement with a labor organization must respond within a reasonable period of time to that labor organization's request regarding the carrier's responsibility for certain activities related to cargoes transported under a service contract. The Commission is proposing, at 46 CFR 530.8, certain definitions of ''reasonable period of time'' for responding to a labor organization's request for information under section 8(c)(4) of the Act. This definition reflects the concern that labor organizations are apprised of the handling responsibility for cargo before that cargo arrives at the discharge port. The Commission expects that aggrieved labor organizations will use existing Commission processes in the event of noncompliance by a carrier. The Commission would entertain proposals for more specific and stringent rules if the existing standards and procedures prove inadequate in practice.

Commission Confidentiality

Proposed regulation 46 CFR 530.4 seeks to amend the confidentiality provision as follows: ''Nothing contained in this part shall preclude the Commission from providing certain information from service contracts to another agency of the Federal government of the United States as deemed necessary.'' Other federal agencies, in the administration of their statutorily mandated responsibilities, may have a need for service contract information which will otherwise be filed confidentially with the Commission and which under the existing 1984 Act is disclosed in the published essential terms statement. In an April 1, 1998 floor statement, the Senate bill's sponsor, Senator Hutchison, noted that

> Federal agencies have expressed concerns over how they are to ensure ocean carrier compliance with United States cargo preference law requirements concerning shipping rates in an era of service contract rate confidentiality. The FMC is encouraged

[1] Indeed, while the statute speaks of a ''carrier or an agreement'' entering into a contract, in instances where the agreement is not a distinct legal entity, the Commission anticipates that it is the multiple carrier members, rather than the agreement itself, who would be signatories to such a contract.

to work with affected Federal agencies to address this concern.

Cong. Rec. S3320,(daily ed. April 21, 1998)(statement of Sen. Hutchison). Similarly, in an October 1, 1998 floor exchange, the Chairman of the Senate Committee on Commerce, Science and Transportation, Senator McCain, asked Senator Hutchison

to clarify the ability of the FMC to share confidential service contract rate and service information with other Federal agencies to ensure that the U.S.-fleet shipping rates for preference cargo shipments meet statutory requirements.

Cong. Rec. S11302 (daily ed. Oct. 1, 1998)(Statement of Sen. McCain). Senator Hutchison replied,

. . . I want to make it clear that the FMC is authorized to share with another Federal agency service contract information that parties of the service contract have legally decided to protect from public disclosure in order to enable that Federal agency to ensure the compliance of U.S.-flag ocean common carriers with cargo preference law shipping rate requirements. Of course, that confidential service contract information would remain protected from disclosure to the public consistent with the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, and other applicable Federal Laws.

Cong. Rec. S11302 (daily ed. Oct. 1, 1998)(Statement of Sen. Hutchison). Thus, it is clear that the confidentiality afforded to service contract information is limited to nondisclosure to the *public*, and was not intended by Congress to fetter other Federal agencies in their oversight responsibilities.[2] It is therefore the intention of the Commission to allow access to filed contracts to Federal government agencies where appropriate; any such disclosures will not jeopardize the statutory aim of nondisclosure of confidential service contract information to nongovernmental entities.

Service Contracts With NVOCCs as Shipper Parties

Service contracts with non-vessel-operating common carriers (''NVOCCs'') remain subject to special requirements for certification of NVOCCs'' financial responsibility. *See* 46 CFR 514.7(e) and 46 CFR 530.7. The financial responsibility procedures in this proposed rule comport with the proposed regulation at 46 CFR § 515.27 (dealing with financial responsibilities of ocean transportation intermediaries).

Exceptions and Rejection

Congress has directed the Commission to refuse to accept any service contract dealing with commodities excepted from application by section 8(c)(2) or receiving an exemption under section 16 of the 1984 Act. S.Rep. No. 105–61, 105th Cong. 1st Sess., at 23 (1997)(''Report''). The Commission proposes to continue to permit the filing of service contracts which include both excepted and non-excepted commodities (''mixed'' contracts), in lieu of requiring the parties to rewrite their contracts to separate excepted and non-excepted commodities for filing purposes. Therefore, the Commission seeks comments on proposed regulation 46 CFR 530.14, particularly regarding the burden that would result to filers if service contracts were required to be drafted specifically so that excepted commodities were not covered. The proposal indicates that the Commission would refuse to accept for filing service contracts which exclusively cover excepted commodities, in keeping with the Report language.[3]

Global Service Contracts

Members of the carrier industry have suggested that the Commission should accept filings of service contracts which include terms covering both U.S.-to-foreign and foreign-to-foreign movements of cargo (hereinafter ''global contracts''). Clearly, the foreign-to-foreign activity lies outside the Commission's jurisdiction to regulate. This issue was before the Commission previously in Docket No. 92–20, *Service Contracts in Foreign-to-Foreign Trades,* Advance Notice of Proposed Rulemaking, 57 Fed. Reg. 18855 (May 1, 1992). That proceeding was discontinued, as carriers, conferences and shippers' associations strongly opposed the proposal to allow the filing of global service contracts. In their comments in that proceeding, several carriers and conferences noted that there was no business efficiency reason to allow the filing of global service contracts as ''there was no commercial need'' for the ability to so. In contrast, several large shippers expressed their desire to have the ability to enter into global service contracts and to thereby simplify and aggregate their traffic and logistics operations.

Many commenters in that proceeding suggested that global contracting would severely interfere with or complicate ''me-too'' rights. Furthermore, the National Customs Brokers and Forwarders Association of America stated that allowing such global contracts would give rise to discrimination in favor of large global shippers that could commit to larger worldwide volumes. However, Congress has eliminated the Commission's mandate to guard against unreasonable discrimination (except with regard to clearly defined protected classes), retooling the Act to place more emphasis on individual contracting and the marketplace.

There remains a concern, however, that allowing global service contracts, in which rates in U.S. trades will depend on minimum volume commitments calculated on a global basis, will complicate the Commission's ability to monitor and enforce carriers' compliance with their filed contract rates. While there is merit to this point, the legal obstacles do not appear to be insurmountable. There is no bright-line geographic limit to the Commission's ability to compel information from carriers. Rather, information sought must be ''not unreasonable'' and ''reasonably relevant'' to a lawful Commission inquiry. *United States* v. *Morton Salt Company,* 338 U.S. 632 (1950); *Far East Conference* v. *Federal Maritime Commission,* 337 F.2d 146 (D.C. Cir. 1964). Therefore, if information about the volumes moving in foreign-to-foreign commerce is relevant to the question of what rate applies in a U.S.-to-foreign trade (clearly a matter within the Commission's jurisdiction), then it would appear that such information may be compelled by the Commission. Moreover, we note that proper administration of certain sections of the 1984 Act, i.e., section 13(b)(5), redesignated as 13(b)(6) by OSRA, would seem to require that the Commission have the ability to compel information about cross-trades. However, as a practical matter, auditing arrangements with global quantities will undoubtedly generate substantial challenges.

Some of the objections in Docket No. 92–20 focused on whether global

[2] With respect to Department of Defense cargo preference law oversight, moreover, it also appears that the Federal Acquisition Regulations, 48 CFR 9.104–1(g), 9.105–1(c)(3), 15.404–1(a)(1), and 15.403–3(a), would provide the Department access to the service contract information in any event, although in a less efficient and more cumbersome manner.

[3] The Commission solicited comment on this subject in Docket No. 85–6, *Notice of Inquiry Concerning the Interpretation of Section 8(a) and (8)(c) of the Shipping Act of 1984,* as well as Docket No. 86–6, *Service Contracts.* In Docket No. 86–6, the Commission issued its Final Rule, 52 FR 23989 (June 26, 1989), and noted that ''service contracts often include a mixture of exempt and non-exempt commodities, so that a shipper can obtain a better contract rate. Presumably, the ability to offer service contracts on mixed commodities also benefits carriers.'' *Id.* at 23996. The Commission assumes that the same holds true for the shipping industry today, but solicits comment on industry practice and the burden which would be imposed if the Commission were to require that filed service contracts cover only non-excepted commodities.

volumes were consistent with the requirement for the filing of minimum volume commitments in public essential terms. While that issue was more important when parties had the right to ''me-too'' the terms, it still has some significance. The Commission proposes an approach that, when parties have a unitary minimum volume commitment covering U.S.-and foreign-to-foreign trades, it publish the amount in its public essential terms publication, but clearly indicate for the public that the volume includes quantities moving in foreign-to-foreign trades.

Furthermore, the concerns that conferences and niche carriers had in 1992 may have disappeared completely with the ability of non-conference agreements to enter into service contracts. Under OSRA, alliances, along with individual carriers, will have the ability to offer global service contracts. This ability, of course, will also be affected by the Commission's approach on the treatment of less-than-total agreement service contracts, as discussed more fully above.

Another question raised in Docket 92–20 was whether filing of global contracts would somehow extend other provisions of the Act, such as the prohibited acts in section 10, to the foreign-to-foreign legs. It is clear, however, that there would be no authority for the Commission to spontaneously extend its jurisdiction in this manner. Therefore, it appears that there is little policy or legal necessity to require parties to artificially structure their commercial dealings to be coextensive with the Commission's regulatory jurisdiction. Rather, a more sound approach would seem to be for carriers to enter into contracts based on the requirements of the global market, for carriers to submit them in their true and complete totality, and for the Commission to regulate those carriers, their agreements and service contracts to the extent of its authority, and not beyond.

It appears that the significant revisions to the 1984 Act necessitating sweeping changes to the service contract filing regulations, make this proposed rulemaking proceeding an opportune moment for the Commission to revisit the issues presented by the acceptance of filing for both mixed and global contracts. In light of the regulatory changes mandated by OSRA, the current proposal seeks to reduce the burden on the entities subject to the section 8(c) filing and publication requirements, together with recognition of the Commission's need to have the ability to easily access and search the filed documents. Thus, the proposed regulation allows the filing of service contracts which include (but are not limited to) excepted and exempted commodities and service outside the U.S. foreign trades. The Commission is concerned that it not overburden its filers, or encourage them to create artificial documents which do not reflect the actual underlying business agreement which the service contract represents.

Inland Portions of Through Movements to Europe

Unlike the United States, it appears that the European Commission (''E.C.'')—while permitting conference service contracts for the ocean movement of cargo—prohibits conference contracts which cover the movement of cargo to inland points in Europe. Therefore, it seems that carriers in the U.S.-European trade may participate in a conference service contract covering U.S.-Europe ocean movements, and sign an individual service contract covering European inland transport for the same shipper customer. A question has arisen as to whether these contracts for European inland transport must be filed with the Commission. It would seem that filing would be consistent with statutory requirements to the extent the contracts establish the European inland portion of a through rate charged by a carrier in a U.S.-Europe intermodal movement. However, the Commission welcomes comments on how it could minimize the regulatory burdens occasioned by these differences in regulatory regimes, to the extent it may do so given its own statutory responsibility.

Cross-Referencing Tariffs

Presently, most filed service contracts contain re-occurring terms common to all of a carrier's or conference's service contracts (including matters such as free time and demurrage, bunkering rates, currency matters, etc.) the complete text of which would be very cumbersome for the carrier party to file with the service contract. Therefore, service contracts almost always make cross-reference to terms contained in that carrier's or conference's tariff or an essential terms publication.

The Commission recognizes that it was Congress' intent, by lifting the requirement that tariffs be filed with the Commission, to allow parties to service contracts more freedom and flexibility in their commercial arrangements. The proposed rule, § 530.9(c)(2), thus permits filed service contracts to refer to terms outside the four corners of the filed service contract, but only if they are contained in the carrier's or conference's tariff publication.

Another option for the system is to allow service contract filers to file with the Commission a ''general rules'' filing as a part of their service contract register. This might be useful for filers which file multiple service contracts with duplicative and/or commonly applicable items (e.g. rules for hazardous cargo, equipment interchanges, mileage guide publications, location groups, inland rates, and bills of lading); rather than repeatedly submitting the text of these amendments in each contract filing, filers could simply reference their ''general rules'' filing. This would also maintain the confidentiality of such terms. Filing and amendments to these ''general rules'' would be subject to the filing requirements of service contracts and amendments. The Commission wishes to hear how the industry views this issue and what options may be available for its resolution.

Rejection of Service Contract Filings

Commission regulations currently outline the procedures for rejection of service contracts and essential terms filed with the Commission. 46 CFR 514.7(j). The Commission rejects service contracts or their amendments which do not conform to the requirements of the 1984 Act or Commission regulation, including timeliness of filing and adequacy and accuracy of the publication of the statement of essential terms. The proposed regulation adapts the current rejection rules as necessary to meet the changes to the 1984 Act made by OSRA. The proposed regulations also provide for ''non-acceptance,'' a new term reflecting the congressional mandate that the Commission not accept for filing service contracts which cover only excepted commodities, consistent with congressional directives.

The proposed regulations also anticipate re-rating for service contracts with non-conference agreements. Such re-rating will be made, under proposed regulation 46 CFR part 530 subpart E, at the tariff rate of the carrier which actually carried the cargo in question.

The definitions of ocean common carrier and conference are changed to reflect the concerns the Commission discussed in its proposed Agreements rulemaking. *See*, 46 CFR part 535.

The reporting requirements contained in 46 CFR part 530 have been submitted to the Office of Management and Budget (OMB). The estimated total annual burden for the estimated 155 annual respondents is 303,953 manhours. This estimate includes, as applicable, the

time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information, search existing data sources, gathering and maintain the data needed, and complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments regarding the burden estimate to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Federal Maritime Commission, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503 within 30 days of publication in the **Federal Register**.

The FMC would also like to solicit comments to: (a) 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; (b) evaluate the accuracy of the Commission's burden estimates for the proposed collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this proposed rulemaking will be summarized and/or included in the final rule and will become a matter of public record.

The Chairman certifies, pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that the proposed amendments will not, if promulgated, have a significant impact on a substantial number of small entities. The affected universe of the parties is limited to vessel-operating common carriers. The Commission has determined that these entities do not come under the programs and policies mandated by the Small Business Regulatory Enforcement Fairness Act as they typically exceed the threshold figures for number of employees and/or annual receipts to qualify as a small entity under Small Business Administration guidelines.

List of Subjects for 46 CFR Parts 514 and 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Commission proposes to remove 46 CFR part 514 and to add new 46 CFR part 530 to subchapter B to read as follows:

PART 514—[REMOVED]

PART 530—SERVICE CONTRACTS

Subpart A—General Provisions

Sec.
530.1 Purpose.
530.2 Scope and applicability.
530.3 Definitions.
530.4 Confidentiality.
530.5 Duty to file.
530.6 Service contracts with NVOCCs.
530.7 Certification of shipper status.
530.8 Duty to labor organizations.

Subpart B—Filing Requirements

530.9 Service contracts.
530.10 Notices.
530.11 Amendment, correction, and cancellation.
530.12 Filing fees and other costs.

Subpart C—Publication of Essential Terms

530.13 Publication.

Subpart D—Exceptions

530.14 Exceptions.

Subpart E—Rejection

530.15 Contract non-acceptance, rejection and notice.
530.16 Implementation, prohibition and rerating.

Subpart F—Recordkeeping and Audit

530.17 Recordkeeping and audit.

Appendix A to Part 530—Instructions for the Filing of Service Contracts

Exhibit 1 to Part 530—Filer Registration Form and Instructions

Authority: 46 U.S.C. App. 1704, 1705, as amended by Pub. L. 105–258. 112 Stat. 1902.

Subpart A—General Provisions

§ 530.1 Purpose.

The purpose of this part is to facilitate filing of service contracts and publication of certain essential terms of those service contracts as required by section 8(c) of the Shipping Act of 1984 (''Act''). This part enables the Commission to review service contracts to ensure that these contracts and the parties to them comport to the requirements of the Act. It is also the purpose of this part to implement electronic filing provisions for service contracts to facilitate compliance and minimize the burden on the oceanborne commerce of the United States.

§ 530.2 Scope and applicability.

An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of the Act.

§ 530.3 Definitions.

When used in this part:

(a) *Act* means the Shipping Act of 1984 as amended by the Ocean Shipping Reform Act of 1998.

(b) *Agreement* means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof which has been filed and effective under 46 CFR part 535 with the Federal Maritime Commission. The term does not include a maritime labor agreement.

(c) *Authorized person* means a carrier itself or a duly appointed agent thereof who is authorized to file service contracts on behalf of the carrier party to a service contract and to publish the corresponding statement of essential terms and registered by the Commission to file under § 530.5(d) and appendix A of this part.

(d) *BTCL* means the Commission's Bureau of Tariffs, Certification and Licensing or its successor bureau.

(e) *Common carrier* means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel tanker, or by a vessel when primarily engaged in the carriage of perishable agricultural commodities:

(i) If the common carrier and the owner of those commodities are wholly owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and

(ii) Only with respect to those commodities.

(f) *Conference* means an agreement between or among two or more ocean common carriers which provides for the fixing and adherence to uniform tariff rates, charges, practices and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo for all members; but the term does not include joint service, consortium, pooling, sailing, or transshipment agreements.

(g) *Controlled carrier* means an ocean common carrier that is, or whose operating assets are, directly or indirectly owned or controlled by a government. Ownership or control by a government shall be deemed to exist with respect to any ocean common carrier if:

(1) A majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(2) That government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer or the chief executive officer of the carrier.

(h) *File or filing* (of service contracts or amendments thereto) means use of the Commission's electronic filing system for receipt of a service contract or amendment and the recording of its receipt.

(i) *Labor agreement* means a collective-bargaining agreement between an employer subject to the Act, or group of such employers, and a labor organization or an agreement preparatory to such a collective-bargaining agreement among members of a multi-employer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group, but the term does not include an assessment agreement.

(j) *Ocean common carrier* means a common carrier that operates, for all or part of its common carrier service, a vessel on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or a chemical parcel tanker.

(k) *Non-vessel-operating common carrier* (''NVOCC'') means an ocean transportation intermediary as defined by section 3(17)(B) of the Act.

(l) *Service contract* means a written contract between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers, in which the shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the individual ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.

(m) *Shipper* means a cargo owner; the person for whose account the ocean transportation is provided; the person to whom delivery is to be made; a shippers' association; or an NVOCC that accepts responsibility for payment of all applicable charges under the service contract.

(n) *Statement of essential terms* means a concise statement of the essential terms of a service contract required to be published under § 530.13 of this part.

§ 530.4 Confidentiality.

All service contracts and amendments to service contracts filed with the Commission shall, to the full extent permitted by law, be held in confidence. Nothing contained in this part shall preclude the Commission from providing certain information from or access to service contracts to another agency of the Federal government of the United States.

§ 530.5 Duty to file.

(a) *Generally.* The duty under this part to file service contracts and notices, and to publish statements of essential terms shall be upon the carrier party or conference which is the signatory to the service contract.

(b) *Agreements.* A service contract entered into by all members of a non-conference agreement may be filed by any member of that agreement, as the carrier parties may so designate. Signatories to a service contract required to file a service contract under this part shall be jointly and severally liable for a failure to file the service contract.

(c) *Conferences.*—(1) The duty to file shall be upon the conference for service contracts entered into by a conference on behalf of its full membership.

(2) A service contract entered into by fewer than all the members of a conference may be filed by any participating carrier, as the participating carriers may so designate. Signatories to a service contract required to file a service contract under this part shall be jointly and severally liable for a failure to file the service contract.

(d) *Registration.*—(1) *Application.* Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier party in writing, by submitting to BTCL the Registration Form in Exhibit 1 to this part and the appropriate fee as defined under § 530.12.

(2) *Approved registrations.* BTCL shall grant Registrants with software certified by BTCL a log-on ID and password for filing and amending service contracts.

(3) *Software certification.* Certification of software may be requested by appointment through the Commission's Office of Information Resources Management (''OIRM'') and payment of the appropriate fee as set forth in § 530.12. OIRM will test the software as set out in appendix A to this part. Organizations certified prior to May 1, 1999 for the batch filing of ''Essential Terms Publications'' (''ETs'') in the Commission's former ''Automated Tariff Filing Information System'' (''ATFI'') are not required to re-certify their software but may if they so choose using the same procedure as for initial certification.

(4) *Emergencies.* In an emergency, a person, already authorized to maintain and edit its firm's organization record under appendix A to this part, may change a ''publisher'' under Appendix A to this part, verbally notify BTCL, and promptly submit the proper documents.

(5) *Prior registration and certification.* Each organization registered to file essential terms publications before May 1, 1999 will be issued a log-on ID and password for access to file service contracts under the Commission's electronic filing system.

§ 530.6 Service contracts with NVOCCs.

No ocean common carrier or agreement among ocean common carriers may execute or file any service contract in which a contract party, an affiliate of such contract party, or a member of a shippers' association, entitled to receive service under the contract, is an NVOCC, unless such NVOCC has a published tariff and proof of financial responsibility as required by sections 8 and 19 of the Shipping Act of 1984 and Commission regulations under this part, and 46 CFR parts 515 and 520.

§ 530.7 Certification of shipper status.

(a) *Certification.* The shipper contract party shall sign and certify on the signature page of the service contract its shipper status (e.g., owner of the cargo, shippers' association, NVOCC, or specified other designation), and the status of every affiliate of such contract party or member of a shippers' association entitled to receive service under the contract.

(b) *Proof of tariff and financial responsibility.* If the certification completed by the contract party under paragraph (a) of this section identifies the contract party or an affiliate or member of a shippers' association as an

NVOCC, the ocean common carrier, conference or agreement shall obtain proof that such NVOCC has a published tariff and proof of financial responsibility as required under sections 8 and 19 of the 1984 Act before signing the service contract. An ocean common carrier, conference or agreement can obtain such proof by the same methods prescribed in § 515.27 of this chapter.

(c) *Joining shippers' association during term of contract.* If an NVOCC joins a shippers' association during the term of a service contract and is thereby entitled to receive service under the contract, the NVOCC shall provide to the ocean common carrier, agreement or conference the proof of compliance required by paragraph (b) of this section prior to making any shipments under the contract.

(d) *Reliance on NVOCC proof; independent knowledge.* An ocean common carrier, agreement or conference executing a service contract shall be deemed to have complied with section 10(b)(12) of the Act upon meeting the requirements of paragraphs (a) and (b) of this section, unless the carrier party had reason to know such certification or documentation of NVOCC tariff and bonding was false.

§ 530.8 Duty to labor organizations.

(a) In response to a written request transmitted from a labor organization with which it is a party or is subject to the provisions of a collective bargaining agreement with a labor organization, an ocean common carrier shall state, within a reasonable period of time, whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transported under a service contract:

(1) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within a port area;

(2) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

(3) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; or

(4) The assignment of container freight station work and maintenance and repair work performed at a dock area or within the port area.

(b) *Terms.* (1) For the purposes of this section, the terms *dock area* and *within the port area* shall have the same meaning and scope as defined in the applicable collective bargaining agreement.

(2) For the purposes of this section, a *reasonable period of time* means:

(i) If the cargo in question is due to arrive in less than five (5) days from the date of receipt of the request as defined in paragraph (a) of this section, two (2) days from the date of receipt of the request; but

(ii) If cargo in question is due to arrive in more than five (5) days from the date of receipt of the request as defined in paragraph (a) of this section, four (4) days from the date of receipt of the request.

(3) For the purposes of this section, *movement* includes, but is not necessarily limited to, the normal and usual aspects of the loading and discharging cargo in containers; placement, positioning and re-positioning of cargo or of containers; the insertion and removal of cargo into and from containers; and the storage and warehousing of cargo.

(4) For the purposes of this section, *assignment* includes, but is not limited to, the carrier's direct or indirect control over the parties which, the manner by which, or the means by which the shipper's cargo is moved, regardless of whether such movement is completed within or outside of containers.

(5) For the purposes of this section, *transmit* includes first-class mail, by facsimile, by telegram, hand-delivery, or electronic mail (''e-mail'').

(c) *Applicability.* This section requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier.

(d) *Disclosure not deemed admission or agreement.* No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement.

(e) *Dispute resolution.* Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this section.

(f) *Jurisdiction and lawfulness.* Nothing in this section has any effect on the lawfulness or unlawfulness under the Shipping Act of 1984, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other federal or state law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under section 8(c) of the Act.

Subpart B—Filing Requirements

§ 530.9 Service contracts.

(a) Authorized persons pursuant to § 530.5 of this part shall file electronically, in the manner set forth in appendix A to this part, with BTCL a true and complete copy of every service contract before any cargo moves pursuant to that service contract, and as specified by this part.

(b) Every service contract filed with the Commission shall include the complete terms of the contract, including, but not limited to, the following:

(1) The origin port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(2) The destination port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(3) The commodity or commodities involved;

(4) The minimum volume or portion;

(5) The service commitments;

(6) The line-haul rate;

(7) Liquidated damages for non-performance (if any);

(8) Duration;

(9) The legal names and business addresses of the contract parties; the legal names of affiliates entitled to access the contract; the names, titles and addresses of the representatives signing the contract for the parties; and the date upon which the service contract was signed. An agreement service contract must identify the FMC Agreement Number(s) under which the service contract is filed. Carriers, conferences and/or agreements which enter into contracts that include affiliates must in each instance either:

(i) List the affiliates' business addresses; or

(ii) Certify that this information will be provided to the Commission upon request within ten (10) business days of such request. However, the requirements of this section do not apply to amendments to contracts that have been filed in accordance with the requirements of this section unless the amendment adds new parties or affiliates. Subsequent references in the contract to the contract parties shall be consistent with the first reference (e.g., (exact name), ''carrier,'' ''shipper,'' or ''association,'' etc.);

(10) A certification of shipper status in accordance with § 530.7;

(11) A description of the shipment records which will be maintained to

support the contract and the address, telephone number, and title of the person who will respond to a request by making shipment records available to the Commission for inspection under § 530.17; and

(12) All other provisions of the contract.

(c) *Certainty of terms.* The terms described in paragraph (b)(1)–(8) of this section may not:

(1) Be uncertain, vague or ambiguous; or

(2) Make reference to terms not explicitly detailed in the service contract filing itself, unless those terms are contained in a tariff publication in accordance with the requirements of 46 CFR part 520.

(d) *Other requirements.* Every service contract filed with BTCL shall also include, in the manner set forth in appendix A to this part:

(1) A unique service contract number, and consecutively numbered amendment number, if any, of more than one (1) but less than ten (10) alphanumeric characters in length (''SC Number''); and

(2) A number of more than one (1) but less than ten (10) alphanumeric characters in length which is the same number assigned to the filer's publication of statement of essential terms (''ET Number'').

§ 530.10 Notices.

(a) *Notice to the Commission.* Within 10 days of the occurrence of any event listed below, there shall be filed with the Commission, pursuant to the same procedures as those followed for the filing of an amendment pursuant to § 530.11 and appendix A to this part, a detailed notice of:

(1) Correction (clerical or administrative errors);

(2) Cancellation;

(3) Termination by mutual agreement, breach or default not covered by the service contract;

(4) Adjustment of accounts, by rerating, liquidated damages, or otherwise under § 530.16;

(5) Final settlement of any account adjusted as described in § 530.16; and

(6) Any change to:

(i) The name of a basic contract party; or

(ii) The list of affiliates, including changes to legal names and business addresses, of any contract party entitled to receive or authorized to offer services under the contract.

(b) *Notice to contract party.* A proposed final accounting or rerating shall be issued to the appropriate contract party within 60 days of termination, discontinuance, breach or default of the service contract, for:

(1) Liability for liquidated damages provided for by the service contract; or

(2) Termination, breach or default not covered by the contract.

§ 530.11 Amendment, correction, and cancellation.

(a) *Amendment.* Service contracts may be amended by mutual agreement of the parties to the contract and shall be filed electronically with the Commission in the manner set forth in § 530.9 and appendix A to this part.

(b) *Corrections.* Either party to a filed service contract may request permission to correct clerical or administrative errors in the terms of a filed contract. Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within 45 days of the contract's filing with the Commission, accompanied by remittance of a $233 service fee, and shall include:

(1) A letter of transmittal explaining the purpose of the submission, and providing specific information to identify the initial or amended service contract to be corrected;

(2) A paper copy of the proposed correct terms. Corrections shall be indicated as follows:

(i) Matter being deleted shall be struck through; and

(ii) Matter to be added shall immediately follow the language being deleted and be underscored;

(3) An affidavit from the filing party attesting with specificity to the factual circumstances surrounding the clerical or administrative error, with reference to any supporting documentation;

(4) Documents supporting the clerical or administrative error; and

(5) A brief statement from the other party to the contract concurring in the request for correction.

(6) If the request for correction is granted, the carrier, agreement or conference shall file the corrected contract provisions using a special case number as described in appendix A to this part.

(c) *Cancellation.*—(1) *Events anticipated by the contract; rerating.* An account may be adjusted for events and damages covered by the service contract. This shall include adjustment necessitated by either liability for liquidated damages under § 530.9(b)(8), or the occurrence of an event described in paragraph (c)(2) of this section.

(2) *Events not anticipated by the service contract.* In the event of a contract termination which is not provided for in the contract itself and which results from mutual agreement of the parties or because the shipper party has failed to tender the minimum quantity or portion required by the service contract:

(i) Further or continued implementation of the service contract is prohibited; and

(ii) The cargo previously carried under the contract shall be rerated according to the otherwise applicable tariff provisions as set forth in § 530.16.

§ 530.12 Filing fees and other costs.

(a) Under the authority of the Independent Offices Appropriation Act, 31 U.S.C 9701, the Commission assesses a filing fee for the filing of service contracts, modifications and corrections thereto. Unless otherwise provided in this part, checks, drafts or money orders shall be remitted and made payable to ''Federal Maritime Commission'' 800 N. Capitol Street, NW., Washington, DC 20573.

(b) Unless otherwise specified, overdue payments will be charged interest in accordance with the rate established by the Department of the Treasury for each 30-day period or portion thereof that the payment is overdue. In addition to any other remedy and penalty provided by law and regulation, if payment is overdue for 90 days the Commission may suspend or terminate electronic filing access.

(c) Fees. (1) *Service contracts and amendments.* The filing fee shall be $1.63 per filing for all initial and amended service contract filings. Within 10 calendar days after the end of each month, the Office of Budget and Financial Management shall send a billing statement for each filer.

(2) *Filer registration.* $91 for initial registration for one firm and one individual; and $91 for additions and changes. No fee will be assessed to continue filer registration for organizations registered for batch filing with the Commission prior to May 1, 1999.

(3) *Filing Guide.* $25 for diskette; $49 for paper format. Requests for filing guides should be made in writing and addressed to: ''BTCL Manuals,'' Federal Maritime Commission, Washington, DC 20753. A check for the appropriate amount should be made to the ''Federal Maritime Commission.''

(4) *Corrections.* $233 for corrections to service contracts under § 530.11(c).

(5) *Software certification.* $496 per test submission.

Subpart C—Publication of Essential Terms

§ 530.13 Publication.

(a) *Contents.* All authorized persons who have a duty to file service contracts under § 530.5 are also required to make available to the public,

contemporaneously with the filing of each service contract with the Commission, and in tariff format, a concise statement of the following essential terms:

(1) The port ranges:

(i) Origin;

(ii) Destination;

(2) The commodity or commodities involved;

(3) The minimum volume or portion; and

(4) the duration.

(b) *Method.* The statement of essential terms shall be published as a separate part in the filer's tariff publication, conforming to the format requirements set forth in 46 CFR part 520. Where there is more than one carrier party to the service contract each of the carrier parties to the service contract shall publish the essential terms in their individual tariff publication pursuant to 46 CFR part 520; except however, when the carrier parties comprise the full membership of a conference, publication shall be made in the conference tariff.

(c) *References.* The statement of essential terms shall contain the same number as that for the confidentially filed service contract (''ET Number'').

(d) *Terms.* (1) If any of the essential terms include figures for commodities exempt under the Act or moving outside of the United States trades, the statement of essential terms shall so note.

(2) If there are common carrier parties to the contract other than the carrier within whose tariff publication the essential terms appear, they shall be identified in the statement of essential terms.

(e) *Agents.* Common carriers, conferences, or agreements may use agents to meet their publication requirement under this part.

(f) *Location.* The Commission will publish on its website, *www.fmc.gov,* a listing of the locations of all service contract essential terms publications as defined in paragraph (a) of this section. The Commission will update this list on a periodic basis.

(g) *Updating statements of essential terms.* To ensure that the information contained in a published statement of essential terms is current and accurate, the statement of essential terms publication shall include a prominent notice indicating the date of most recent publication or revision. When the published statement of essential terms are affected by filed amendments pursuant to § 530.9 or corrections pursuant to § 530.11(c), the current terms shall be immediately changed and published in the relevant statement of essential terms.

(h) *Commission monitoring.* The Commission shall periodically monitor the publications of statements of essential terms to ensure that they conform to the corresponding filed terms.

Subpart D—Exceptions

§ 530.14 Exceptions.

(a) Except as provided in paragraphs (b)(1) and (b)(2) of this section, the Commission will not accept for filing service contracts which exclusively concern bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper or paper waste, as those terms are defined in section 3 of the Act or service contracts exempted under section 16 of the Act. Such service contracts transmitted to the Commission for filing under appendix A to this part shall be rejected and the filer shall be notified of the rejection.

(b) *Inclusion in service contracts.* An excepted commodity or exempted service listed in paragraph (a) of this section may be included in a service contract filed with the Commission, but only if:

(1) There is a tariff of general applicability for the transportation, which contains a specific commodity rate for the excepted commodity; or

(2) The contract itself sets forth a rate or charge which will be applied if the contract is rejected or otherwise terminated.

(c) *Waiver of exemption.* Upon filing under this section, the service contract shall be subject to the same requirements as those for contracts involving non-excepted commodities.

Subpart E—Rejection

§ 530.15 Contract non-acceptance, rejection and notice.

(a) *Non-acceptance.* The Commission shall not accept for filing any service contracts which relate exclusively to excepted commodities as described under § 530.14(a). The Commission shall immediately notify the filer of the non-acceptance.

(b) *Notice of intent to reject.* (1) Within 20 days after the initial filing of an initial or amended service contract, the Commission may reject, or notify the filing party of the Commission's intent to reject, a service contract that does not conform to the requirements of the 1984 Act or this part. The Commission will provide an explanation of the reasons for such rejection or intent to reject.

(2) Except for rejection on the ground that the service contract or amendment thereto was not filed before cargo moved under it, or other major deficiencies (such as not containing terms required by § 530.9(b)(1)–(8)) the parties will have 20 days after the date appearing on the notice of intent to reject to resubmit an appropriately modified contract.

§ 530.16 Implementation; prohibition and rerating.

(a) Performance under a service contract or amendment thereto may begin without prior Commission authorization on the day it is effective consistent with § 530.5, except for rejection under § 530.15;

(b) When the filing parties receive notice that an initial or amended service contract or statement of essential terms has been rejected under § 530.15:

(1) Further or continued implementation of the service contract is prohibited;

(2) All services performed under the contract shall be rerated in accordance with the otherwise applicable tariff provisions for such services with notice to the shipper within 5 days of the date of rejection; and

(3) Detailed notice shall be given to the Commission under § 530.10 within 10 days of:

(i) The rerating or other account adjustment resulting from rejection under this paragraph; or

(ii) Final settlement of the account adjusted under § 530.11.

(c) If the rejected service contract was that of an agreement with no common tariffs, the re-rating shall be in accordance with the published tariff rates of the carrier which actually transported the cargo which were in effect at the time the cargo was transported.

(d) Nothing in this section applies to service contracts unacceptable for filing with the Commission pursuant to § 530.15(a).

Subpart F—Recordkeeping and Audit

§ 530.17 Recordkeeping and audit.

(a) *Records retention for five years.* Every common carrier or agreement shall maintain original signed service contracts, amendments, and their associated records in an organized, readily accessible or retrievable manner for a period of five (5) years from the termination of each contract.

(b) [paragraph (b) is stayed until further notice.] *Where maintained.* (1) Service contract records shall be maintained in the United States, except that service contract records may be maintained outside the United States if the Chairman or Secretary of an agreement or President or Chief

Executive Officer of the carrier certifies annually by January 1, on a form to be supplied by the Commission, that service contract records will be made available as provided in paragraph (c) of this section.

(2) *Penalty.* If service contract records are not made available to the Commission as provided in paragraph (c) of this section, the Commission may cancel any carrier's or agreement's right to maintain records outside the United States pursuant to the certification procedure of paragraph (b) of this section.

(c) *Production for audit within 30 days of request.* Every carrier or agreement shall, upon written request of the FMC's Director, Bureau of Enforcement, any Area Representative or the Director, Bureau of Economics and Agreements Analysis, submit copies of requested original service contracts or their associated records within 30 days of the date of the request.

(d) *Agreement service contracts.* In the case of service contracts made by agreements, the penalties for a failure to maintain records pursuant to this section shall be jointly and severally on all of the agreement members party to the service contract in question.

Appendix A—Instructions for the Filing of Service Contracts

Part I—Filing Guide

Service contract filing will be done in accordance with the instructions to service contract filers found in the Service Contract Filing Guide (''Filing Guide''). Filers may inspect a copy of the Filing Guide at the Commission's Bureau of Tariffs, Certification, and Licensing (''BTCL'') (or its successor), 800 N. Capitol St., NW, Suite 940, Washington, DC. The Filing Guide may be purchased from BTCL for a fee specified in 46 CFR 530.12.

The Filing Guide includes the following items:

(a) *Transaction set.* The transaction set format includes all transaction set segments and segment definitions.

(b) *Data Element Dictionary (''DED'').* The data element dictionary contains the definition of data elements (e.g., amendment number, date formats, etc.).

Part II—Filing

In all cases, the filing is processed as soon as possible after submission/receipt of the filing. The FMC's service contract filing system (''system'') assigns the filing date, which is the date an electronically transmitted (''on-line batch'') filing session file transfer is initiated, assuming there has been a successful file transfer. After the filing is processed, a filing-results message is placed in the filer's electronic mailbox on the central site system.

A. *Procedure.* Filing is performed by transmission of prepared service contract material to the FMC system over dial-up lines from the filer's own computer, using Filing Guide service contract transaction set formats and the KERMIT or ZMODEM file transfer protocols. The conclusion of the file transfer sequence is a positive keyboard entry to initiate the transfer and a response that indicates completion of that submission. The modem must be v.34 compatible.

B. *General format requirements.*

1. *Database format.* The FMC service contract database is structured from service contract data elements and the service contract terms formed by logical grouping of those elements.

2. *Transmission.* On-line batch transmission of service contracts to the FMC computer is governed by the transaction sets contained in the Filing Guide. Service contract filings not complying with the regulations in this part or the formats and valid codes contained in the Filing Guide are subject to rejection.

3. *Adding new transaction data.* Requests for major changes or additions to the transaction set format and/or data shall be submitted in writing to BTCL, with sufficient detail and reasons for each proposed change. A contact person and telephone number also should be provided in case of questions.

(a) A proposed major change (other than a correction), such as to a transaction set, will require formal configuration management procedures and a minimum of thirty days' advance notice of the change in the **Federal Register** and the ''Service Contract System News'', available at system log-on, and by other established Commission communications procedures.

(b) Minor changes will be entered into the system and published as soon as possible. Such minor changes include additions to any of the standard terminology published in appendix A to part 520.

C. *Hardware and software requirements.*

The basic equipment necessary to file service contracts is a personal computer (''PC''), a VT–100 emulation software package, and a modem. The transmitted filing session must be formatted to comply with the transaction sets. The transmission may be via the use of KERMIT or ZMODEM file transfer protocols after establishing a link for on-line batch filing with the FMC central site computer.

The Commission will not make available to the public software packages for firms to use in formulating service contract filings. The Commission has released the Filing Guide (with transaction set) into the public domain so that qualified commercial firms can develop filing software for the general market. Firms which develop filing software, must, by appointment through the Commission's Office of Information Resources Management and payment of the fee set forth in § 530.12, test their formatting of service contracts transaction set format by submission of that data to the FMC central site computer before they will be permitted to transmit any filings. The data must be submitted via on-line batch transmission over dial-up telecommunications links using the required file transfer protocols. Testing will require submission of sample service contract filings to the FMC system, with an evaluation of the actual results of the attempted filings to ensure that the transaction set formats are properly employed and that the filing results are consistent with the filer's expectations. Organizations certified prior to May 1, 1999 for the batch filing of ''Essential Terms Publications'' (''ETs'') in the Commission's former ''Automated Tariff Filing Information System'' (''ATFI'') are not required to re-test their software but may if they so choose using the same procedure as for initial registrants.

D. *Registration, Log-on ID and Password.*

1. System identifications (''IDs'') for filing log-on and initial password are obtained by submitting the Service Contract Registration Form (Exhibit 1 to this part), along with the proper fee under § 530.12 and other necessary documents, including delegation of authority, as prescribed by this part, to BTCL. A separate Service Contract Registration Form is required for each individual that will file service contracts with the FMC. However, each organization certified prior to May 1, 1999 to perform batch filing of ET publications in the Commission's former ''ATFI'' system, will be issued a new log-on ID and password for access to file service contracts.

2. Log-on IDs and passwords may not be shared with or loaned to or used by any individual other than the individual registrant. The Commission reserves the right to disable any log-on ID that is shared with, loaned to or used by parties other than the registrant.

3. Authority for organizational filing can be transferred by submitting an amended registration form requesting the assignment of a new log-on ID and password. The original log-on ID will be canceled when a replacement log-on ID is issued.

E. *Connecting to the Service Contract Filing System.*

If service contract filer equipment (hardware and software) is compatible with the configurations specified in this section and have been tested in accordance with Part II C. of this appendix, and the proper log-on ID and password have been obtained under this section, filing services are available to filers registered under this section, over commercial telecommunications using standard (v.34 compatible) asynchronous modems with data rates up to 28800 baud. The dial-up procedures are set forth in the Filing Guide.

F. *Major menu selections.*

Proper connection will lead the filer to the ''Logo Menu,'' which allows selections by any filer for ''Organization Maint.,'' ''Mailbox,'' ''Service Contract System News,'' ''Change Password,'' ''Screen Setup,'' and ''Logout.'' Additionally, a registered filer can access ''Begin File Transfer'' to initiate the on-line batch filing of a service contract. Upon the selection of ''Begin File Transfer'' the filer will be presented the option to select KERMIT or ZMODEM and to commence the file transfer.

G. *Conformity checks.*

Certain service contract data submitted to the FMC for filing are screened for compliance with conformity checks, and certain data not automatically rejected by the conformity checks are flagged for

Commission examiner review. The conformity checks are syntax checks, validity checks and associative checks. The system will generally not accept service contracts which fail conformity checks. Commercially developed batch filing software can be designed to accomplish the same functionality. However, all proposed filings of service contracts must undergo the routine system conformity checks before they can be received into the database. Filers will be notified of automatic rejections at this stage by electronic mail, with a follow-up letter if the electronic mail has not been read within 10 days of dispatch. The conformity checks are:

1. *Syntax Checks.* Service contracts will be checked for file integrity, proper data types, field lengths, and logical sequence according to the Filing Guide's transaction sets. Data not conforming to the data element format or type in the Filing Guide's DED and the sequence requirements of the transaction sets and segment definitions will result in rejections of submitted service contracts to include the possible rejection of an entire filing if form and format errors are extensive enough to preclude processing.

2. *Validity Checks.* Certain data elements of filed service contracts will also be checked for data validity by type against the DED's published reference tables, such as amendment codes, amendment numbers and valid dates.

3. *Associative Checks.* The system uses associative checks to identify logical conformity with established service contract filing rules. The following are some representative types of associative checks performed by the system.

(a) Any initial service contract or amendment must have:

(i) A valid organization number.

(ii) No suspended carrier or object status.

(iii) Appropriate filing authority.

(iv) Filing date (system-assigned) equal to or less than the effective date.

(v) Valid and appropriate filing/amendment codes.

(vi) Valid and appropriate filing, effective, termination and expiration dates.

(vii) When used, valid special case number and filing/amendment code ''S,'' with no other filing/amendment codes entered.

(viii) Each service contract must have a new (unique to carrier/conference/agreement) service contract number. The service contract number must be paired with a unique essential terms number and the pair must remain constant for all amendments and must be consistent between the filed service contracts and the published statement of essential terms.

H. *Filing/amendment codes.*

1. *Codes.* Filing/amendment codes must be valid Filing Guide codes and the effective, termination (if any) and expiration dates must match the corresponding dates published in the statement of essential terms.

2. *Multiple symbols.* Filed service contracts frequently can be coded with more than one symbol. Accordingly, the field, ''Amendment Type,'' will allow up to three different, compatible symbols (Amendment codes and definitions are presented in the Filing Guide and the Standard Terminology Appendix to 46 CFR part 520).

I. *Control dates and history.*

1. *Filing date.* The filing date is the date any service contract or amendment is processed by the system. Filers will have a filing date automatically assigned to all service contracts and amendments filed according to the start time of the file transfer, for file transfers that are successfully completed, U.S. Eastern Time Zone. Filers should plan the transmission of filing session files to allow for retransmission(s) starting during the same U.S. Eastern Time Zone date, in case the results of the initial transmission(s) are not successful.

2. *Effective date.* The effective date is the date upon which a service contract or amendment is scheduled to go into effect by the filer. Specifically, a service contract or amendment becomes effective at 12:01 a.m. on the beginning of the effective date. The effective date of the corresponding statement of essential terms cannot be prior to the filing date of the service contract or amendment with the Commission.

3. *Expiration date.* The expiration date is the last day, after which the entire service contract is no longer in effect.

Part III—Organization Record and Register

A. *Organization Record.* The organization record is the master record for all service contract information in the system for a specific firm. Upon Commission acceptance of registration, a ''shell'' organization record, specific to the requestor, is established and contains the organization number, organization name and organization type. The firm's authorized representative can then access the newly established organization record, using the special access log-on ID and password to file the address for the firm's home office, and complete the affiliations, d/b/a, and publisher lists as appropriate. To maximize security of the data, maintenance (editing) of the organization record will be permitted only to the individual in the firm holding the special access log-on ID and password for organization record maintenance.

B. *Service Contract Register.* Each organization must create a service contract register (''register'') prior to the filing of any service contracts or amendments thereto (and including ''general rules'' filings). The register is a directory subordinate to which service contracts and their amendments are filed. Each organization may create more than one register (e.g., according to location groups). Each register must include a record reflecting the filer's name, organization number and status (e.g. ocean common carrier/conference) which identifies the filer. At the option of the filer, the register may also include the filer's service contract rules, i.e. the stated terms and conditions set by the carrier, agreement, or conference party to a service contract which govern the application of service contract rates, charges and other matters.

Part IV—Service Contracts

As required by § 530.9, each service contract filed with the Commission shall include the following:

A. *Service Contract Title.* The filer's title of the service contract (generally descriptive of the commodity and/or service).

B. *SC Number (Service contract number).* The ''SC Number'' is defined by the filer and shall be entered in the appropriate field.

C. *ET Number (statement of essential terms number).* The ''ET Number'' is defined by the filer and shall be entered in the appropriate field. (**Note:** Service contracts must have a new (unique to carrier/conference/agreement) service contract number for the initial filing. The service contract number must be paired with a unique essential terms number and the pair must remain constant for all amendments and must be consistent between the filed service contracts and the published essential terms documents.)

D. *Amendment Number.* Where feasible, service contracts should be amended by amending only the affected specific term(s) or subterms. Each time any part of a service contract is amended, the filer shall assign a consecutive amendment number (up to three digits), beginning with the number ''1.'' (The amendment number field must be ''0'' or void for the initial filing). Each time any part of the service contract is amended, the ''Filing Date'' will be the date of filing of the amendment.

E. *FMC File Number.* The FMC File Numbers will be system-assigned as initial service contract filings are received and processed. The FMC File Numbers will be assigned sequentially and will start at a number designated by the FMC. The FMC File Number will be provided to filers in the acknowledgment message (via electronic mail) for filings.

F. *Effective Date.* The service contract must indicate the effective date and the expiration date governing the duration of the contract. The duration must also be set forth in Term No. 8 where the duration of the contract shall be stated as a specific fixed time period, with a beginning date (effective date) and an ending date (expiration date).

G. *Amendment Codes.* All amendment codes listed in the Filing Guide, except ''G'' and ''S'', may be used in any combination, with up to three amendment codes for amendments.

H. *Special case symbol and number.* The ''S'' amendment code must be used singly, and in conjunction with a validated special case number for corrections to service contracts.

I. *Filing Date.* The filing date is automatically set by the system whenever a service contract or amendment thereto is filed.

J. *Contract terms (''terms'').* Terms Nos. 1 to 11 shall address the subjects and bear the terms'' titles for the respective numbers exactly as provided in this section. (**Note:** If a subject is not included, such as No. 12, the number must be listed with the appropriate title and the designation ''NA.'' All terms may be subdivided into subterms to facilitate amendment).

1. *Origin (No. 1).* ''Origin'' includes the origin port range(s) in the case of port-to-port movements, and the origin geographic area(s) in the case of through intermodal movements, except that the origin and destination of cargo moving under the contract need not be stated in the form of ''port ranges'' or ''geographic

areas,'' but shall reflect the actual locations agreed to by the contract parties. Service contracts shall only employ locations (points) that are valid, published locations in the National Imagery and Mapping Agency (''NIMA'') gazetteer and ports published or approved for publication in the World Port Index (Pub. No. 150).

2. *Destination (No. 2).* ''Destination'' includes the destination port range(s) in the case of port-to-port movements, and the destination geographic area(s) in the case of through intermodal movements, except that the origin and destination of cargo moving under the contract need not be stated in the form of ''port ranges'' or ''geographic areas,'' but shall reflect the actual locations agreed to by the contract parties. Service contracts shall employ only locations (points) that are valid, published locations in the National Imagery and Mapping Agency (''NIMA'') gazetteer and ports published or approved for publication in the World Port Index (Pub. No. 150).

3. *Commodities (No. 3).* Term No. 3 shall include commodities covered by the service contract. For each commodity filed in this term, a separate formatted commodity index entry is required. To the maximum extent possible, service contracts should use the U.S. Harmonized Tariff Schedule (''US HTS'') for commodity coding and associated terminology.

4. *Minimum quantity or portion (No. 4).* Term No. 4 shall address the minimum quantity or portion of cargo and/or amount of freight revenue necessary to obtain the rate or rate schedule(s). The minimum quantity or cargo committed by the shipper may be expressed as a fixed percentage of the shipper's cargo.

5. *Service commitments (No. 5).* Term No. 5 shall address the service commitments of the carrier, conference or specific members of a conference, agreement or specific members of an agreement, such as assured space, transit time, port rotation or similar service features.

6. *Rates or rate schedule(s) (No. 6).* Term No. 6 shall contain the contract rates or rate schedules, including any additional or other charges (e.g., general rate increases, surcharges, terminal handling charges, etc.) that apply, and any and all conditions and terms of service or operation or concessions which in any way affect such rates or charges.

7. *Liquidated damages for non-performance, if any (No. 7).* Term No. 7 shall include liquidated damages for non-performance, if there is such provided for in the service contract.

8. *Duration of the contract (No. 8).* The duration of the contract shall be stated as a specific, fixed time period, with a beginning date (effective date) and ending date (expiration date).

9. *Signature date, contract parties, signatories and affiliates, if any (No. 9).* The identification of contract parties must be included as follows:

(a) the legal names and business addresses of the contract parties. (**Note:** if the service contract is entered into by an agreement or conference, this shall include the corresponding agreement number on file with the Commission);

(b) the legal names, titles, and addresses of representatives signing the contract for the parties and the date the contract was signed; and

(c) the legal name(s) and business address(es) of affiliates entitled to access the contract, if any. Subsequent references in the contract to the contract parties shall be consistent with the first reference (e.g., (exact name), ''carrier,'' ''shipper,'' or ''association, etc.). (**Note**: This term must name every affiliate of each contract party named under § 530.9(d)(4) entitled to receive or authorized to offer services under the contract, except that in the case of a contract entered into by all of the parties of a conference, agreement or shippers' association, individual members need not be named unless the contract includes or excludes specific members.)

10. *Shipper's Status Certification and Affiliates, if any. (No. 10).* The shipper signatory(ies) must certify its status and that of any affiliates in accordance with § 530.7 of this part.

11. *Records (No. 11).* Term No. 11 must contain:

(a) A description of the shipment records which will be maintained to support the contract; and

(b) The address, title, and telephone number of the person who will respond to a request by making the original signed service contract and shipment records available to the Commission for inspection under § 530.17 of this part.

12. *Other Provisions of the Contract (No. 100–999).* Any term of a service contract not otherwise specifically provided for in this section shall be entered after the above terms and in numerical order, beginning with No. 100.

BILLING CODE 6730–01–P

EXHIBIT 1 -- SERVICE CONTRACT REGISTRATION [FORM FMC-83]

ORGANIZATION NO. _____

PLEASE TYPE OR PRINT

SERVICE CONTRACT REGISTRATION

(SEE ATTACHED INSTRUCTIONS)

1. This Registration is: [ ] Initial [ ] Amendment (Specify change)_____

2. Registrant

_____
Full Legal Name of firm (or individual, if not a firm)

_____
(Doing Business As)

3. Address of Home Office

_____ ( ) _____
(Number and Street) Telephone

_____ ( ) _____
(Number and Street) Fax

_____
(City/State/Country) (Federal TIN Number) E-Mail (optional)

4. Billing Address If Different

_____ ( ) _____
(Number and Street) Telephone

_____ ( ) _____
(Number and Street) Fax

_____
(City/State/Country) E-Mail (optional)

5. Organization Number (If known)_____

6. Registrant Type (Check one) [ ] VOCC [ ] Tariff Publisher/Agent/Other [ ] Agreement [ ] Conference/Joint Service

7. Permissions Requested and Person granted these permissions (Check permissions that apply)

_____
Full Legal Name

☐ Maintenance of organization record ☐ File Service Contracts

Registered for Batch Filing Prior to May 1, 1999? (Y/N) ____ If Yes, show date_____

If the person to perform the filing already has an existing Log-on, list only the Log-on for that person.

Existing Log-on_____

_____ _____
Signature of Authorized Official Print or Type name of Authorized Official

_____
date

FMC USE ONLY

Logon_____Initial Password_____ID_____Directory_____

DateAsg____/____/____AsgBy_____

12/98

BILLING CODE 6730–01–C

Exhibit 1—Instructions for Service Contract Registration [Form FMC–83]

Instructions

Line 1. Registration. Indicate whether this is the initial (first time) registration or an amendment to an existing Service Contract Registration.

Line 2. Registrant. This must be the full legal name of the firm or individual registering for the FMC's Service Contract Filing System and any trade names. The registrant name should match the corporate charter or business license, conference membership, etc. It should be noted that the registrant name cannot be changed by the registrant after the registration without submission of an amended registration fee.

Line 3. Address of Home Office. The complete street address should be shown in addition to the post office box. Also, provide the registrant's Federal Taxpayer Identification Number (''TIN'' Number).

Line 4. Billing Address if Different. This should be completed if the billing address differs from the home office address. Show the firm name (if different from the registrant), street address and post office box (if applicable).

Line 5. Organization Number. Complete if known. (Regulated Persons Index or ''RPI'' number.)

Line 6. Registrant Type. Indicate the type of organization. A registrant cannot be more than one type. This data cannot be changed by the registrant after registration without submission of an amended registration form.

Line 7. Permissions Requested and Person Granted These Permissions.

Maintenance of Organization Record—The person listed in line 8 is authorized to access the organization maintenance functions (i.e., modify organization information, assign publishers, affiliations, and d/b/as).

Service Contract Filing—The person listed in line 8 is authorized only to submit filings.

Line 8. Certified for Batch Filing. Indicate whether the registrant was registered with software certified to perform batch filings prior to May 1, 1999. Otherwise, the registrant must first be certified for batch filing as outlined in 46 CFR part 530. After certification, the registrant can submit an amended registration form to request permission for a person in their organization to perform the batch filing. If the person already has an existing log-on, the log-on (not the password) should be listed on the requesting form. Also, the certification date received from the FMC should be listed on the requesting form.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–33894 Filed 12–22–98; 8:45 am]

BILLING CODE 6730–01–P

Notices

Federal Register

Vol. 63, No. 246

Wednesday, December 23, 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.

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Sunshine Act Meeting; Trustees Meeting

United States Capitol Building, Room HC–6, January 28, 1999, 4:00–5:30 p.m.:

1. Call to Order by Chairman Staats.
2. Approval of the Minutes of the 1997 Annual Meeting.
3. Report by Chairman Staats.
4. Report by President Stevens.
5. Report by the Executive Secretary.
6. Status of the Foundation's assets.
7. Status of appointments and vacancies on the Board of Trustees.
8. New Business.

Adjournment.

Dated: December 17, 1998.

Louis H. Blair,

Executive Secretary.

[FR Doc. 98–34182 Filed 12–21–98; 3:57 pm]

BILLING CODE 6820–AD–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Housing Preservation Grants

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The HPG program is a grant program which provides qualified public agencies, private nonprofit organizations and other eligible entities grant funds to assist very low- and low-income homeowners repair and rehabilitate their homes in rural areas, and to assist rental property owners and cooperative housing complexes to repair and rehabilitate their units if they agree to make such units available to low- and very low-income persons. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which requires the Agency to announce the opening and closing dates for receipt of preapplications for HPG funds from eligible applicants. The intended effect of this Notice is to provide eligible organizations notice of these dates.

DATES: RHS hereby announces that it will begin receiving preapplications on December 23, 1998. The closing date for acceptance by RHS of preapplications is March 23, 1999. This period will be the only time during the current fiscal year that RHS accepts preapplications. Preapplications must be received by or postmarked on or before the closing date.

ADDRESSES: Submit preapplications to Rural Development servicing offices for the HPG program; applicants must contact their Rural Development State Office for this information. A listing of Rural Development State Offices, their addresses, and telephone numbers follows.

Rural Development State Offices

Note: Telephone numbers listed are not toll-free.

Alabama State Office

Sterling Center Office Building
4121 Carmichael Road, Suite 601
Montgomery, AL 36106–3683
(334) 279–3455

Alaska State Office

800 West Evergreen, Suite 201
Palmer, AK 99645
(907) 745–2176

Arizona State Office

Phoenix Corporate Center
3003 N. Central Ave., Suite 900
Phoenix, AZ 85012–2906
(602) 280–8755

Arkansas State Office

700 W. Capitol Ave., Rm. 3416
Little Rock, AR 72201–3225
(501) 301–3250

California State Office

194 West Main Street, Suite F
Woodland, CA 95695–2915
(530) 668–2091

Colorado State Office

655 Parfet Street, Room E100
Lakewood, CO 80215
(303) 236–2801 (ext. 101)

Connecticut

Served by Massachusetts State Office

Delaware/Maryland State Office

5201 South Dupont Highway
PO Box 400
Camden, DE 19934–9998
(302) 697–4314

Florida State Office

4440 N.W. 25th Place
PO Box 147010
Gainesville, FL 32614–7010
(352) 338–3435

Georgia State Office

Stephens Federal Building
335 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2164

Guam

Served by Hawaii State Office

Hawaii State Office

Room 311, Federal Building
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–3000

Idaho State Office

9173 West Barnes Drive, Suite A1
Boise, ID 83709
(208) 378–5627

Illinois State Office

Illini Plaza, Suite 103
1817 South Neil Street
Champaign, IL 61820
(217) 398–5412 (ext. 256)

Indiana State Office

5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3117

Iowa State Office

873 Federal Building
210 Walnut Street
Des Moines, IA 50309
(515) 284–4493

Kansas State Office

1200 SW Executive Drive
PO Box 4653
Topeka, KS 66604
(785) 271–2720

Kentucky State Office

771 Corporate Drive, Suite 200
Lexington, KY 40503
(606) 224–7416

Louisiana State Office

3727 Government Street
Alexandria, LA 71302
(318) 473–7962

Maine State Office

444 Stillwater Ave., Suite 2
PO Box 405
Bangor, ME 04402–0405
(207) 990–9115

Maryland

Served by Delaware State Office

Massachusetts State Office

451 West Street
Amherst, MA 01002
(413) 253–4333

Michigan State Office

3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 337–6635 (ext. 1609)

Minnesota State Office

410 AgriBank Building
375 Jackson Street
St. Paul, MN 55101–1853
(651) 602–7823

Mississippi State Office

Federal Building, Suite 831
100 W. Capitol Street
Jackson, MS 39269
(601) 965–4325

Missouri State Office

601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0990

Montana State Office

Unit 1, Suite B
900 Technology Blvd.
Bozeman, MT 59715
(406) 585–2515

Nebraska State Office

Federal Building, room 152
100 Centennial Mall N
Lincoln, NE 68508
(402) 437–5567

Nevada State Office

1390 South Curry Street
Carson City, NV 89703–9910
(702) 887–1222, Ext. 13

New Hampshire

Served by Vermont State Office

New Jersey State Office

Tarnsfield Plaza, Suite 22
790 Woodland Road
Mt. Holly, NJ 08060
(609) 265–3630

New Mexico State Office

6200 Jefferson St., NE, Room 255
Albuquerque, NM 87109
(505) 761–4944

New York State Office

The Galleries of Syracuse
441 S. Salina Street, Suite 357
Syracuse, NY 13202
(315) 477–6419

North Carolina State Office

4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2061

North Dakota State Office

Federal Building, Room 208
220 East Rosser
PO Box 1737
Bismark, ND 58502
(701) 250–4771

Ohio State Office

Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2477
(614) 469–5165

Oklahoma State Office

100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1070

Oregon State Office

101 SW Main, Suite 1410
Portland, OR 97204–2333
(503) 414–3350

Pennsylvania State Office

One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2187

Puerto Rico State Office

New San Juan Office Bldg., Room 501
159 Carlos E. Chardon Street
Hato Rey, PR 00918–5481
(787) 766–5095

Rhode Island

Served by Massachusetts State Office

South Carolina State Office

Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5690

South Dakota State Office

Federal Building, Room 210
200 Fourth Street, SW
Huron, SD 57350
(605) 352–1132

Tennessee State Office

Suite 300
3322 West End Avenue
Nashville, TN 37203–1084
(615) 783–1375

Texas State Office

Federal Building, Suite 102
101 South Main
Temple, TX 76501
(254) 742–9760

Utah State Office

Wallace F. Bennett Federal Building
125 S. State Street, Room 4311
P.O. Box 11350
Salt Lake City, UT 84147–0350
(801) 524–4323

Vermont State Office

City Center, 3rd Floor
89 Main Street
Montpelier, VT 05602
(802) 223–6045

Virgin Islands

Served by Vermont State Office

Virginia State Office

Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229
(804) 287–1582

Washington State Office

1835 Black Lake Blvd. SW.
Suite B
Olympia, WA 98512–5715
(360) 704–7707

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office

Federal Building
75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 291–4793

Wisconsin State Office

4949 Kirschiling Court
Stevens Point, WI 54481
(715) 345–7620

Wyoming State Office

100 East B
Federal Building, Room 1005
PO Box 820
Casper, WY 82602
(307) 261–6315

FOR FURTHER INFORMATION CONTACT: Tracee Lilly, Loan Specialist, Multi-Family Housing Processing Division, RHS, USDA, Stop 0781, Room 1263, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 720–9729. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 7 CFR part 1944, subpart N provides details on what information must be contained in the preapplication packages. Entities wishing to apply for assistance should contact the Rural Development State Office to receive further information and copies of the preapplication package. Eligible entities for these competitively awarded grants include State and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.433, Rural Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V). Applicants are referred to 7 CFR §§ 1944.674 and 1944.676 (d) and (e) for specific guidance on these requirements relative to the HPG program.

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established; although, based on fiscal year (FY) 1999 funding availability, the Agency anticipates that the average grant will be $59,000 for a 1-year proposal. For FY 99, $7,000,000 is available and has been distributed under a formula allocation

to States pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on the preapplications.

Dated: December 4, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 98–33930 Filed 12–22–98; 8:45 am]

BILLING CODE 3410–XV–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of housing funds for fiscal year 1999 (FY 1999). This action is taken to comply with 42 U.S.C. 1490p which requires that RHS publish in the **Federal Register** notice of the availability of any housing assistance.

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Senior Loan Officer, Multi-Family Housing Processing Division, Room 1247 (STOP 0781), or Gloria Denson, Senior Loan Officer, Single Family Housing Processing Division, Room 2211, (STOP 0783), U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, D.C., 20250, telephones (202) 720–1604, and (202) 720–1474, respectively. (These are not toll free numbers).

SUPPLEMENTARY INFORMATION:

Programs Affected

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos.

10.405 Farm Labor Housing (LH) Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.411 Rural Housing Site Loans and Self-Help Housing Land Development Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.427 Rural Rental Assistance Payments
10.433 Rural Housing Preservation Grants
10.442 Housing Application Packaging Grants

Discussion of Notice

7 CFR chapter XVIII, part 1940, subpart L contains the ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' The following guidance has been provided to our State offices on FY 1999 appropriations and access to funds. Separate guidance has been provided to our State offices for assistance available in our Multi-and Single-Family Housing Programs as follows:

Multi-Family Housing (MFH)

I. General

A. This provides guidance on MFH funding for the Rural Rental Housing Program (RRH) for FY 1999. Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 1999, State Directors, under the Rural Housing Assistance Grants (RHAG), will have the flexibility to transfer their initial allocations of budget authority between the Single Family Housing (SFH) section 504 Rural Housing Grants and section 533 Housing Preservation Grant (HPG) programs.

B. MFH loan levels for FY 1999 are as follows:

MFH Loan Programs Credit Sales	$3,500,000
Section 514 Farm Labor Housing (LH) Loans	20,000,000
Section 515 Rural Rental Housing (RRH)	79,321,240
Section 515 Rural Rental Housing (RRH) Rehabilitation or Repair Loans & Equity Loans	35,000,000
Section 521 New Construction Rental Assistance (RA)	35,705,890
Section 516 LH Grants (RHAG)	13,500,000
Sections 525 Technical and Supervisory Assistance Grants (TSA) and 509 Housing Application Packaging Grants (HAPG) (Shared between Single and Multi-Family Housing)	1,355,054
Section 533 Housing Preservation Grants (HPG) (RHAG)	7,000,000
Section 538 Guaranteed Rural Rental Housing Program*	74,800,000

*The program has been authorized for FY 1999. Guaranteed loan funds will be made available under a Notice of Funding Availability (NOFA) that will be published with a final rule later this fiscal year. Additional guidance will be provided at that time.

II. Funds not Allocated to States

A. *Credit Sales Authority.* For FY 1999, $3,500,000 will be set aside for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State.

B. *Section 514 Farm LH Loans.* 1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 1999 Appropriation	$20,000,000
Available for Off-Farm Loans	15,500,000
Available for On-Farm Loans	1,500,000
National Office Reserve	3,000,000

2. Off-farm loan fundings will be made available under a NOFA that will be published with a final rule later this fiscal year. Additional guidance will be provided at that time. (A proposed rule was published at 63 FR 57932 on October 29, 1998.)

C. *Section 516 Farm LH Grants.* 1. Grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 1999 Appropriation	$13,500,000
Available for LH Grants	9,150,000
Available for Technical Assistance Contracts	1,350,000
National Office Reserve	3,000,000

2. Labor Housing grant funds for off-farm will be made available under a NOFA that will be published with a final rule later this fiscal year. Additional guidance will be provided at that time. (A Proposed Rule was published on October 29, 1998.)

D. Rental Assistance for LH. Labor Housing RA will be held in the National office for use with LH loan and grant applications. RA is only available with an LH loan of at least 5 percent of the total development cost. Projects without a LH loan cannot receive RA.

III. Section 515 RRH Loan Funds

A. *Section 515 RRH Loan Funds (for New Construction Loans):* New construction loan funds will be made available via a National NOFA using the following parameters:

1. No one State may receive more than $2.5 million under the NOFA. Reserve funds are not considered NOFA funds and therefore, will not be counted toward the $2.5 million State cap.

2. No single loan request may exceed $1 million. The Administrator may waive this limit in cases where a State's average total development costs exceed the National average by 50 percent or more. States may set a lower loan amount.

3. The amount of RA available will be impacted by the amount of leveraging in

applications selected. If no (or insufficient) rental assistance is available, the next ranked request that does not need rental assistance (or falls within the available amount) will be selected.

4. States will continue to score and rank requests by point score in accordance with § 1944.231 of RD Instruction 1944–E. This fiscal year's NOFA will include a National office selection criteria. In States with an on-going formal working relationship, agreement, or memorandum of understanding (MOU) with the State to provide State funds, State RA, HOME funds, Community Development Block Grant (CDBG) funds, or Low Income Housing Tax Credits (LIHTC) for RHS proposals, points will be provided to loan requests that include such funds or RA. No State selection criteria will be used this fiscal year.

5. States will submit a list, in rank order, showing the name of the applicant; location of the project (City & State); if it is located in an Empowerment Zone (EZ) or Enterprise Community (EC), Tribal Land, or Colonia; amount of leveraging; RHS loan amount; point score; number of new construction RA units needed; total project units; number of tax credit units, and other information requested in this NOFA, to the National office. Requests that are eligible for the Nonprofit Set-Aside must be so indicated. Include requests for the Underserved Counties and Colonias Set-Aside and indicate if they are also eligible for regular section 515 funds, i.e., are located in a designated place.

6. The National office will rank the States' requests by point score, Nationwide, using the same tie breaker criteria established in § 1944.231 of RD Instruction 1944–E.

7. Funds will be distributed to the States for loan requests in rank order, up to a maximum of $2.5 million for any one State.

B. *Amount available for new construction loans is as follows:*

Total Available	$79,321,240
Less Set-Aside for Non-profits	7,138,912
Less Set-Aside for Under-served Counties and Colonias	3,966,062
Less Set-Aside for EZ or EC communities	7,253,866
Less General Reserve	5,740,000
Less State RA Designated Reserve	1,500,000
NOFA Balance	53,722,380

1. *National Office Reserves.* These reserves are broken down as follows:

General Reserve	$5,740,000
Designated Reserves: State RA	1,500,000
Total National Office Reserve	7,240,000

2. *National Office Set-asides.* The following legislatively mandated set-asides of funds are part of the National office set-aside:

Nonprofit Set-Aside	$7,560,000
Underserved Counties and Colonias	4,200,000
EZ or EC Communities	7,250,000

3. *Rental Assistance (RA).* New construction RA will be held in the National office for use with section 515 Rural Rental Housing loans.

IV. State Allocations for Rehabilitation or Repair Loans

A. *Repairs and Rehabilitation.* Tenant health and safety continues to be a priority. Repair and rehabilitation funds must be first targeted to RRH facilities that have physical conditions that effect the health and safety of tenants and then made available to facilities that have deferred maintenance.

B. *Section 515 RRH Loan Funds (for Repairs and Rehabilitation).* All funds will be held in the National office and will be distributed based upon indicated rehabilitation needs in the MFH Survey conducted in September 1998. The amount available for rehabilitation or repair loans is as follows:

Rehab and Repair Appropriation	$35,000,000
Designated Equity Reserve	5,000,000
Total Available for Rehabilitation or repair loans	30,000,000

V. Section 533 Housing Preservation Grants (HPG)

Amount available for allocation. See end of this Notice for HPG State allocations.

Total Available	$7,000,000
Less General Reserve	700,000
Less Designated Set-Aside for EZ or EC	1,200,000
Total Available for Distribution	5,100,000

Single Family Housing (SFH)

I. General

A. This notice provides SFH allocations for FY 1999. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568. Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation are located on a chart at the end of this notice.

B. The SFH levels authorized for FY 1999 are as follows:

Section 502 Guaranteed Rural Housing (RH) Loans	
Nonsubsidized Guarantees	$3,000,000,000
Section 502 Direct RH Loans	
Very Low-Income Subsidized Loans	424,738,000
Low-Income Subsidized Loans	540,575,000
Nonsubsidized Loans	0
Credit Sales (Program and Non Program)	19,968,000
Section 504 Housing Repair Loans	25,001,000
Section 504 Housing Repair Grants	20,000,000
Section 509 Compensation for Construction Defects (RHAG)	1,433,237
Section 523 Mutual and Self-Help Technical Assistance and Grants	26,000,000
Section 523 Self-Help Site Loans	5,000,000
Section 524 RH Site Loans	5,151,510
Section 306C Water and Waste Disposal (WWD) Grants	1,604,800
Sections 525 Technical and Supervisory Assistance Grants (TSA) and 509 Housing Application Packaging Grants (HAPG) (Shared between Single and Multi-Family Housing)	1,355,054

C. SFH funding not allocated to States are:

1. *Credit Sale Authority.* The distribution of available credit sale authority is outlined on a chart at the end of this notice. States will use loan funds to finance program Real Estate Owned (REO) sales to program applicants when all credit sale authority is exhausted.

2. *Section 509 Compensation for Construction Defects.* All claims for

compensation for construction defects must be submitted to the National office for authorization of funds prior to approval.

3. *Section 523 Mutual and Self-Help Technical Assistance Grants.* $26 million has been appropriated for section 523 Mutual and Self-Help Technical Assistance Grants. Of these funds, $1 million is earmarked for EZ or EC communities. In order to receive earmark funds, at least 50 percent of the total homes to be constructed must be located in the EZ or EC community. The State Director must request funding approval from the National office for all requests. A technical review and analysis must be completed by the Technical and Management Assistance (T&MA) contractor on all predevelopment, new, and existing (refunding) grant applications.

4. *Section 523 Mutual and Self-Help Site Loans and Section 524 RH Site Loans.* The State Director must request funding authority from the National office prior to obligating loan funds.

5. *Section 306C WWD Grants to Individuals in Colonias.* The objective of the section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

The cumulative amount available to Arizona, California, New Mexico, and Texas will be $1,604,800 for FY 1999. This amount includes the carryover unobligated balance of $104,800 and the transferred amount of $1.5 million from the Rural Utilities Service (RUS) to RHS for processing individual grant applications. The above States will have access to the equal quarterly allocation distributions.

6. *Section 525 Technical and Supervisory Assistance (TSA) and section 509 Housing Application Packaging Grants (HAPG).* $500,000 of new funds and $855,054 of carry-over funds from previous years remain available for the TSA and HAPG programs. State Directors should submit proposals from potential applicants to the National office for review and concurrence prior to authorizing an application. The 29 eligible States under HAPG that have active grantees operating will be able to access up to $17,500 for section 502 or 504 loan and grant programs in order to continue operations. Reserve requests will be considered on a first-come, first-served basis.

7. *Deferred Mortgage Payment Demonstration.* There is no FY 1999 funding provided for deferred mortgage authority or loans for deferred mortgage assumptions.

8. *Section 502 direct nonsubsidized funds (loan making and servicing).* There were no FY 1999 funds appropriated for loans for nonsubsidized loan making or servicing.

II. State Allocations

A. *Section 502 Nonsubsidized Guaranteed RH (GRH) Loans.*

1. *Amount Available for Allocation.*

Total Available	$3,000,000,000
Less National Office General Reserve	640,000,000
Less Special Outreach Area Reserve	160,000,000
Basic Formula—Administrative Allocation	2,200,000,000

2. *National Office General Reserve.* The Administrator may restrict access to this reserve for States not meeting their goals in Special Outreach Areas.

3. *Reservation of Funds.* Because it is anticipated that demand will exceed available funds, States must use the reservation of funds system per § 1980.351 of RD Instruction 1980–D.

4. *Special Outreach Areas.* FY 99 GRH funding is allocated to States in two funding streams (80/20) similar to the 60/40 income split for direct SFH funds. Eighty percent of GRH funds may be used in any eligible area. Twenty percent of GRH funds are to be used Special Outreach Areas. Special Outreach Areas are counties with median incomes at or below the State's nonmetropolitan median income. Each funding stream will independently be subject to pooling. If needed, Special Outreach Area funds may be pooled nationwide on July 16, 1998 and made available to other Special Outreach Areas in the Nation.

5. *National Office Special Area Outreach Reserve.* A special outreach area reserve fund has been established at the National Office. Funds from this reserve may only be used in special outreach areas.

6. *Suballocation by the State Director.* The State Director may retain funds at the State Office level or suballocate to the Area or Field Office level.

B. *Section 502 Direct RH loans.*

1. *Amount Available for Allocation.*

Total Available	$965,313,000
Less Required Set Aside for Underserved Counties and Colonias	48,266,000
EZ and EC Earmark	45,516,000
Less General Reserve	63,500,000
Administrator's Reserve	30,000,000
Hardships & Homelessness	3,500,000
Homeownership Partnership	25,000,000
Rural Housing Demonstration Program	5,000,000
Less Designated Reserve for Self-Help	150,000,000
Basic Formula Administrative Allocation	658,031,000

2. *Reserves.*

a. *State office Reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homeless applicants based upon historical data and projected demand. This shall include the direct section 502 Loan and section 504 Loan and Grant Programs.

(ii) The State's 25 percent portion of funds for Mutual Self-Help loans.

(iii) Subsequent loans for essential improvements or repairs and transfers with assumptions.

(iv) Financing for the purchase of program REO's when credit sale authority has been exhausted.

(v) State Directors must ensure that not less than 25 percent of the initial low-income allocation and 5 percent of the initial very low allocation are utilized for participation in leveraging section 502 direct loan funds.

(vi) Areas targeted by the State.

b. *National office Reserves.*

(i) *General reserve.* The National office has a general reserve of $63.5 million. Of this amount, the Administrator's reserve is $30 million.

One of the purposes of the Administrator's reserve will be for loans in Indian Country. Indian Country is defined as land inside the boundaries of Indian reservations, communities made up mainly of Native Americans, Indian trust and restricted land, and tribal allotted lands. The remaining reserves will be distributed as follows:

(ii) *Hardship and Homelessness Reserve.* $3.5 million has been set aside for Hardships & Homelessness.

(iii) *Homeownership Partnership.* $25 million has been set aside for Homeownership Partnerships. These funds will be used to expand existing partnerships and create new partnerships, such as the following:

(A) *Department of the Treasury, Community Development Financial Institutions (CDFI)*—Funds will be available to fund leveraged loans made in partnership with the Department of the Treasury CDFI participants.

(B) *Rural Home Loan Partnership (RHLP).* Partnership initiatives established to carry out the objectives of the National Partners in Homeownership including the RHLP and other strategies or initiatives.

(iv) *Rural Housing Demonstration Program.* $5 million has been set aside for innovative demonstration initiatives.

c. *Designated reserve for Self-Help.* $150 million has been set aside for matching funds to assist participating Self-Help applicants. The matching funds were established on the basis of the National office contributing 75 percent from the National office reserve and States contributing 25 percent of their allocated section 502 RH funds.

d. *Underserved counties and colonias.* $48,266,000 has been set aside for the 100 underserved counties and colonias.

e. *Empowerment Zone (EZ) and Enterprise Community (EC) Earmark.* These funds are earmarked for loans in EZs and ECs only. Further information will follow.

f. *Reserve requests.* All National office reserve requests should be submitted by the State Director to the National office on a case-by-case basis.

g. *State office Pooling.* If pooling is conducted within a State, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.)

h. *Suballocation by the State Director.* The State Director may suballocate to each area office using the methodology and formulas required by 7 CFR Part 1940, Subpart L. If suballocated to the area level, the Rural Development Manager will make funds available on a first-come, first-served basis to all offices at the field or area level. No field office will have its access to funds restricted without the prior written approval of the Administrator.

C. *Section 504 Housing Loans and Grants.* Section 504 Grant funds are included in the Rural Housing Assistance Grant Program (RHAG) in the FY 1999 Appropriation. Funds included in RHAG may be transferred in accordance with Part I of this notice.

1. *Amount available for allocation.*

Section 504 Loans	
Total Available	$25,001,000
Less 5% for 100 Underserved Counties and Colonias	1,250,000
EZ and EC Earmark	4,258,000
Less General Reserve	2,500,000
Basic Formula—Administrative Allocation	16,993,000
Section 504 Grants	
Total Available	20,000,000
Less 5% for 100 Underserved Counties and Colonias	1,000,000
Less General Reserve	2,500,000
Basic Formula—Administrative Allocation	16,500,000

2. *Reserves and Set-asides.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to handle all anticipated hardship applicants based upon historical data and projected demand.

b. *Underserved Counties and Colonias.* $1,250,000 and $1,000,000, respectively, have been set aside for the 100 underserved counties and colonias for the section 504 loan and grant programs.

c. *Empowerment Zone (EZ) and Enterprise Community (EC) Earmark (Loan funds only).* These funds are earmarked for EZs and ECs only.

d. *National Office Reserve.* $2.5 million for section 504 loan hardships and $2.5 million for section 504 grant extreme hardships have been set-aside in the General Reserve. For section 504 grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant.

Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation.

No.	Description	Section 502 nonsubsidized guaranteed RH loans	Section 502 direct RH loans	Section 504 loans and grants
1	Basic formula criteria, data source, and weight.	See 7 CFR 1940.563(b)	See 7 CFR 1940.565(b)	See 7 CFR 1940.566(b) and 1940.567(b).
2	Administrative allocation			
	Western Pacific Area	$1,000,000	$1,100,000	$2,400,000 Loan $ 560,000 Grant.
3	Pooling of funds			
	a. Mid year pooling	If Necessary	None Anticipated	None Anticipated.
	b. Year-end pooling	July 16, 1999	August 13, 1999	August 13, 1999.
	c. Underserved Counties and Colonias	N/A	June 30, 1999	June 30, 1999.
	d. EZ & EC	N/A	June 30, 1999	June 30, 1999.
	e. Credit Sales	N/A	June 30, 1999	N/A.
4	Availability of the allocation			
	a. first quarter	50 percent	50 percent	50 percent.
	b. second quarter	75 percent	70 percent	70 percent.
	c. third quarter	100 percent	90 percent	90 percent.
	d. fourth quarter	N/A	100 percent	100 percent.

1. Data derived from the 1990 U.S. Census was provided to each State by the National office on August 12, 1993.

2. Due to the absence of Census Data.

3. All dates are tentative and are as of close of business (COB). Pooled funds will be placed in the National office reserve and made available administratively.

4. Funds will be distributed cumulatively through each quarter listed until the National office year-end pooling date.

Dated: December 11, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

BILLING CODE 3410–XV–U

Rural Housing Service FY 1999
Multi-Family Housing
Section 533
Housing Preservation Grant

STATE	FORMULA FACTOR	TOTAL ALLOCATION
AL	0.02957	$150,807
AK	0.00587	$29,937
AZ	0.01780	$90,780
AR	0.02310	$117,810
CA	0.04653	$237,303
CO	0.00840	$42,840
DE	0.00190	$9,690
MD	0.00880	$44,880
FL	0.02890	$147,390
GA	0.03867	$197,217
HI	0.00790	$40,290
WPA	0.00647	$32,997
ID	0.00743	$37,893
IL	0.02250	$114,750
IN	0.02157	$110,007
IA	0.01340	$68,340
KS	0.01130	$57,630
KY	0.03483	$177,633
LA	0.03170	$161,670
ME.	0.00913	$46,563
MA	0.00793	$40,443
CT	0.00453	$23,103
RI	0.00100	$5,100
MI	0.02977	$151,827
MN	0.01673	$85,323
MS	0.03180	$162,180
MO	0.02460	$125,460
MT	0.00620	$31,620
NE	0.00713	$36,363
NV	0.00263	$13,413
NJ	0.00657	$33,507
NM	0.01437	$73,287
NY	0.02753	$140,403
NC	0.04497	$229,347
ND	0.00413	$21,063
OH	0.03450	$175,950
OK	0.01917	$97,767
OR	0.01423	$72,573
PA	0.03687	$188,037
PR	0.04923	$251,073
SC	0.02690	$137,190
SD	0.00597	$30,447
TN	0.02973	$151,623
TX	0.07645	$389,895
UT	0.00430	$21,930
VT	0.00403	$20,553
NH	0.00503	$25,653
VI	0.00273	$13,923
VA	0.02660	$135,660
WA	0.01743	$88,893
WV	0.01937	$98,787
WI	0.01873	$95,523
WY	0.00307	$15,657
DISTR.	1.00000	$5,100,000
N/O RES.		$700,000
EZ/EC		$1,200,000
TTL AVAIL.		$7,000,000

RURAL HOUSING SERVICE
FISCAL YEAR 1999 ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 1999 ALLOCATION
ALABAMA	0.0267275	$17,558
ALASKA	0.0055160	$3,624
ARIZONA	0.0145422	$9,553
ARKANSAS	0.0208104	$13,671
CALIFORNIA	0.0454819	$29,878
COLORADO	0.0091766	$6,028
DELAWARE	0.0024571	$1,614
MARYLAND	0.0115334	$7,577
FLORIDA	0.0312406	$20,523
VIRGIN ISLANDS	0.0020058	$1,318
GEORGIA	0.0374586	$24,608
HAWAII	0.0067195	$4,414
W PAC ISLANDS	N/A	$1,100
IDAHO	0.0076722	$5,040
ILLINOIS	0.0266774	$17,525
INDIANA	0.0270785	$17,789
IOWA	0.0163474	$10,739
KANSAS	0.0127369	$8,367
KENTUCKY	0.0288838	$18,975
LOUISIANA	0.0246715	$16,208
MAINE	0.0108314	$7,115
MASSACHUSETTS	0.0109818	$7,214
CONNECTICUT	0.0066693	$4,381
RHODE ISLAND	0.0015545	$1,021
MICHIGAN	0.0353525	$23,224
MINNESOTA	0.0199077	$13,078
MISSISSIPPI	0.0250226	$16,438
MISSOURI	0.0252733	$16,603
MONTANA	0.0063685	$4,184
NEBRASKA	0.0086752	$5,699
NEVADA	0.0028583	$1,878
NEW JERSEY	0.0097784	$6,424
NEW MEXICO	0.0110320	$7,247
NEW YORK	0.0359041	$23,587
NORTH CAROLINA	0.0484405	$31,822
NORTH DAKOTA	0.0045131	$2,965
OHIO	0.0390131	$25,629
OKLAHOMA	0.0174005	$11,431
OREGON	0.0154949	$10,179
PENNSYLVANIA	0.0467857	$30,735
PUERTO RICO	0.0239695	$15,746
SOUTH CAROLINA	0.0258249	$16,965
SOUTH DAKOTA	0.0062682	$4,118
TENNESSEE	0.0291846	$19,172
TEXAS	0.0660415	$43,385
UTAH	0.0040618	$2,668
VERMONT	0.0052653	$3,459
NEW HAMPSHIRE	0.0072711	$4,777
VIRGINIA	0.0289841	$19,041
WASHINGTON	0.0187042	$12,287
WEST VIRGINIA	0.0175008	$11,497
WISCONSIN	0.0237188	$15,582
WYOMING	0.0036105	$2,372
STATE TOTALS	1.0000000	$658,031
GENERAL RESERVE		$63,500
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMA		$45,516
100 UNDERSERVED COUNTIES/COLONIAS		$48,266
SELF HELP		$150,000
TOTAL		$965,313

RURAL HOUSING SERVICE
FISCAL YEAR 1999
ALLOCATION IN THOUSANDS
SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 1999 ALLOCATION
ALABAMA	0.0253847	$55,821
ALASKA	0.0061561	$13,537
ARIZONA	0.0155290	$34,148
ARKANSAS	0.0213661	$46,984
CALIFORNIA	0.0524861	$115,417
COLORADO	0.0100701	$22,144
DELAWARE	0.0024043	$5,287
MARYLAND	0.0104750	$23,035
FLORIDA	0.0308357	$67,808
VIRGIN ISLANDS	0.0027236	$5,989
GEORGIA	0.0385293	$84,726
HAWAII	0.0083323	$18,323
W PAC ISLANDS	N/A	$1,000
IDAHO	0.0077774	$17,102
ILLINOIS	0.0256395	$56,381
INDIANA	0.0236023	$51,902
IOWA	0.0151422	$33,298
KANSAS	0.0123032	$27,055
KENTUCKY	0.0286790	$63,065
LOUISIANA	0.0256223	$56,343
MAINE	0.0113916	$25,050
MASSACHUSETTS	0.0117468	$25,831
CONNECTICUT	0.0065708	$14,449
RHODE ISLAND	0.0017216	$3,786
MICHIGAN	0.0337181	$74,146
MINNESOTA	0.0184738	$40,624
MISSISSIPPI	0.0259670	$57,101
MISSOURI	0.0253687	$55,786
MONTANA	0.0067138	$14,764
NEBRASKA	0.0083216	$18,299
NEVADA	0.0029735	$6,539
NEW JERSEY	0.0091825	$20,192
NEW MEXICO	0.0117200	$25,772
NEW YORK	0.0369739	$81,306
NORTH CAROLINA	0.0471742	$103,736
NORTH DAKOTA	0.0040847	$8,982
OHIO	0.0378081	$83,140
OKLAHOMA	0.0175713	$38,639
OREGON	0.0166212	$36,550
PENNSYLVANIA	0.0438367	$96,397
PUERTO RICO	0.0250931	$55,180
SOUTH CAROLINA	0.0249510	$54,867
SOUTH DAKOTA	0.0065435	$14,389
TENNESSEE	0.0276859	$60,881
TEXAS	0.0665018	$146,237
UTAH	0.0039861	$8,765
VERMONT	0.0057475	$12,639
NEW HAMPSHIRE	0.0075234	$16,544
VIRGINIA	0.0278404	$61,221
WASHINGTON	0.0200905	$44,179
WEST VIRGINIA	0.0172518	$37,937
WISCONSIN	0.0222867	$49,009
WYOMING	0.0035006	$7,698
STATE TOTALS	1.0000000	$2,200,000
GENERAL RESERVE		$640,000
SPECIAL OUTREACH AREAS RESERVE		$160,000
TOTAL		$3,000,000

RURAL HOUSING SERVICE
FISCAL YEAR 1999 ALLOCATION IN THOUSANDS
SECTION 504 RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 1999 ALLOCATION
ALABAMA	0.0291457	$406
ALASKA	0.0080402	$112
ARIZONA	0.0201005	$280
ARKANSAS	0.0226131	$315
CALIFORNIA	0.0532663	$741
COLORADO	0.0085427	$119
DELAWARE	N/A	$75
MARYLAND	0.0095477	$133
FLORIDA	0.0296482	$413
VIRGIN ISLANDS	N/A	$75
GEORGIA	0.0396985	$553
HAWAII	0.0100503	$140
W PAC ISLANDS	N/A	$2,400
IDAHO	0.0075377	$105
ILLINOIS	0.0226131	$315
INDIANA	0.0221106	$308
IOWA	0.0130653	$182
KANSAS	0.0115578	$161
KENTUCKY	0.0321608	$448
LOUISIANA	0.0296482	$413
MAINE	0.0100503	$140
MASSACHUSETTS	0.0080402	$112
CONNECTICUT	N/A	$75
RHODE ISLAND	N/A	$75
MICHIGAN	0.0291457	$406
MINNESOTA	0.0175879	$245
MISSISSIPPI	0.0301508	$420
MISSOURI	0.0241206	$336
MONTANA	0.0060302	$84
NEBRASKA	0.0070352	$98
NEVADA	N/A	$75
NEW JERSEY	0.0070352	$98
NEW MEXICO	0.0150754	$210
NEW YORK	0.0286432	$399
NORTH CAROLINA	0.0477387	$664
NORTH DAKOTA	N/A	$75
OHIO	0.0331658	$462
OKLAHOMA	0.0175879	$245
OREGON	0.0150754	$210
PENNSYLVANIA	0.0371859	$518
PUERTO RICO	0.0341709	$476
SOUTH CAROLINA	0.0281407	$392
SOUTH DAKOTA	0.0060302	$84
TENNESSEE	0.0296482	$413
TEXAS	0.0783920	$1,497
UTAH	N/A	$75
VERMONT	N/A	$75
NEW HAMPSHIRE	0.0055276	$77
VIRGINIA	0.0296482	$413
WASHINGTON	0.0185930	$259
WEST VIRGINIA	0.0180905	$252
WISCONSIN	0.0195980	$273
WYOMING	N/A	$75
STATE TOTALS	0.9708543	$16,993
GENERAL RESERVE		$2,500
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES EARMA		$4,258
100 UNDERSERVED COUNTIES/COLONIAS		$1,250
TOTAL		$25,001

RURAL HOUSING SERVICE
FISCAL YEAR 1999 ALLOCATION IN THOUSANDS
SECTION 504 RURAL HOUSING GRANTS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 1999 ALLOCATION
ALABAMA	0.0281124	$442
ALASKA	0.0056894	$90
ARIZONA	0.0170683	$269
ARKANSAS	0.0224230	$353
CALIFORNIA	0.0481928	$758
COLORADO	0.0083668	$132
DELAWARE	N/A	$75
MARYLAND	0.0100402	$158
FLORIDA	0.0341365	$537
VIRGIN ISLANDS	N/A	$75
GEORGIA	0.0368139	$579
HAWAII	0.0076975	$121
W PAC ISLANDS	N/A	$560
IDAHO	0.0073628	$116
ILLINOIS	0.0264391	$416
INDIANA	0.0244311	$384
IOWA	0.0163989	$258
KANSAS	0.0133869	$211
KENTUCKY	0.0297858	$469
LOUISIANA	0.0261044	$411
MAINE	0.0103748	$163
MASSACHUSETTS	0.0097055	$153
CONNECTICUT	0.0053548	$84
RHODE ISLAND	N/A	$75
MICHIGAN	0.0317938	$500
MINNESOTA	0.0197456	$311
MISSISSIPPI	0.0271084	$427
MISSOURI	0.0257697	$406
MONTANA	0.0060241	$95
NEBRASKA	0.0087015	$137
NEVADA	0.0026774	$75
NEW JERSEY	0.0083668	$132
NEW MEXICO	0.0123829	$195
NEW YORK	0.0324632	$511
NORTH CAROLINA	0.0471888	$743
NORTH DAKOTA	N/A	$75
OHIO	0.0361446	$569
OKLAHOMA	0.0184070	$290
OREGON	0.0157296	$248
PENNSYLVANIA	0.0438420	$690
PUERTO RICO	0.0264391	$416
SOUTH CAROLINA	0.0261044	$411
SOUTH DAKOTA	0.0063588	$100
TENNESSEE	0.0294511	$463
TEXAS	0.0716198	$1,127
UTAH	N/A	$75
VERMONT	N/A	$75
NEW HAMPSHIRE	0.0060241	$95
VIRGINIA	0.0284471	$448
WASHINGTON	0.0184070	$290
WEST VIRGINIA	0.0180723	$284
WISCONSIN	0.0224230	$353
WYOMING	N/A	$75
STATE TOTALS	0.9775770	$16,500
GENERAL RESERVE		$2,500
100 UNDERSERVED COUNTIES/COLONIAS		$1,000
TOTAL		$20,000

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania 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 Pennsylvania Advisory Committee to the Commission will convene at 9:45 a.m. and adjourn at 5:30 p.m. on Thursday, January 14, 1999, at the Holiday Inn-Independence Mall, Franklin Room, 400 Arch Street, Philadelphia, Pennsylvania 19106. The Committee will hold a consultation with State representatives, business leaders, and minority community advocates to (1) discuss barriers that adversely effect minority and women-owned businesses, (2) identify solutions that can increase their share in statewide economic opportunities, and (3) identify examples of successful ventures that have included a large number of minority and women-owned firms.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Sieglinde A. Shapiro, 215–204–6749, 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, December 17, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–33908 Filed 12–22–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Survey of International Air Travelers.

Agency Form Number: None.

OMB Number: 0625–0227.

Type of Request: Extension-Regular Submission.

Burden: 24,840 hours.

Number of Respondents: 165,600.

Avg. Hours Per Response: 15 minutes.

Needs and Uses: The International Trade Administration, Tourism Industries' ''Survey of International Air Travelers'' is the only source for estimating international travel and passenger fare exports and imports for this country. This program also supports the U.S. Department of Commerce, Bureau of Economic Analysis mandate to collect and report this type of information which is used to calculate Gross Domestic Products for the United States. In addition, this project serves as the core data source for Tourism Industries. Numerous reports and analyses are developed to assist businesses in increasing U.S. exports in international travel. An economic impact of international travel on state economies, visitation estimates, traveler profiles, presentations and reports are generated by Tourism Industries to help the federal government agencies and the travel industry better understand the international market. It is also a service that the U.S. Department of Commerce provides to travel industry businesses seeking to increase international travel and passenger fare exports for the country. It provides the only comparable estimates of nonresident visitation to the states and cities within the U.S., as well as U.S. resident travel abroad. Traveler characteristics data are also collected to help travel related businesses better understand the international travelers to and from the U.S. so they can develop targeted marketing and other planning related materials.

Affected Public: International travelers departing the United States 18 years or older which includes U.S. and non-U.S. residents.

Frequency: Monthly.

Respondent's Obligation: Voluntary survey.

OMB Desk Officer: David Rostker, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503 within 30 days of publication of this **Federal Register** notice.

Dated: December 18, 1998.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 98–33990 Filed 12–22–98; 8:45 am]

BILLING CODE: 3510–DR–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation (SIPP) Wave 10 of the 1996 Panel.

Form Number(s): SIPP/CAPI Automated Instrument.

Agency Approval Number: 0607–0813.

Type of Request: Revision of a currently approved collection.

Burden: 117,800 hours.

Number of Respondents: 77,700.

Avg. Hours Per Response: 30 minutes.

Needs and Uses: The Bureau of the Census conducts the Survey of Income and Program Participation to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are use by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture.

The SIPP is a longitudinal survey, in that households in the panel are interviewed 12 times at 4-month intervals or waves over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000.

The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of the panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is supplemented with additional questions or topical

modules designed to answer specific needs.

This request is for clearance of the topical modules to be asked during Wave 10 of the 1996 Panel. The core questions have already been cleared. The topical modules for Wave 10 are: (1) Annual Income and Retirement Accounts, (2) Taxes, (3) Child Care, and (4) Work Schedule. Wave 10 interviews will be conducted from April through July 1999.

Affected Public: Individuals or Households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, USC, Section 182.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 18, 1998.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 98–33991 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Export Controls of High Performance Computers.

Agency Form Number: None.

OMB Approval Number: 0694–0073.

Type of Request: Extension of a currently approved collection of information.

Burden: 14 hours.

Average Time Per Response: 42 to 107 minutes per response.

Number of Respondents: 9 respondents.

Needs and Uses: These provisions are established in recognition of the strategic significance of these high performance computers (HPC), in particular their potential to make substantial contributions to activities of national security and weapons proliferation concerns. BXA will conduct annual reviews of the HPC definition, the threshold levels, the safeguards, the HPC country Tier groupings and variable safeguard requirements to be consistent with our national security and proliferation concerns, technical advancements, and changes in market conditions. In addition, recommendations from the public for revising the controls will be considered.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required.

OMB Desk Officer: David Rostker, (202)395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: December 17, 1998.

Madeleine Clayton,

Management Analyst

Office of the Chief Information Officer.

[FR Doc. 98–33992 Filed 12–22–98; 8:45 a.m.]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Performance Data for the West Coast (California-Alaska) Commercial Fisheries.

Agency Form Number(s): N/A.

OMB Approval Number:

Type of Request: New Collection.

Burden: 2,675 hours.

Number of Respondents: 1,471.

Avg. Hours Per Response: Ranges between 1 and 5 hours depending on respondent.

Needs and Uses: NOAA proposes to collect economic performance data for West Coast and Alaska commercial fisheries through a cooperative agreement with the Pacific States Marine Fisheries Commission. The data will be used: (1) to monitor the economic performance of these fisheries through primary processing, and (2) to analyze the economic effects on current, proposed, and alternative management measures.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: December 17, 1998.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 98–33993 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), DOC.

ACTION: To give five firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 11/19/98–12/15/98

Firm name	Address	Date petition accepted	Product
GWW Incorporated	540 E. Centralia St. Elkhorn WI 53121.	11/23/98	Cases for Musical Instruments, Collector Dolls, Gun Cases and Electronic Devices.
Carolina Mold Works	24 Sterling Place Fletcher NC 28732.	11/24/98	Plastic Injection Molds.
Ameritherm, Inc.	39 Main Street Scottsville NY 14546.	11/30/98	Radio Frequency Induction Heating Equipment.
Entrol Industries, Inc.	8180 NW 36th Ave., Miami FL 33147.	12/03/98	Ceiling Tiles and Ceiling Systems.
Metal Masters, Ltd.	18 Miller Alley Thurmont MD 21788.	12/08/98	Aluminum and Steel Bars, Flanges, Plates, Disks Brackets and Housings.
Model Mold & Machine Co., Inc.	3409 Sutherland Ave., Indianapolis IN 46218.	12/14/98	Injection Molds of Plastic.
Apex Industries, Inc.	3808 N. Sullivan Rd. 14 Spokane WA 98216.	11/23/98	Sheet Metal Component Parts for Computers, Furniture, Signs, Forklift Alarm Systems, Etc.
Adcom of Iowa, Inc.	Highway 169 N. Grant City MO 64456.	11/30/98	Caps.
Burt & Burt, Inc. DBA Wind Related.	109 N. 4th Street Hamilton MT 59840.	11/30/98	Wind Socks, Circles and Banners.
Marquip, Inc.	1300 N. Airport Rd., Phillips WI 54555.	12/03/98	Machines for Making Corrugated and Hard Board.
Microwave Technology, Inc.	4268 Solar Way Fremont CA 94538.	12/03/98	Microwave Amplifiers.
Western Bronze, Inc.	54 Western Avenue W. Springfield MA 01089.	12/04/98	Non-Ferrous Pump, Valve, Industrial Machine Parts.
Adronics/Elrob Mfg. Co.	9 Sand Park Rd., Cedar Grove NJ 07009.	12/14/98	Automotive Accessories, i.e. Antennas & Antenna Assembly Systems & Mechanical Electrical Assemblies.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: December 16, 1998.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 98–33952 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telelphone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than November 30, 1999.

	Period to be reviewed
Antidumping duty proceedings	
ARGENTINA: Carbon Steel Wire Rods, A–357–007	11/1/97–10/31/98
Acindar Industria Argentina de Aceros SA	
MEXICO: Circular Welded Non-Alloy Steel Pipe, A–201–805	11/1/97–10/31/98

	Period to be reviewed
Hylsa, S.A. de C.V.	
Tuberia Nacional, S.A. de C.V.	
REPUBLIC OF KOREA: Circular Welded Non-Alloy Steel Pipe, A–580–809	11/1/97–10/31/98
Dongbu Steel Co., Ltd.	
Hyundai Pipe Co., Ltd.	
Korea Iron and Steel Co.	
Shinho Steel Co., Ltd.	
SeAH Steel Corporation	
Union Steel Manufacturing Co., Ltd.	
TAIWAN: Collated Roofing Nails, A–583–826	11/20/97–10/31/98
Dinsen Fastening System, Inc.	
THE PEOPLE'S REPUBLIC OF CHINA: Fresh Garlic,[1] A–570–831	11/1/97–10/31/98
Fook Huat Tong Kee Pte., Ltd.	
Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd.	
Commercial Peregrin, S.A.	
THE PEOPLE'S REPUBLIC OF CHINA: Paper Clips,[2] A–570–826	11/1/97–10/31/98
Hui Zhou Shi Da Wing Plastic Metal Factory	
Zhejiang Light Industrial Products Import & Export Corp.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
KAZAKHSTAN: Uranium,[3] A–834–802	10/1/97–09/30/98
SINGAPORE: Certain Refrigeration Compressors, C–559–001	04/1/97–03/31/98
THE UKRAINE: Silicomanganese, A–823–805	11/1/97–10/31/98

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of fresh garlic from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of paper clips from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[3] Inadvertently omitted from previous initiation notice.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of the Department's Regulations to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: December 17, 1998.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–34036 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–D5–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 98–00001.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Fresh Fruit Exporters Association. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 400l-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1998).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*

Fresh fruit.

2. *Services*

Inspection, quality control, marketing and promotional services.

3. *Technology Rights*

Proprietary rights to all technology associated with Products or Services, including, but not limited to: patents, trademarks, service marks, trade names, copyrights, trade secrets, and know-how.

4. *Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)*

All export trade-related facilitation services, including, but not limited to: consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; inspection and quality control; transportation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development and application; assistance related to participation in government export assistance programs, such as the Export Enhancement and Market Promotion programs.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products, Services and/or Technology Rights into the Export Markets, FFEA and/or one or more of its Members may:

1. Design and execute foreign marketing strategies for its Export Markets;
2. Prepare joint bids, establish export prices for Members' Products and Services, and establish terms of sale in Export Markets in connection with potential or actual *bona fide* opportunities;
3. Design, develop and market generic corporate labels for use in Export Markets;
4. Engage in joint promotional activities directly targeted at developing Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures and industry newsletters; providing product, service, and industry information; conducting international market and product research; and procuring international marketing, advertising, and promotional services;
5. Share the cost of joint promotional activities among the Members;
6. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;
7. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in Export Markets;
8. Establish and operate fumigation facilities and provide specialized packing operations and other quality control procedures to be followed by Members in the export of Products into Export Markets;
9. Assist each other in maintaining the quality standards necessary to be successful in Export Markets;
10. Advise and cooperate with agencies of the U.S. Government in establishing procedures regulating the export of Members' Products, Services and/or Technology Rights into Export Markets;
11. Negotiate and enter into purchase agreements with buyers in Export Markets regarding export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;
12. Broker or take title to Products intended for Export Markets;
13. Purchase Products from non-Member producers to fulfill specific sales obligations, provided that FFEA and/or Members shall make such purchases only on a transaction-by-transaction basis and when the Members are unable to supply, in a timely manner, the requisite Products at a price competitive under the circumstances;
14. Solicit non-Member producers to become Members;
15. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storing and warehousing, stevedoring, wharfage and handling, insurance, and freight forwarder services;
16. Arrange for trade documentation and services, customs clearance, financial instruments, and foreign exchange;
17. Arrange financing through private financial entities;
18. Bill and collect monies from foreign buyers, and arrange for or provide accounting, tax, legal and consulting services in relation to Export Trade Activities and Methods of Operation;
19. Enter into exclusive agreements with non-Members to provide Export Trade Facilitation Services;
20. Apply for and utilize applicable export assistance and incentive programs available within governmental sectors;
21. Negotiate and enter into agreements with governments and foreign persons to develop countertrade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the United States that are imported as part of any countertrade transactions;
22. Refuse to deal with or provide quotations to other Export Intermediaries for sales of Members' Products into Export Markets;
23. Require common marking and identification of Members' Products sold in Export Markets;
24. Exchange information as necessary to carry out Export Trade Activities and Methods of Operation, including:

(a) Information about sales, marketing efforts, and sales strategies in Export Markets, including pricing; projected demand in Export Markets for Products; customary terms of sale; and foreign buyer and consumer product specifications;

(b) Information about the price, quality, quantity, source and delivery dates of Products available from the Members for export;

(c) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by FFEA and/or Members;

(d) Information about expenses specific to exporting to and within Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

(e) Information about U.S. and foreign legislation and regulations, including Federal marketing order programs that may affect sales to Export Markets;

(f) Information about FFEA's or Members' export operations, including sales and distribution networks established by FFEA or Members in Export Markets, and prior export sales by Members, including export price information; and

(g) Information about claims or bad debts by FFEA's or Members' customers in Export Markets.

Definitions

1. *Export Intermediary* means a person who acts as distributor, sales representative, sales or marketing agent,

or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

2. *Member* means a person who has membership in FFEA and who has been certified as a ''Member'' within the meaning of Section 325.2(1) of the Regulations, set out in Attachment A and incorporated by reference.

Terms and Conditions of Certificate

1. Except as provided in paragraphs 24(b) and 24(d) of the Export Trade Activities and Methods of Operation, neither FFEA nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information about its or any other Member's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) of an actual or potential *bona fide* sale and the disclosure is limited to the prospective purchasing Member.

2. Each Member shall determine independently of other Members the quantity of Products the Member will make available for export or sell through FFEA. FFEA may not solicit from any Member specific quantities for export or require any Member to export any minimum quantity of products.

3. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products available for Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing) shall be in connection only with actual or potential *bona fide* export transactions or opportunities and shall include only those Members participating or having a genuine interest in participating in such transactions or opportunities; provided that FFEA and/or the Members may discuss standardization of Products and Services for purposes of making *bona fide* recommendations to foreign governmental or private standard-setting organizations.

4. Meetings at which FFEA allocates export sales among Members and establishes export prices shall not be open to the public.

5. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for sales of Products, Services or Technology Rights in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to FFEA, a copy of which FFEA shall promptly transmit to the Secretary of Commerce and the Attorney General.

6. FFEA and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

A copy of this Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: December 17, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

Attachment A

Members (within the meaning of Section 325.2(1) of the Regulations):

Autenrieth & Gray, Agoura Hills, CA

Fresh Western International, Inc., Salinas, CA

Fruit Unlimited Inc., Visalia, CA

Giscal Limited, U.S.A., Los Angeles, CA

Great Oriental Corporation, Anaheim, CA

Pandol Bros., Inc., Delano, CA

Paramount Export Company, Oakland, CA

Primary Export International, Inc., South San Francisco, CA Renown LLC, Redlands, CA

United Fruits (Calif.) Corp. and United Overseas Trading Corp., Santa Monica, CA

Vanguard Trading Services, Inc., Issaquah, WA

Westlake-Miller, Inc., Los Angeles, CA.

[FR Doc. 98–33989 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Showcase Exhibit of U.S. Exports

AGENCY: International Trade Administration, DOC.

ACTION: Notice of Showcase Exhibit of U.S. Exports.

DATES: December 23, 1998.

SUMMARY: The International Trade Administration (''ITA'') of the Department of Commerce announces an exhibition of exported U.S. products and services. The exhibition will showcase U.S. exports by displaying successfully exported products and services at ITA headquarters in Washington, D.C., to highlight the benefits of exporting and the impact of exports on the U.S. economy. Companies and trade associations are encouraged to express interest in providing exhibit material. The information technology sector will be the next industrial sector to be represented.

AUTHORITY: 15 U.S.C. 1512.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Gaines; U.S. Department of Commerce/ITA; Room 2805; Washington, DC 20230; Telephone (202) 482–3013; fax (202) 482–0952.

SUPPLEMENTARY INFORMATION:

Background

ITA is showcasing U.S. exports by exhibiting successfully exported products and services at its headquarters in Washington, DC, to highlight the benefits of exporting and the impact of exports on the U.S. economy. The exhibit, which represents a series of industries and a variety of companies, is located in the Office of the Under Secretary for International Trade. The exhibit will be rotated approximately every four months.

The third sector to be displayed is the information technology sector. Companies and trade associations in this sector are encouraged to express interest in showcasing their exports of goods and/or services by contacting ITA through the individual listed above. Displayed items may include illustrations, miniaturized or actual models, or actual products. Examples of appropriate displays would include models or illustrations of microprocessors, dynamic random access memory (DRAM) devices, stuffed printed circuit boards, passive components such as electron tubes, capacitors, resistors, and connectors, semiconductor manufacturing equipment, hard disk drives or

assemblies, laser and ink-jet printers, computer systems (desktop and portable personal computers, workstations, servers, mainframes, and supercomputers), networking equipment (network interface cards, hubs, routers, and LAN switches), software, telephone and telegraph apparatus (customer premises, switching, and transmission equipment) cellular radio telephones, fiber optic equipment, satellite communications systems (space and ground segments), and telecommunications and information services, or IT projects that have been constructed overseas and incorporate substantial U.S. products and/or services.

Extensive shelf-space and floor-space are available in this executive-style office.

Selection Process:

Items will be selected for exhibition on the basis of the following factors:

(1) Items must be produced in, or representative of services exported from, the United States and have at least a 51% U.S. content, including materials, equipment and labor (in the case of large development projects, the applicant should identify substantial U.S. products or services into the completed project). To highlight the impact of exports on small businesses, items will also be considered that are produced by U.S. companies that do not directly export but rather whose goods or services are incorporated into another company's for export.

(2) The items must relate to the industry selected by ITA and be suitable for exhibition in a limited space.

(3) The company must not be owned or controlled, indirectly or directly, by a foreign government.

(4) Items chosen should reflect diversity of company size, location, demographics, and traditional under-representation in business.

Other conditions: Displayed items will be considered loans to the Department. Companies will be responsible for shipment of the item to and from the Commerce Department, for obtaining appropriate insurance, and for all related costs.

Time Frame for Applications: Expressions of interest from the information technology sector should be received by January 15, 1999. Expressions of interest should be sent to the ITA official identified above.

A **Federal Register** notice will be published subsequently to announce the next sector to be highlighted.

Ambassador David L. Aaron,

Under Secretary for International Trade.

[FR Doc. 98–34035 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–25–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Guatemala

December 16, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: December 17, 1998.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, 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.

On the request of the Government of Guatemala, the U.S. Government has agreed to increase the current guaranteed access level for Categories 347/348.

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 67624, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 16, 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 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began on January 1, 1998 and extends through December 31, 1998.

Effective on December 17, 1998, you are directed to increase the guaranteed access level for Categories 347/348 to 1,750,000 dozen.

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. 98–33926 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

December 16, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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 1999 limit for Category 435 is being reduced to account for carryforward applied in 1998.

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). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date. Also see

63 FR 53879, published on October 7, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 16, 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 September 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999.

Effective on January 1, 1999, you are directed to reduce the limit for Category 435 to 26,218 dozen, as provided for in the agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated August 6, 1996.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[Doc.98–33924 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Decrease of a Designated Consultation Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

December 16, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs decreasing a designated consultation level.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this level, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. 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 1999 designated consultation level for Categories 338/339/638/639 is being decreased to account for the increase applied to the 1998 level.

The level does not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, this consultation level does not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

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). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date. Also see 63 FR 53880, published on October 7, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 16, 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 September 30, 1998 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the period which begins on January 1, 1999 and extends through December 31, 1999. The levels established in that directive do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of NAFTA or to goods assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

Effective on January 1, 1999, you are directed to decrease the 1999 designated consultation level for Categories 338/339/638/639 to 578,500 dozen, pursuant to exchange of letters dated December 5, 1997 and provisions of the NAFTA (North American Free Trade Agreement).

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. 98–33925 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Availability of the Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 1999

December 16, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Committee for the Implementation of Textile Agreements (CITA) announces that the 1999 Correlation, based on the Harmonized Tariff Schedule of the United States, will be available in December 1998 as part of the Office of Textiles and Apparel (OTEXA) CD-Rom publications.

The CD-Rom may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Barbara Anderson, at a cost of $25. Checks or money orders should be made payable to the U.S. Department of Commerce.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–33923 Filed 12–22–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0091]

Proposed Collection; Comment Request Entitled Anti-Kickback Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Anti-Kickback Procedures. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Divison, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) 52.203–7, Anti-Kickback Procedures, requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 51–58). Whenever prime contractors or subcontractors have reasonable grounds to believe that a violation of section 3 of the Act may have occurred, they are required to report the possible violation in writing to the contracting agency or the Department of Justice. The information is used to determine if any violations of section 3 of the Act have occurred.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, 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 is estimated as follows: Respondents, *100*; responses per respondent, *1*; total annual responses, *100*; preparation hours per response, *1*; and total response burden hours, *100*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33939 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0101]

Proposed Collection; Comment Request Entitled Drug-Free Workplace

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Drug-Free Workplace. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

The contract clause at FAR 52.223–6 requires (1) contract employees to notify their employer of any criminal drug statute conviction for a violation occurring in the workplace; and (2) Government contractors, after receiving notice of such conviction, to notify the contracting officer.

The information provided to the Government is used to determine contractor compliance with the statutory requirements to maintain a drug-free workplace.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.17* 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.

The annual reporting burden is estimated as follows: Respondents, *600*; responses per respondent, *1*; total annual responses, *600*; preparation hours per response, *.17*; and total response burden hours, *102*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33940 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0005]

Proposed Collection; Comment Request Entitled Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255). The clearance currently expires on April 30,1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0005, Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255), in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 255 is used by all Executive agencies to obtain information from architect-engineer (A-E) firms interested in a particular project. The information on the form is reviewed by a selection panel composed of professional people and assists the panel in selecting the most qualified A-E firm to perform the specific project. The form is designed to provide a uniform method for A-E firms to submit information on experience, personnel, capabilities of the A-E firm to perform, along with information on the consultants they expect to collaborate with on the specific project.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1.2* 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.

The annual reporting burden is estimated as follows: Respondents, *5,000*; responses per respondent, *4*; total annual responses, *20,000*; preparation hours per response, *1.2*; and total response burden hours, *24,000*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0005, Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255), in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33941 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs) DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (Health Affairs) announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 22, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the TRICARE Management Activity, Special Contract Operations Branch, ATTN: Terri Katsouranis, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Special Contract Operations Branch at (303) 676–3444.

Title Associated Form; and OMB Number: Continued Health Care Benefit Program; OMB Number 0704–0364.

Needs and uses: The information collection requirement is necessary for individuals to apply for enrollment in the Continued Health Care Benefit Program (CHCBP). The CHCBP is a program of temporary health benefit coverage comparable to the health benefits provided for former civilian employees of the Federal Government.

Affected Public: Individuals or households.

Annual Burden Hours: 150.

Number of Respondents: 600 per year.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are beneficiaries who lose their Military Health System entitlement who desire to enroll in the Continued Health Care Benefits Program. These beneficiaries include former active duty members and their families, unremarried former spouses, emancipated children, and children placed for adoption or legal custody. This form is used to apply for enrollment in the Continued Health Care Benefit Program of temporary health benefit coverage comparable to the health benefits provided for former civilian employees of the Federal Government.

Dated: December 17, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–33974 Filed 12–22–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence, DoD.

ACTION: Notice.

In compliance with Section 350(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (C3I) announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 22, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Assistant Secretary of Defense Command, Control, Communications, and Intelligence (ASD C31), 6000 Defense Pentagon, ATTN: Ms. Charlene Wright, Washington, DC 20301–6000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Office of the Assistant Secretary of Defense (C3I) at (703) 697–3039.

Title; Associated Form; and OMB Number: Department of Defense Request for Personnel Security Investigation; DD Form 1879; OMB Number 0704–0384.

Needs and Uses: The information collection requirement is necessary to solicit minimal personal information and investigative information which will become part of the security clearance investigation. This form is used to transmit requests for security clearance investigations for access to classified information or employment in sensitive positions.

Affected Public: Individuals; Business or other for profit.

Annual Burden Hours: 8,041.

Number of Respondents: 32,164.

Responses Per Respondent: 1.

Average Burden Per Response: 15 Minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 1879, ''Department of Defense Request for Personnel Security Investigation,'' is used to request Single Scope Background Investigations (SSBIs), Expanded National Agency Checks (ENACs), SSBI Periodic Reinvestigations (PRs), or Special Investigative Inquiries (SIIs). It will accompany the Standard Form 85–P, ''Questionnaire for Public Trust Position,'' or Standard Form 86, ''Questionnaire for National security Position,'' which will be used by the Defense Security Service for the purpose of conducting SSBIs, ENACs, PRs, and SIIs. These provide the basis for determination of a person's eligibility for access to classified information, appointment to a sensitive position, assignment to duties that require a personnel security or trustworthiness determination, continuing eligibility for retention of a security clearance, or assignment to other sensitive duties.

Dated: December 18, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–33975 Filed 12–22–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0067]

Proposed Collection; Comment Request Entitled Incentive Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Incentive Contracts. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.

The information required periodically from the contractor—such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government for which final prices have been established, and estimated costs allocable to supplies or services accepted by the Government and for which final prices have not been established—is needed to negotiate the final prices of incentive-related item and services.

The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *3,000;* responses per respondent, *1;* total annual responses, *3,000;* preparation hours per response, *1;* and total response burden hours, *3,000.*

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

Dated: December 18, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–34018 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0089]

Proposed Collection; Comment Request Entitled Standard Form 1444, Request for Authorization of Additional Classification and Rate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Standard Form 1444, Request for Authorization of Additional Classification and Rate. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0089, Standard Form 1444, Request for Authorization of Additional Classification and Rate, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

This regulation prescribes labor standards for federally financed and assisted construction contracts subject to the Davis-Bacon and Related Acts (DBRA), as well as labor standards for nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA).

The recordkeeping requirements in this regulation, 48 CFR ch. 1, section 22.406, are a restatement of requirements cleared under OMB control numbers 1215–0140, 1215–0149, and 1215–0017 for 29 CFR 5.5(a)(1)(i), 5.5(c), and 5.15 (records to be kept by employers under the Fair Labor Standards Act (FLSA), 29 CFR 516, which is the basic recordkeeping regulation for all the laws administered by the Wage and Hour Division of the Employment Standards Administration).

48 CFR ch. 1, section 22.406–3, implements the recordkeeping and information collection requirements prescribed in 29 CFR 5.5(a)(1)(iii) cleared under OMB control number 1215–0140 (also prescribed at 48 CFR 22.406 under OMB control number 9000–0089), by providing SF 1444, Request for Authorization of Additional Classification and Rate, for the contractor and the Government to enter the recordkeeping and information collection data required by 29 CFR 5.5(a)(1)(ii) prior to transmitting the data to the Department of Labor.

This SF 1444 places no further burden on the contractor or the Government other than the information collection burdens already cleared by OMB for 29 CFR 5.

B. Annual Reporting Burden

There is no burden placed on the public beyond that prescribed by the Department of Labor regulations.

The annual reporting burden is estimated as follows: Total annual responses, *1*; and total response burden hours, *1*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0089, Standard Form 1444, Request for Authorization of Additional Classification and Rate, in all correspondence.

Dated: December 18, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–34019 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0058]

Proposed Collection; Comment Request Entitled Schedules for Construction Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Schedules for Construction Contracts. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0058, Schedules for Construction Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal construction contractors may be required to submit schedules, in the form of a progress chart, showing the order in which the contractor proposes to perform the work. Actual progress shall be entered on the chart as directed by the contracting officer. This information is used to monitor progress under a Federal construction contract when other management approaches for ensuring adequate progress are not used.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour 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.

The annual reporting burden is estimated as follows: Respondents, *2,600;* responses per respondent, *2;* total annual responses, *5,200;* preparation hours per response, *1;* and total response burden hours, *5,200.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0058, Schedules for Construction Contracts, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33934 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0060]

Proposed Collection; Comment Request Entitled Accident Prevention Plans and Recordkeeping

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Accident Prevention Plans and Recordkeeping. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause ''Accident Prevention'' (48 CFR 52.236–13) requires Federal construction contractors to keep records of accidents incident to work performed under the contract that result in death, traumatic injury, occupational disease or damage to property, materials, supplies or equipment. Records of personal inquiries are required by OSHA (OMB Control No. 1220–0029). The Federal Acquisition Regulation requires records of damage to property, materials, supplies or equipment to provide background information when claims are brought against the Government.

If the contract involves work of a long duration, the contractor must submit a written proposal for implementation of the clause. The Accident Prevention Plan, for projects that are hazardous or of long duration, is analyzed by the Contracting Officer along with the agency safety representatives to determine if the proposed plan will meet the requirement of the safety regulations and applicable statutes. The records maintained by the contractor are used to evaluate compliance and may be used in workmen's compensation cases. The Accident Prevention Plan is placed in the contract file for reference.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *2* hours per completion, 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 is estimated as follows: Respondents, *2,106;* responses per respondent, *2;* total annual responses, *4,212;* preparation hours per response, *2;* and total response burden hours, *8,424.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33935 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0062]

Proposed Collection; Comment Request Entitled Material and Workmanship

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Material and Workmanship. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under Federal contracts requiring that equipment (e.g., pumps, fans, generators, chillers, etc.) be installed in a project, the Government must determine that the equipment meets the contract requirements. Therefore, the contractor must submit sufficient data on the particular equipment to allow the Government to analyze the item.

The Government uses the submitted data to determine whether or not the equipment meets the contract requirements in the categories of performance, construction, and durability. This data is placed in the contract file and used during the inspection of the equipment when it arrives on the project and when it is made operable.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.25* hours per completion, 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 is estimated as follows: Respondents, *3,160*; responses per respondent, *1.5*; total annual responses, *4,740*; preparation hours per response, *.25*; and total response burden hours, *1,185*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33936 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0064]

Proposed Collection; Comment Request Entitled Organization and Direction of Work

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Organization and Direction of Work. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government awards a cost-reimbursement construction contract, the contractor must submit to the contracting officer and keep current a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under the contract, and their respective duties. The chart is used in administration of the contract and as an aid in determining cost. The chart is used by contract administration personnel to assure the work is being properly accomplished at reasonable prices.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.75* hours per completion, 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 is estimated as follows: Respondents, *50;* responses per respondent, *1*; total annual responses, *50;* preparation hours per response, *.75;* and total response burden hours, *38*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33937 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0107]

Proposed Collection; Comment Request Entitled Notice of Radioactive Materials

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension 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 an extension of a currently approved information collection requirement concerning Notice of Radioactive Materials. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before February 22, 1999.

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 (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.223–7, Notice of Radioactive Materials, requires contractors to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropriate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour 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.

The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *5*; total annual responses, *2,500*; preparation hours per response, *1*; and total response burden hours, *2,500*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0107, Notice of Radioactive Materials, in all correspondence.

Dated: December 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–33938 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Council on Integrity and Efficiency Senior Executive Service Performance Review Board Membership

AGENCY: President's Council on Integrity and Efficiency (PCIE).

ACTION: Notice of Senior Executive Service (SES) Performance Review Board (PRB) membership.

SUMMARY: This notice sets forth the names and titles of the current membership of the PCIE SES PRB as required by 5 U.S.C. 4314 (c) (4). The PRB provides a review of SES performance appraisals and makes recommendations regarding performance ratings, performance awards and recertification to Inspectors General.

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Individual offices of (the) Inspector General.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Act of 1978, as amended, has created independent audit and investigative units—Offices of (the) Inspector General—at 61 Federal agencies. In 1981, the President's Council on Integrity and Efficiency (PCIE) was established by Executive Order as an interagency committee charged with promoting integrity and effectiveness in Federal programs. The PCIE is chaired by the Office of Management and Budget's Deputy Director for Management, and comprised principally of the 29 Presidentially appointed Inspectors General (IGs). The primary objectives of the PCIE are (1) mounting collaborative efforts to address integrity, economy and effectiveness issues that transcend individual Federal agencies; and (2) increasing the professionalism and effectiveness of IG personnel throughout the Government.

II. PCIE Performance Review Board

Under 5 U.S.C. 4314(c) (1)–(5) and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current membership of the President's Council on Integrity and Efficiency Performance Review Board is as follows:

Members	Title
Agency for International Development	
Everett L. Mosley.	Deputy Inspector General.
John L. Sullivan.	Assistant Inspector General for Investigations.
Robert S. Perkins.	Legal Counsel.
Department of Agriculture	
Joyce Fleischman.	Deputy Inspector General.
Paula F. Hayes.	Assistant Inspector General for Policy Development & Resources Management.
James R. Ebbitt.	Assistant Inspector General for Audit.
Richard D. Long.	Deputy Assistant Inspector General for Audit.
Robert W. Young, Jr.	Deputy Assistant Inspector General for Audit.
Gregory S. Seybold.	Assistant Inspector General for Investigations.
Jon E. Novak	Deputy Assistant Inspector General for Investigations.
Christine Jung	Deputy Assistant Inspector General for Investigations.
Department of Commerce	
Elizabeth T. Barrow.	Counsel to the Inspector General.
Allan M. Fisher.	Assistant Inspector General for Compliance and Administration.
Steven E. Garmon.	Assistant Inspector General for Investigations.
Judith J. Gordon.	Assistant Inspector General for Systems Evaluation.
George E. Ross.	Assistant Inspector General for Audits.
Department of Defense	
Donald Mancuso.	Deputy Inspector General.
John F. Keenan.	Assistant Inspector General for Investigations.
Robert J. Lieberman.	Assistant Inspector General for Auditing.
Nicholas T. Lutsch.	Assistant Inspector General for Administration and Information Management.
Charles W. Beardall.	Deputy Assistant Inspector General for Criminal Investigative Policy and Oversight.
Donald E. Davis.	Deputy Assistant Inspector General for Audit Policy and Oversight.
Joel L. Leson	Deputy Assistant Inspector General for Administration and Information Management.
Carol L. Levy	Deputy Assistant Inspector General for Investigations.

Members	Title
David K. Steensma.	Deputy Assistant Inspector General for Auditing.
C. Frank Broome.	Director, Office of Departmental Inquiries.
David M. Crane.	Director, Office of Intelligence Review.

Department of Energy

Members	Title
Phillip L. Holbrook.	Acting Deputy Inspector General for Audit Services.
Sandra L. Schneider.	Acting Deputy Inspector General for Inspections.
Herbert Richardson.	Assistant Inspector General for Investigations.
Judith D. Gibson.	Assistant Inspector General for Resource Management.
Sandford J. Parnes.	Counsel to the Inspector General.
Stanley R. Sulak.	Director, Office of Performance Audits and Administration.

Department of Health and Human Services

Members	Title
Michael F. Mangano.	Principal Deputy Inspector General.
Thomas D. Roslewicz.	Deputy Inspector General for Audit Services.
Joseph E. Vengrin.	Assistant Inspector General for Audit Policy/Oversight.
George Reeb	Assistant Inspector General for Health Care Financing Audits.
Joe Green	Assistant Inspector General for Public Health Service Audits.
John A. Ferris	Assistant Inspector General for Human, Family & Department Services Audits.
John E. Hartwig.	Deputy Inspector General for Investigations.
Robert E. Richardson.	Assistant Inspector General for Investigative Operations.
Frank J. Nahlik.	Assistant Inspector General for Investigative Oversight and Support.
George Grob.	Deputy Inspector General for Evaluation and Inspections.
Dennis J. Duquette.	Deputy Inspector General for Management and Policy.
D. McCarty Thornton.	Counsel to the Inspector General.
Lewis Morris ..	Assistant Inspector General for Litigation Coordination.

Department of Housing and Urban Devlopment

Members	Title
John J. Connors.	Deputy Inspector General.
Kathryn M. Kuhl-Inclan.	Assistant Inspector General for Audit.
Michael R. Phelps.	Deputy Assistant Inspector General for Audit.
Philip Kesaris	Assistant Inspector General for Investigation.
Philip Newsome.	Deputy Assistant Inspector General for Investigation.
Judith Hetherton.	Counsel to the Inspector General.

Department of the Interior

Members	Title
Richard N. Reback.	Chief of Staff and General Counsel.
John R. Sinclair.	Assistant Inspector General for Investigations.
Robert Williams.	Assistant Inspector General for Audits.

Department of Justice

Members	Title
Robert L. Ashbaugh.	Deputy Inspector General.
Mary W. Demory.	Assistant Inspector General for Inspections.
Howard L. Sribnick.	General Counsel.

Department of Labor

Members	Title
Patricia Dalton	Deputy Inspector General.
Sylvia Horowitz.	Assistant Inspector General for Management and Counsel.
John Getek	Assistant Inspector General for Audit.
F.M. Broadway.	Assistant Inspector General for Analysis, Complaints and Evaluations.
Stephen Cossu.	Assistant Inspector General for Investigations.

Department of State

Members	Title
John C. Payne.	Deputy Inspector General.
Wesley Eagan, Jr.	Deputy Inspector General.
M. Milton MacDonald.	Assistant Inspector General for Audits.
James K. Blubaugh.	Assistant Inspector General for Policy Planning and Management.
Robert K. Terjeson.	Assistant Inspector General for Investigations.
John Wiant	Assistant Inspector General for Security and Intelligence and Oversight.

Department of Transportation

Members	Title
Raymond J. DeCarli.	Deputy Inspector General.
Roger P. Williams.	Senior Counsel.
Lawrence H. Weintrob.	Assistant Inspector General for Auditing.
Todd J. Zinser	Assistant Inspector General for Investigations.
Tom Howard	Deputy Assistant Inspector General for Maritime and Departmental Programs.
Patricia J. Thompson.	Deputy Assistant Inspector General for Surface Transportation.
Alexis M. Stefani.	Deputy Assistant Inspector General for Aviation.
John L. Meche.	Deputy Assistant Inspector General for Financial, Economic and Information Technology.

Department of Treasury

Members	Title
Richard B. Calahan.	Deputy Inspector General.
Dennis S. Schindel.	Assistant Inspector General for Audit.
William H. Pugh.	Deputy Assistant Inspector General for Financial Audits.
Thomas Blatchford.	Assistant Inspector General for Investigations.
Michael Tarr ..	Deputy Assistant Inspector General for Treasury Integrity Division.

Department of Veterans Affairs

Members	Title
Michael J. Costello.	Assistant Inspector General for Investigations.
David H. Gamble.	Deputy Assistant Inspector General for Investigations.
Michael G. Sullivan.	Assistant Inspector General for Auditing.
Michael Slachta, Jr.	Deputy Assistant Inspector General for Auditing.
John H. Mather, M.D.	Assistant Inspector General for Healthcare Inspections.
Maureen T. Regan.	Counselor to the Inspector General.
Jon A. Wooditch.	Assistant Inspector General for Department Reviews and Management Support.

Environmental Protection Agency

Members	Title
James O. Rauch.	Assistant Inspector General for Audit.
John Jones	Assistant Inspector General for Management.
Allen Fallin	Assistant Inspector General for Investigations.
Emmet Dashiell.	Deputy Assistant Inspector General for Investigations.

Federal Emergency Management

Members	Title
Richard Skinner.	Deputy Inspector General.
Nancy Hendricks.	Assistant Inspector General for Audits.
Paul Lillis	Assistant Inspector General for Investigations.

General Services Administration

Members	Title
Joel S. Gallay	Deputy Inspector General.
Kathleen S. Tighe.	Counsel to the Inspector General.
James E. Henderson.	Assistant Inspector General for Investigations.
William E. Whyte, Jr.	Assistant Inspector General for Auditing.
Eugene L. Waszily.	Deputy Assistant Inspector General for Auditing.

Members	Title
National Aeronautics and Space Administration	
Samuel A. Maxey.	Assistant Inspector General for Investigations.
David M. Cushing.	Assistant Inspector General for Inspections, Administrative Investigations and Assessments.
Nuclear Regulatory Commission	
David C. Lee	Deputy Inspector General.
Thomas J. Barchi.	Assistant Inspector General for Audits.
James E. Childs.	Assistant Inspector General for Investigations.
Office of Personnel Management	
Joseph R. Willever.	Deputy Inspector General.
Harvey D. Thorp.	Assistant Inspector General for Audits.
Gary S. Yauger.	Assistant Inspector General for Investigations.
Sanders P. Gerson.	Deputy Assistant Inspector General for Audits.
Railroad Retirement Board	
William H. Tebbe.	Assistant Inspector General.
Small Business Administration	
Karen L. Lee	Deputy Inspector General.
Phyllis K. Fong.	Assistant Inspector General for Management and Legal Counsel.
Peter L. McClintock.	Assistant Inspector General for Auditing.
Thomas L. Cross.	Assistant Inspector General for Inspection and Evaluation.
Social Security Administration	
James G. Huse, Jr.	Acting Inspector General.
Samuel Holland.	Assistant Inspector General for Investigations.
Patrick P. O'Carroll.	Deputy Assistant Inspector General for Investigations.
Pamela J. Gardiner.	Assistant Inspector General for Audit.
Daniel R. Devlin.	Deputy Assistant Inspector General for Audit.
Kathy Buller ...	Counsel to the Inspector General.

Dated: December 17, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–33977 Filed 12–22–98; 8:45 am]

BILLING CODE 5000–04–?

DEPARTMENT OF DEFENSE

Office of the Secretary

Comments on Uniformed Services Former Spouses' Protection Act (USFSPA)

AGENCY: Office of the Assistant Secretary of Defense for Force Management Policy, DoD.

ACTION: Notice of an Analysis of the USFSPA and report to Congress.

SUMMARY: Pursuant to Section 643 of P.L. 105–85, the National Defense Authorization Act (NDAA) for Fiscal Year 1998, October 23, 1997, notice is hereby given of a comprehensive review of the Uniformed Services Former Spouses' Protection Act (USFSPA) and the preparation of a report to Congress regarding USFSPA. Section 643 of NDAA requires DoD to examine and compare, respectively, the protections, benefits and treatment afforded under Federal law to members and former members of the Uniformed Services and their former spouses; and the protections, benefits and treatment afforded under such laws to employees and former employees of the Federal government and their former spouses. In connection with its analysis, DoD seeks the written comments of tax-exempt organizations, which have as a stated purposes the representation of current or former military members and/or their spouses or former spouses. The comments of these organizations will constitute a portion of the information DoD uses in preparing its report.

The DoD review will include an analysis of all legal authorities that: ''. . . establish, provide for the enforcement of, or otherwise protect the interests of members and former members of the uniformed services and former spouses of such persons in retired or retainer pay of members and former members; or provide other benefits for members and former members of the uniformed services and former spouse of such persons. . .'' (Legal Authorities: 10 U.S.C. 1062, 1072, 1076, 1086a, 1097, 1401, 1401a, 1405–1409, 1447–1460B) The report to Congress will include the following elements: (a) the experiences of the Uniformed Services in administering the legal authorities (including the effectiveness of legal assistance provided by DoD); (b) the experience of members and former members and their spouses and former spouses with respect to the legal authorities, including the application of the legal authorities by State courts; (c) a discussion of the history of State laws and court decisions which interpret the legal authorities; and (d) an analysis of the extent to which State courts' interpretations of applicable law are consistent with the legal authorities. DoD believes the views of the organizations referred to above will be useful in carrying out its responsibilities under NDAA.

DATES: Comments are required February 22, 1999.

ADDRESSES: Office of the Assistant Secretary of Defense for Force Management Policy, Compensation, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT:

LTC Tom Emswiler, OASD(FMP)MPP/COMP, 4000 Defense Pentagon, Room 2B279, Washington, DC 20301–4000; telephone (703) 693–1066; facsimile number (703) 697–8725.

SUPPLEMENTARY INFORMATION: For an organization's comments to be considered, they must be accompanied by copies of the following documents: (a) its certificate or articles of incorporation, by-laws and all amendments thereto; (b) current Internal Revenue Service determination letter; and (c) resolutions, certified by the Secretary of the organization, adopted by the governing body (e.g. board of directors) which approve the comments and authorize their submission to DoD. The Chairman of the Board or the President or an equivalent executive officer must submit the organization's comments.

The comments should address all of the following matters: (a) An assessment of the effectiveness and fairness of the USFSPA and other legal authorities; (b) those aspects, if any of the legal authorities which are well covered and do not require changes; and (c) those aspects of the legal authorities which do not operate properly or are ineffective and suggestions for improvement.

Dated: December 18, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–33976 Filed 12–22–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command; Security Rules and Accessorial Service Governing the Movement of Department of Defense Freight Traffic by Rail Carrier

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Final notice (Rail Security Policy Change).

SUMMARY: The Military Traffic Management Command is changing rail security policy in the Military Traffic Management Command Freight Traffic Rules Publication No. 10 (MFTRP No. 10). The addition of Item 110 combines two existing transportation protective services, Tank Surveillance Service and Rail Surveillance Service, into a new service, i.e., Rail Inspection Service, which clarifies where and under what circumstances Arms, Ammunition and Explosives; Tanks; Wheeled Vehicles; and other Sensitive items are protected while being shipped by rail. The addition of Item 115 establishes and defines a tracking service mandatory for all rail movement.

EFFECTIVE DATE: April 1, 1999.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–T, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gerade, e-mail geradem@baileys-emh5.army.mil or Mr. Robert Jones, jonesr@baileys-emh5.army.mil, Headquarters, Military Traffic Management Command, ATTN: MTOP–OP, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 681–6109/6089.

SUPPLEMENTARY INFORMATION:

Background

The Military Traffic Management Command undertook an initiative to enhance rail security in 1994 in an effort to reduce loss and theft of military shipments. Over the past several years, MTMC has held three meetings involving shippers and carriers, briefed the proposal at two Government Rail Committee Meetings, attended special Association of American Railroads-sponsored videoteleconferences, and participated in three on-the-ground meetings with major railroads to discuss MTMC's draft publication. A number of issues have been raised and successfully resolved to enhance the viability of the publication. The notice of proposed changes was published for public comment in the **Federal Register** Vol 61, No. 177, pages 47894–47897, September 11, 1996. No comments were received. The Military Traffic Management Command Freight Traffic Rules Publication No. 10 (MFTRP No. 10) is changed to read as follows.

Item 85—Application

1. The Transportation Protective Services (TPS) set forth in this section applies to rail carriers offering to transport arms; Division 1.1, 1.2, and 1.3, ammunition, explosives, fireworks, chemical munitions, and other commodities which may require physical security protection while in transit.

2. When a TPS service is required on shipments moving TOFC/COFC service, rail carriers will ensure the appropriate motor TPS applicable to the highway portion incident to the TOFC/COFC movement is provided. The motor TPS is set forth in Section 2 of MTMC Freight Traffic Rules Publication No. 1A (MFTRP No. 1A). Only MTMC approved munitions motor carriers may be used to transport shipments over the highway.

3. Timely is defined in terms of immediate notification of delivery and advising the government not later than two hours after a serious accident or incident.

4. Inspectors will be a railroad police officer, railroad employee (trained) other than police, or instructed personnel (trained), which could include contract security firms designated by the carrier to inspect the rail car(s).

[A person is considered ''trained and instructed'' when he or she is employed by the railroad or the terminal involved in the handling of shipments, has been trained by the railroad/terminal to inspect rail car(s), is aware of the sensitivity of material moving under RI, and is knowledgeable of safety, security and emergency procedures that must be followed. Trained and instructed contract personnel may be used to conduct inspections of rail car(s) but must meet the same criteria as personnel designated by the carrier to inspect rail car(s).]

5. When carrier has identified areas which are known trouble spots, shipments will be routed to avoid these areas or, if unavoidable, be expedited through these areas.

6. Shippers are not required to but should take into consideration the following damage and loss prevention measures to ensure the protection of Department of Defense Cargo:

a. Damage prevention measures of military vehicles are as follows:

(1) Face wheeled-vehicles rearward on the train, roll down side windows, and lower windshields that can be lowered.

(2) Turn side mirrors inward.

(3) Protect open glass with plywood, cardboard, or a double layer of bubble wrap (prioritized by level of protection afforded, cost versus benefit must be evaluated).

(4) Properly document all vehicle damage at origin and destination.

b. Loss prevention measures for sensitive items in containers are as follows:

(1) Place containers, including CONEXs, door-to-door to block access.

(2) Order flatcars that will accommodate door-to-door placement of MILVANs.

(3) Seek assistance from MTMC commands on technical characteristics of flatcars.

(4) Store sensitive items, including Night Vision Device's (NVD's), in approved containers only. (Note: NVD's must be provided double barrier protection, i.e., in a locked shipping container inside a locked rail car, trailer, dromedary, CONEX, or MILVAN.)

(5) An NVD storage case does not equate to one of the double barriers.

(6) Never place the sensitive item packing list on the outside of the containers, trailers, or rail cars.

(7) Contact your local provost marshal/law enforcement officials during loading and/or shipping to ensure proper protection for sensitive items.

Item 95—Rail Armed Guard Surveillance Service (RG) (Note)

1. Definition. Rail Armed Guard Surveillance Service (RG). RG is a TPS that provides one armed guard to maintain constant and specific 24-hour surveillance on a DOD shipment consisting of one or more cars in the same train.

2. Annotation. RG will only be furnished upon request of the shipper by annotation in blocks 15 & 31 on the bill of lading as follows: ''Rail Armed Guard Surveillance Service (RG) Requested''

3. Requirement. Carriers providing RG must:

a. Perform all functions of Rail Inspection Service (RI) as specified in Item 110.

b. Maintain surveillance at all rail stops as well as in yards and terminals where train stops. All security seals and/or locks will be checked at all stops and documented using the format set forth in the NOTE at the end of this Item.

c. Ensure guards will be augmented as required to maintain continuous observation on rail car(s) transporting shipment(s).

d. Ensure guards do not leave shipment until properly relieved by another guard or consignee at destination.

e. Inspect the refrigeration/heating units of environmentally controlled cars, trailers or containers in transit at least twice during each 24-hour period for the purpose of maintaining temperature requirements. Inspections must be at least 10 hours apart. The temperature requirement for each shipment will be annotated on the bill of lading by the shipper. Immediately following each required inspection, an authorized carrier representative will make a report by telephone to the consignee and the appropriate toll free 800-Hotline telephone number (see Item 180), furnishing the information called for in the sample format show in NOTE of this Item. The cost of telephone calls to other than toll free numbers will not be borne by the Government.

f. It may be more advantageous in some circumstances to have a railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firm personnel, ride in a separate motor vehicle paralleling the train, rather than on the train. The railroad has the option to decide which is more secure.

4. Notification. If suspicion of tampering or sabotage exists at any point during movement of the shipment, the railroad special agents office will immediately notify either the consignee, HQMTMC at (703) 681–6125, or one of the 24-hour MTMC 800-Hotline telephone numbers (See Item 180). If necessary, the carrier will solicit the aid of local, state or federal law enforcement officials to secure the shipment.

5. Charges. When requested by the shipper, the rail carrier(s) will provide RG on shipments of single car loads or shipments of multiple car loads in the same train at a charge of RG(1) $_____ per highway mile per car or in lieu thereof a flat charge of RG(2) $_____ per car. The charges will apply from point of origin to point of destination and will be in addition to all other charges for transportation of shipments requiring this service.

In Section F(1) of the tender, carriers will complete either RG(1) or RG(2), but not both.

Note: Information to be furnished per instructions in paragraph 2e above:

1. Person and carrier reporting: _____
2. City or place of inspection: _____
3. Local arrival time at checkpoint: _____
4. Local time inspection was performed: ____
5. Interior temperature of the equipment: __
6. Approximate outside temperature: _____
7. Government seals intact: Yes ( ) No ( )
8. Replaced by seal number: _____
9. Air conditioning unit working: Yes ( ) No ( ) _____
10. Arrangement made for repair: _____
11. Entries made on log attached to equipment: Yes ( ) No ( ) _____
12. Estimated or actual time or departure from checkpoint: _____
13. Estimated time of arrival at next checkpoint or destination: _____

Item 100—Rail Surveillance Service (RS)

Deleted.

Item 105—Tank Surveillance Service (TS)

Deleted.

Item 110—Rail Inspection Service (RI)

Rail Inspection Service (RI) replaces two rail security services, Rail Surveillance Service (RS) and Tank Surveillance Service (TS). Greater Security Service (GS), as defined in item 90, will still be maintained for all shipments. GS automatically includes Military Traffic Expediting Service (MX) (See Item 115). RI service incorporates the inspection and/or surveillance requirements of each of the services RI replaced. 1. Definition. Rail Inspection Service (RI) is performed by rail carriers for intransit protection of sensitive and pilferable items; RI automatically includes MX (See Item 115). Inspection under RI is external only to assure the integrity of the shipment (container or vehicle) and the seals/locking devices. RI is required for the movement of Abrams tanks, and other ground vehicles with sensitive armor, Categories II through IV, and uncategorized (at DOD component headquarters direction); arms; ammunition, and explosive (AA&E); and night vision devices (NVD). RI is optional for vehicle movements and unit or other movements involving pilferable items, such as high value communications and electronics.

2. Annotation. RI will only be furnished upon request of the shipper by annotation in blocks 15 & 31 on the bill of lading as follows:

''Rail Inspection Service (RI) Requested.''

3. Requirements. Carriers providing RI must:

a. For all Shipments under RI:

(1) Automatically includes Military Traffic Expediting Service (MX) (See Item 115).

(2) Inspect each rail car containing shipments requiring RI. Inspection will be performed by railroad police officer, railroad employees (trained other than police, or instructed personnel (trained) which could include contract security firms designated by the carrier within one hour after train has entered a rail terminal. Reinspection will take place every hour thereafter until the train departs. For shipments located at a working terminal, where carrier personnel are present and can provide continuous observation, hourly inspections are waived provided the train is on an inside track. When hourly inspections are performed, they will be documented.

(3) Inspections will be required at terminals on arrival and departure and at all interchange points between railroads.

(4) Documentation of inspections made by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms, will be available for review within 24 hours of inspection completion.

(5) While intransit and not in a working terminal, railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms designated by the carrier, will inspect the rail car(s) containing the shipment every hour when a delay is more than 90 minutes.

(6) Assure complete interchange security procedures are in effect and recorded when transferring the shipment to another railroad, or intermodal carrier, or with the government. Interchange procedures between railroads, intermodal carriers, and with the government are vital to ensure continuity of security. Where needed, a formal Memorandum of Agreement will exist between parties to ensure continuous protection.

(7) Where feasible, place shipments transiting rail yards in well-lighted areas, on an inside track, near the tower, and/or otherwise under the general observation of railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms designated by carrier.

(8) Notify the consignee in a timely manner of arrival at destination and continue inspections until physical hand-off has occurred.

(9) Documentation of all inspections will include the following information, as applicable.

(a) Name of carrier reporting.

(b) Name of Inspector and his/her signature.

(c) Time of each inspection or acceptance for continuous observation.

(d) Actual arrival time at terminal.

(e) Actual departure time from terminal.

(f) Condition of conveyance(s) and seals/locking devices.

b. For Arms, Ammunition, and Explosives (AA&E) and containerized Night Vision Devices (NVD) the carrier is responsible for:

(1) Inspecting container seals/locks. If found broken, reseal with same or equivalent device. Report broken seals/locks or other security problems with containers to one of the 24-hour MTMC 800-Hotline numbers listed in Item 180.

(2) Ensuring containers are positioned door-to-door or otherwise placed with door inaccessible.

(3) If an odd number of containers/MIL VANs, other than one, is loaded on an individual rail car, loading is door-to-door and the remaining container is loaded with the door facing the end of another container/MIL VAN.

c. For M1 Abrams Tanks the carrier is responsible for:

(1) Inspections that call for external observation and inspection by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms, of each vehicle within one hour after it has stopped and at least once each hour during each stop. Documentation supporting hourly checks is subject to review.

(2) In addition to the requirements in paragraph 3a above, the following inspections will be performed by the carrier to ensure the integrity of the shipment and will be conducted from the ground unless exceptions are noted:

(a) Ensure tank armor plate, tie downs, or other parts are secure and intact.

(b) Ensure tank skirts are not damaged and secured with transloc bolts.

(c) Inspect vehicle openings (driver's hatch, loading hatch) to ensure they are adequately secured (locked and sealed or welded).

(d) Inspect equipment boxes to ensure exterior integrity of the boxes and that seals/locking devices and tie downs are intact.

(3) If the armor is penetrated, the shipment will continue to be protected by the carrier in conjunction with an on-the-scene investigation by military representatives.

(4) Railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms, will concentrate their physical inspection in those areas depicted in the diagram for the M1 Abrams Tank which is found in the Security Classification Guide for M1 Abrams Tank.

d. For Non-Sensitive Armored/Wheeled Vehicle Inspections (Optional):

(1) This service may be used at the shipper's option for the movement of armored and wheeled vehicles (excluding the M1 Abrams Tank family of vehicles and certain ground tracked vehicles with sensitive armor, for which RI is mandatory). Inspection calls for the external observation and inspection by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms of each rail car transporting military vehicles, IAW paragraph a above.

(2) The following inspections will be performed by the carrier to ensure the integrity of the shipment and will be conducted from the ground unless exceptions are noted:

(a) Inspect wheeled vehicles for glass damage and all vehicles for signs of pilferage, theft, or serious damage.

(b) Ensure tie downs are secure and intact.

(c) Inspect vehicle openings of tanks and tactical vehicles (driver's hatch, loading hatch) to ensure they are adequately secured (locked and sealed or welded).

(d) Sensitive or pilferable items shipped along with tanks and other tracked vehicles should be in separate, approved containers. The shipper is responsible for securing the vehicle's opening and all containers. The seals/locks devices will be inspected by railroad police officer, railroad employees (trained) other than police, or instructed personnel (trained), which could include contract security firms, to ensure that they are adequately secured.

4. Reporting Procedures.

a. The shipper must report shipment information to the Deployment Support Command (DSC) in advance of movement and must include the GS or RI code on GBL.

b. In the event of any serious accident or incident, suspected or actual tampering and if the carriers believes a threat exists, the carrier will immediately notify either the consignee, HQMTMC at (703) 681–6125, or one of the 24-hour MTMC 800-Hotline telephone numbers (See Item 180). If necessary, the carrier will solicit the aid of local, state or federal law enforcement officials to secure the shipment. Damage reporting of serious accidents or incidents will be reported within two hours following occurrence.

c. If evidence of forced entry or tampering with seals has occurred, the carriers will immediately notify the consignee and MTMC 800-Hotline numbers (See Item 180.

5. Charges. In addition to all rates and charges for transportation, shipments for which RI is provided by carrier at shipper's request will be subject to a charge of RI (1) $_____ per highway mile per car (See Item 75), subject to a minimum charge of RI(2) $_____ per car, or in lieu thereof a flat charge of RI(3) $_____ per car. In Section F(1) of the tender, carriers will complete either RI(1) and RI(3) but not more than one. Charges will be all-inclusive and apply from origin to final destination.

Item 115—Military Traffic Expediting Service (MX)

1. Military Traffic Expediting Service (MX) is an automated tracking service provided by the carrier for military carload shipments of unclassified cargo, which do not require seals or terminal inspections. This service uses a central computer linked with member railroads to track carload shipments and is capable of reporting on single line and joint-line movements.

2. MX service will automatically be provided by the carrier without cost. However, before the service can be initiated, it is the responsibility of the shipper to promptly communicate the shipment information to the Deployment Support Command routing office. This information is to include: origin, stop-offs (if applicable), final destination, commodity, date of shipment, date shipment is due at destination, route order number, routing with junction points, GBL number, and rail car initials (i.e., DODX 40000).

Francis A Galluzzo,

Assistant Deputy Chief of Staff For Transportation Services.

[FR Doc. 98–33997 Filed 12–22–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) for Proposed Modifications to Barbers Point Harbor, Oahu, Hawaii

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Engineer District, Honolulu, in partnership with the State of Hawaii, Department of Transportation, Harbors Division, is proposing modifications to Barbers Point Harbor. Barbers Point Harbor is located on the west side of the island of Oahu in the Ewa region. The completed

project would enable vessels of greater capacity to utilize the harbor and increase safety for vessels entering and leaving the harbor.

ADDRESSES: U.S. Army Engineer District, Honolulu, ATTN: CEPOH–ED–CP, Fort Shafter, Hawaii 96858–5440.

FOR FURTHER INFORMATION CONTACT: Helen Stupplebeen, (808) 438–7009.

SUPPLEMENTARY INFORMATION:

1. The project may include the following items:

a. Deepening the harbor basin.

b. Deepening and flaring the entrance channel.

c. Constructing a jetty on the north side of the harbor entrance.

These features may be modified, or new features added as a result of the analysis to be performed as part of the feasibility/SEIS process.

2. Alternatives to be considered include ''No Action'' and various construction techniques.

3. In May 1996, the Corps completed a reconnaissance study on the harbor. The study stated that the existing harbor's depth limitation results in increased transportation costs to shippers as they must either light-load their larger vessels or continue to use less efficient smaller ones.

4. An agency scoping meeting was held on October 26, 1998. A public hearing will be held after publication of the draft SEIS. Meeting times and locations will be publicly announced. The draft SEIS is expected to be available in March 1999.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–33995 Filed 12–22–98; 8:45 am]

BILLING CODE 3710–NN–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare a Draft Programmatic Environmental Impact Statement (DEIS) and Restoration Plan (RP) For The Green/Duwamish River Basin Restoration Project, King County, Washington

AGENCY: U.S. Army Corps of Engineers (Corps), Seattle District, DoD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers, as lead Federal agency, will prepare a programmatic environmental impact statement evaluating alternative fish and wildlife habitat and water quality restoration approaches for the Green/Duwamish River Basin. This environmental impact statement will be a combined NEPA/SEPA document. The lead agency for SEPA will be the King County Water and Land Resources Division. Three alternatives will be evaluated in the DEIS: no action; habitat restoration that would benefit multiple species; and a program that benefits a single threatened fish species. A restoration plan will also be prepared in association with the DEIS. If approved, implementation of the restoration plan would begin in 2001. Potential issues of concern for the DEIS include impacts to fish and their habitat, water quality, wetlands, riparian habitat, flood control, land use, and public safety.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the DEIS and RP may be directed to: Patrick Cagney, Biologist, Environmental Resources Section, U.S. Army Corps of Engineers, P.O. Box 3755, 4735 East Marginal Way S., Seattle, Washington, 98124–3755, (206) 764–6577.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Corps of Engineers and the King County Water and Land Resources Division propose to evaluate alternative habitat restoration programs for the Green/Duwamish River Basin in King County, Washington. The U.S. Army Corps of Engineers—Seattle District (Patrick Cagney, Biologist) is the lead Federal agency under the National Environmental Policy Act (NEPA, 42 USC 4321 *et seq.*) and the Council on Environmental Quality implementing guidelines (40 CFR 1500–1508). The King County Water and Land Resources Division (Clinton Loper, Senior Engineer) is the lead state agency under the Washington State Environmental Policy Act (SEPA, Chapter 43.21C RCW) and the SEPA guidelines (Chapter 197–10 WAC).

The Corps is authorized to implement habitat restoration programs under Section 209 of Public Law 87–874 (Puget Sound and Adjacent Waters Study) of the 1962 Flood Control Act, the Water Resources Development Act of 1990, and Corps ecosystem restoration guidance (Engineering Circular [EC] 1105–2–210). Corps activities in ecosystem restoration will concentrate on engineering solutions to water and related land resource problems. Priority for restoration activities will be given to projects that restore degraded ecosystem functions and values, including hydrology, plant, and animal communities and/or portions thereof, to a less degraded ecological condition.

The proposed action would restore aquatic ecosystem habitat and processes by reconnecting isolated habitat elements, increasing channel diversity, establishing areas of estuarine habitat, increasing floodplain habitat, restoring small tributaries, increasing the amount of large woody debris in the river, replenishing river sediments, and improving the water temperature regime. If the proposed action is implemented, initial construction on projects would occur around the year 2001.

2. Alternatives

Three programmatic restoration alternatives will be considered and evaluated in the environmental impact statement. The first alternative is No Action and would include various agencies and groups continuing to implement restoration projects but by a less coordinated, intensive means than under the other proposed alternatives. Continued implementation of restoration projects would include reconnecting some isolated habitat elements, some placement of sediment in the river, and some placement of large woody debris. The second alternative is a multiple species approach to habitat restoration. Under this preferred alternative benefits to many fish and wildlife species will be considered. The third alternative is restoration of a single threatened fish species. Recently, Chinook salmon (Oncorhynchus tshawytscha) have been proposed for listing as a threatened species under the Endangered Species Act. This alternative would evaluate restoration actions that would benefit this species. Under alternatives two and three, three separate restoration approaches will be evaluated: (a) an ecosystem/habitat forming process approach; (b) an engineered design and constructed habitat approach, and (c) an integrated approach (elements of both (a) and (b)).

3. Scoping and Public Involvement

Public involvement will be sought during scoping and conducting of the study in accordance with NEPA and SEPA procedures. A public meeting will be held during public review of the DEIS. 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 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 and SEPA. 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 DEIS. 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 impact areas have been identified and will be analyzed in depth in the DEIS: (1) fish and their habitat; (2) water quality; (3) wetlands; (4) riparian habitat; (5) flood control; (6) land use; and (7) public safety. 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 meeting and an open house to receive public comments on restoration program alternatives will be held on January 20, 1999, at the Tukwila Community Center, 12424—42nd Avenue South, Tukwila, Washington. The meeting will occur from 6:30 to 9:00 PM. The meeting will begin with a one-half hour open house to allow the public and agencies to review project information/graphics and ask questions of Corps and King County staff, followed by presentations and then a question and answer period for the proposed alternatives. Verbal or written comments will be accepted at the scoping meeting, or written comments concerning the scope of the analysis may be sent to Patrick Cagney at the above address within 45 days of when this notice is published in the **Federal Register**.

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 the Draft EIS

The draft Programmatic EIS/Restoration Plan is scheduled for release during the spring of 1999 and the Final Programmatic EIS/Restoration Plan is scheduled for release during the fall of 1999.

Dated: December 9, 1998.

James M. Rigsby,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 98–33996 Filed 12–22–98; 8:45 am]

BILLING CODE 3710–ER–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Financial and 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 February 22, 1999.

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, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

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 Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that 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: December 17, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Advanced Placement Incentive Program.

Frequency: Annually.

Affected Public: Business or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4.057.

Burden Hours: 48,684.

Abstract: Grants to states to enable states to cover part or all of the cost of advanced placement test fees to low-income individuals. When applicable, funds can be used for activities related to maintaining the enrollment of low-income students in advanced placement courses and for increasing the number of such courses.

Office of the Under Secretary

Type of Review: New.

Title: Evaluation of the Eisenhower Professional Development Program: State and Local Activities.

Frequency: One time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 575.

Burden Hours: 793.

Abstract: The Planning and Evaluation Service is conducting a three-year study to evaluate the Eisenhower Professional Development Program and to report on the progress of the program with respect to a set of Performance Indiviators established by the Department of Education. The evaluation will provide information on the types of professional development activities supported by the program, the effects of the program participation on classroom teaching, and the quality of program planning and coordination. Clearance is sought for the Longitudinal Study of Teacher Changes, to be conducted in the Spring of the 1998–1999 school year. Respondents will be teachers.

[FR Doc. 98–33942 Filed 12–22–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–248–009 and CP96–249–009]

Portland Natural Gas Transmission System; Notice of Initial FERC Gas Tariff

December 17, 1998.

Take notice that on December 11, 1998, Portland Natural Gas Transmission System (PNGTS) filed to place into effect its FERC Gas Tariff, Original Volume No. 1, Original Sheet Nos. 1 through 650 (tariff). PNGTS requests that its tariff be made effective on February 11, 1999, which is the expected in-service date for the PNGTS facilities. The tariff will allow PNGTS to provide interstate transportation service in compliance with the Commission orders issued on July 31, 1996, July 31, 1997, September 24, 1997, and April 23, 1998.[1]

PNGTS states that complete copies of this filing are being mailed to potential customers and interested state commissions. However, due to the voluminous nature of this filing, copies of the redlined tariff sheets in Appendix B, will not be included in the mailing. PNGTS states that redlined tariff sheets of this filing will be made available upon request, and complete copies of this filing are on file with the Commission.

Any person desiring to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–33987 Filed 12–22–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 76 FERC ¶ 61,123 (July 31, 1996); 80 FERC 61,134 (July 31, 1997); 80 FERC 61,345 (September 24, 1997), and 83 FERC 61,080 (April 23, 1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–75–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed A-Line Abandonment Project and Request for Comments on Environmental Issues

December 17, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the abandonment of four segments totaling about 51 miles of the Northern Natural Gas Company (Northern) A-Line pipeline in Kansas, Nebraska, Iowa, and Texas.[1] The A-Line pipeline was constructed in the 1930's. Because of the age and condition of the pipeline, Northern has been forced to inactivate or reduce the operating pressure of most of the segments proposed for abandonment. The application for this project and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS Menu, and follow the instructions.

This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of additional temporary easement to complete the pipeline removal. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

Because the proposed pipeline removal activities would involve some of the same kinds of potential impacts normally associated with pipeline construction, a fact sheet of questions typically asked about pipeline construction, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Northern requests authorization to:

(1) Abandon approximately 43.9 miles of 26-inch diameter A-Line pipeline beginning at the Macksville Compressor Station in Pawnee County, Kansas, and ending at the Bushton Compressor Station in Rice County, Kansas;

(2) Use the Bushton and Macksville Compressor Station yards for pipe storage and stockpile areas;

(3) Abandon approximately 5.0 miles of 24-inch-diameter A-Line starting in Cass County, Nebraska and ending in Mills County, Iowa;

(4) Abandon approximately 2.4 miles of 20-inch-diameter A-Line in Hancock County, Iowa; and

(5) Abandon approximately 92 feet of the 24-inch-diameter A-Line under Highway 83 in Ochiltree County, Texas.

The majority of the abandoned pipeline would be removed. Sixty farm taps currently occur along the A-Line. Thirty-five of these farm taps would be abandoned and 25 would be relocated to Northern's parallel B, C, D, or E pipelines. The location of the project facilities is shown in appendix 2.

Land Requirements for Construction

Construction activities would affect about 728 acres of primarily agricultural land and would use a 133-acre pipe storage and staging area. Following construction, the construction right-of-way would be restored and allowed to revert to its former use.

[1] Northern's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of implementing the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Public safety.
- Hazardous waste.

Although practical alternatives to the abandonment are not available to Northern, we will evaluate alternative abandonment methods, such as abandonment in-place or abandonment by removal at selected locations, and make recommendations on how to lessen or avoid impacts on the various resources areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section on page 4 of this notice.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the abandonment proposal and the environmental information provided by Northern. This preliminary list of issues may be changed based on your comments and our analysis.

- Would removal of the aerial crossings over the Arkansas and Missouri Rivers impact wetlands, fish, and wildlife?
- Would pipeline removal activities cause erosion, compaction, and rutting on about 672 acres of agricultural land within the construction right-of-way?

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2.
- Reference Docket No. CP99–75–000; and
- Mail your comments so that they will be received in Washington, DC on or before January 18, 1999.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul Mckee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222. Access to the texts of formal documents issued by the Commission with regard to this docket, such as orders and notices, is also available on the FERC website using the ''CIPS'' link. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–33988 Filed 12–22–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6205–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Modification of Secondary Treatment Requirements for Discharges Into Marine Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Modification of Secondary Treatment Requirements for Discharges into Marine Waters, EPA ICR Number 0138.05, OMB Control Number 2040–0088, expiring March 31, 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 22, 1999.

ADDRESSES: U.S. EPA; Office of Wetlands, Oceans and Watersheds; Oceans and Coastal Protection Division (4505F); 401 M Street, SW; Washington, DC 20460. Interested persons may

obtain a copy of the ICR without charge by contacting the person identified below.

FOR FURTHER INFORMATION CONTACT: Virginia Fox-Norse, 202–260–8448 (phone), 202–260–9920 (facsimile number), Fox-norse.virginia@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those municipalities that currently have section 301(h) waivers from secondary treatment, have applied for a renewal of a section 301(h) waiver, or those with a pending section 301(h) waiver application, and the states within which these municipalities are located.

Title: Modification of Secondary Treatment Requirements for Discharge into Marine Waters (OMB Control Number 2040–0088; EPA ICR Number 0138.05), expiring March 31, 1999.

Abstract: The section 301(h) program involves collecting information from two sources: (1) the municipal wasteware treatment facility, commonly called a publicly owned treatment works (POTW), and (2) the state in which the POTW is located. Municipalities had the opportunity to apply for a waiver from secondary treatment requirements, but that opportunity closed in December, 1982. A POTW seeking to obtain a section 301(h) waiver, holding a current waiver or reapplying for a waiver, provides application, monitoring, and toxic control program information. The state provides information on its determination whether the discharge under the proposed conditions of the waiver ensures the protection of water quality, biological habitats, and beneficial uses of receiving waters and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The state also provides information to certify that the discharge will meet all applicable state laws and that the state accepts all permit conditions. Regulations implementing section 301(h) of the Clean Water Act (CWA) are found at 40 CFR Part 125, Subpart G.

There are 5 situations where information will be required under the section 301(h) program:

(1) A POTW continuing the application process for a section 301(h) waiver, or reapplying for a waiver; as the permits with section 301(h) waivers reach their expiration dates, EPA must have updated information on the discharge to determine whether the section 301(h) criteria are still being met and whether the section 301(h) waiver should be reissued. Under 40 CFR 125.59(f), each section 301(h) permittee is required to submit an application for a new section 301(h) permittee is required to submit an application for a new section 301(h) modified permit within 180 days of the existing permit's expiration date. 40 CFR 125.59(c) lists the information required for a modified permit. Section 125.59(e) requires additional information to show compliance with applicable pretreatment requirements under section 125.65, and primary or equivalent treatment requirements under section 125.60. The information that EPA needs to determine whether the POTW's reapplication meets the section 301(h) criteria is outlined in the questionnaire attached to 40 CFR Part 125, Subpart G. The questionnaire is similar to the two questionnaires (one for small applicants and one for large applicants) in the 1982 version of the section 301(h) regulations used by POTWs for their original applications. The current questionnaire streamlines the two questionnaires into one, while maintaining similar information requirement according to the size of the applicant.

(2) Monitoring and toxic control program information: Once a waiver has been granted, EPA must continue to assess whether the discharge is meeting section 301(h) criteria, and that the receiving water quality, biological habitats, and beneficial uses of the receiving waters are protected. To do this, EPA needs monitoring information furnished by the permittee. According to 40 CFR 125.68(d), any permit issued with a section 301(h) waiver must contain the monitoring requirements of 40 CFR 125.63(b), (c), and (d) for biomonitoring, water quality criteria and standards monitoring, and effluent monitoring, respectively. section 125.68(d) also requires reporting at the frequency specified in the monitoring program. In addition to monitoring information, EPA needs information on the toxics control program required by section 125.66 to ensue that the permittee is effectively minimizing industrial and nonindustrial toxic pollutant and pesticide discharges into the treatment works.

(3) Application revision information: Section 125.59(d) of 40 CFR allows a POTW to revise its application one time only, following a tentative decision by EPA to deny the waiver request. In its application revision, the POTW usually corrects deficiencies and changes proposed treatment levels as well as outfall and diffuser locations. The application revision is a voluntary submission for the applicant, and a letter of intent to revise the application must be submitted within 45 days of EPA's tentative decision (40 CFR 125.59(f)). EPA needs this information to evaluate revised applications to determine whether the modified discharge will ensure protection of water quality, biological habitats, and beneficial uses of receiving waters.

(4) Additional information to respond to the CWA: Section 125.59(e) requires additional information to show compliance with applicable pretreatment requirements under section 125.65, and primary or equivalent treatment requirement under section 125.60. Although this information is requested in the application questionnaire, it is still treated separately because demonstration of meeting these requirements was also required, independent of reapplications, by the 1994 revised regulations.

(5) State determination and state certification information: For revised or renewal applications for section 301(h) waivers, as well as for applicants submitting additional information on the urban area pretreatment program and on primary or equivalent treatment, EPA needs a state determination. The state determines whether all state laws (including water quality standards) are met to ensure that water quality, biological habitats, and beneficial uses of receiving waters are protected. Additionally, the state must determine if the applicant's discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. This process allows the state's views to be taken into account when EPA reviews the section 301(h) application and develops permit conditions. For revised and renewed section 301(h) waiver applications, EPA also needs the CWA section 401(a)(1) certification information to ensure that all state laws are met by any permit it issues with a section 301(h) modification, and the state accepts all the permit conditions. This information is the means by which the state can exercise its authority to concur with or deny a section 301(h) decision made by the EPA Regional Office.

The EPA is soliciting comment to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The estimated annual average burden for the 55 respondents totals 71,049 hours for this information collection. The average annual reporting burden varies depending on the size of the respondent and the category of the information collection. the frequency of response varies from 1 time to once every five years, to case-by-case, depending on the category. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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.

Please send comments regarding these matters, or any other aspect of information collection, including suggestions for redoing the burden, to the address listed above.

Dated: December 14, 1998.

Robert H. Wayland, III

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 98–34040 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6207–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Approval of State Coastal Nonpoint Pollution Control Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Approval of State Coastal Nonpoint Pollution Control Programs, EPA ICR Number 1569, and OMB Control Number 2040–0153, expiring on January 31, 1999. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 22, 1999.

ADDRESSES: Comments should be sent to, and copies of the ICR may be obtained without charge from, the Nonpoint Source Control Branch, Assessment and Watershed Protection Division (4503–F), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Dov Weitman at (202) 260–7088 (phone), (202) 260–7024 (facsimile), weitman.dov@epamail.epa.gov (E-Mail); or Stacie Craddock at (202) 260–3788 (phone), (202) 260–1977 (facsimile), craddock.stacie@epamail.epa.gov (E-Mail).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are 24 states and 5 territories with conditionally approved Coastal Nonpoint Pollution Control Programs (CZARA section 6217).

Title: Approval of Coastal Nonpoint Pollution Control Programs, (OMB Control No. 2040–0153; EPA ICR No. 1569) expiring January 31, 1999.

Abstract: Under the provisions of national Program Development and Approval Guidance implementing section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) which was jointly developed and published by EPA and the National Oceanic and Atmospheric Administration (NOAA), 24 coastal states and 5 coastal territories with Federally approved Coastal Zone Management Programs have developed and submitted to EPA and NOAA Coastal Nonpoint Pollution Programs. All the submitted programs have been conditionally approved by EPA and NOAA. The conditional approvals will require states and territories to submit additional information in order to obtain final program approval. Recent administrative changes mutually agreed to by states, territories, EPA and NOAA are expected to expedite the final approval process. CZARA section 6712 requires states and territories to obtain final approval of their Coastal Nonpoint Pollution Programs in order to retain their full share of funding available to them under section 319 of the Clean Water Act and section 306 of the Coastal Zone Management Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(I) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The original Information Collection Request estimated that the reporting burden to develop and obtain approval of Coastal Nonpoint Pollution Control Programs under the national Program Development and Approval Guidance would average 1,874 hours per respondent over the 3-year term of the collection effort. Because all affected coastal states and territories have completed development and obtained conditional approval of their Coastal Nonpoint Pollution Control Programs and now need only to remove the existing conditions to obtain final

approval, EPA estimates that the remaining reporting burden will be approximately 20 percent of the original burden estimate, or approximately 375 hours per respondent annualized to a burden of 125 hours for each of the 29 respondents. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose information.

Dated: December 16, 1998.

Robert H. Wayland III,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 98–34041 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6207–6]

Agency Information Collection Activities: Proposed Collection; comment request; National Estuary Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Estuary Program, EPA ICR Number 1500.03, OMB Control Number 2040–0138, expiring March 31, 1999. Before submitting the renewal ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection as described below.

DATES: Comments must be submitted on or before February 22, 1999.

ADDRESSES: Comments should be sent to the Coastal Management Branch; Oceans and Coastal Protection Division (4504F); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Interested persons may obtain a copy of the ICR without charge by contacting the person identified below.

FOR FURTHER INFORMATION CONTACT: Darrell Brown at 202/260–6502 (phone); 202/260–9960 (facsimile); brown.darrell@epa.gov (E-mail) or Betsy Salter at 202/260–6466 (phone); 202/260–9960 (facsimile); salter.betsy@epa.gov (E-mail).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by this action are those state or local agencies or nongovernmental organizations that receive grants under section 320 of the Clean Water Act, the National Estuary Program. EPA provides grants to these entities to support 28 National Estuary Programs around the country and in Puerto Rico. Each entity receiving such a grant must submit an annual workplan that describes the projects and activities to be carried out using the section 320 funds and that documents the source of the 25% non-federal matching funds required by section 320.

Title: National Estuary Program (ICR #1500; OMB Control Number 2040–0138) expiring March 31, 1999.

Abstract:

Annual Workplans—The National Estuary Program (NEP) involves collecting information from the state or local agency or nongovernmental organizations that receive funds under section 320 of the Clean Water Act. The regulation requiring this information is found at 40 CFR Part 35. Prospective grant recipients seek funding to develop or oversee and coordinate implementation of comprehensive conservation and management plans (CCMP) for estuaries of national significance. In order to receive funds, grantees must submit an annual workplan to EPA. The workplan consists of two parts: (a) progress on projects funded previously; and (b) new projects proposed with dollar amounts and completion dates. The workplan is reviewed by EPA and also serves as the scope of work for the grant agreement. EPA also uses these workplans to track performance of each of the 28 estuary programs currently in the NEP.

Biennial Reviews—EPA provides funding to NEPs to support long-term implementation of CCMPs if such programs pass a biennial review process. Biennial reviews are used to determine progress each NEP is making in implementing its CCMP and achieving environmental results. In addition to evaluating progress, the results are used to identify areas of weakness each NEP should address for long-term success in protecting and restoring their estuaries. EPA will also compile successful tools and approaches as well as lessons learned from all biennial reviews to transfer to the NEPs and other watershed programs. For this ICR cycle, biennial reviews will be required of the first 17 NEPs in FY1999 and the first 21 NEPs in FY2001. Biennial reviews are required in addition to annual workplans.

The EPA is requesting comments on:

(i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) the quality, utility, and clarity of the information to be collected; and

(iv) how to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The estimated burden for the 28 NEPs totals about 18,000 hours for Fiscal Years 1999, 2000 and 2001, or about 6,000 hours/year on average. Total hours are based on the following estimates:

100 hours/annual workplan * 28 NEPs = 2,800 hours/year * 3 years = 8,400 hours

250 hours/biennial review * 17 NEPs = 4,250 hours/FY1999

250 hours/biennial review * 21 NEPs = 5,250 hours/FY2001

These estimates include the time needed to review instructions, search existing information sources, gather and maintain information needed, and to analyze the information and prepare the annual workplans or biennial review reports.

No person is required to respond to a collection of information unless the request displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Please send comments regarding these matters, or any other aspect of information collection, including suggestions for reducing the burden, to the address listed above.

Dated: December 14, 1998.

Robert H. Wayland III,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 98–34046 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Motor Vehicle Exclusion Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Motor Vehicle Exclusion Determination, OMB Control Number 2060–0124, expiring 01/31/99. The ICR describes the nature of the information collection and its expected burden and costs; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0012.11.

SUPPLEMENTARY INFORMATION:

Title: Motor Vehicle Exclusion Determination, OMB Control Number 2060–0124; EPA ICR No. 0012.11 expiration date 01/31/99. This is a request for an extension of currently approved collection.

Abstract: The EPA Office of Mobile Sources determines whether a vehicle is excluded from requirements under the Clean Air Act (Act) based on the criteria listed in 40 CFR 85.1701—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines. A manufacturer who desires a determination by the EPA as to whether a particular type of vehicle is excluded from coverage under the Act must submit specifications describing the size, use, top speed, etc. of the vehicle so that the determination can be made. This ensures that motor vehicles which may be legally operated or are capable of being legally operated on streets or highways will not be imported under a racing vehicle exclusion. EPA implemented a rule that requires each person who seeks to import a racing vehicle to obtain a prior written approval for admission, if we believe that the vehicle meets one or more of the motor vehicle exclusion criteria listed under 40 CFR 85.1703. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Notice required under 5 CFR 1320.8(d), soliciting comments on this collection information was published on August 7, 1998, (63 FR 42395); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instruction; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instruction and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Vehicle manufacturers and importers of race vehicles.

Estimated Number of respondents: 60.

Frequency of Responses: Occasionally.

Estimated Total Annual Hour Burden: 90 Hours.

Estimated total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0012.11 and OMB Control No. 2060–0124 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: December 17, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–34048 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6209–2]

Clean Air Act: Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractor to access information that has been, or will be, submitted to EPA under section 112(r) of the Clean Air Act(CAA) as amended: Computer Based Systems Inc., (CBSI), 2750 Prosperity Ave., Fairfax, VA 22031 (Contract #68–W–98–045) and its subcontractor, Creative Information Technology, Inc., (CITI), 9064 Manorwood Rd., Laurel, MD 20723.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than ten days after issuance of this notice.

FOR FURTHER INFORMATION CONTACT: Dorothy McManus, Office of Solid Waste and Emergency Response, MC: 5104, U.S. Environmental Protection Agency, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 112(r) of the CAA that EPA may provide the above mentioned contractor and its subcontractor access to these materials on a need-to-know basis. This contractor will provide technical support to the Office of Solid Waste and Emergency Response in the receipt, processing and storage of risk management plans submitted to EPA under the CAA.

In accordance with 40 CFR 2.301(h), EPA has determined that the contractor and its subcontractor require access to CBI submitted to EPA under sections 112(r) and 114 of the CAA in order to perform work satisfactorily under the above noted contract. The contractor's and subcontractor's personnel will be given access to information submitted

under section 112(r) of the CAA. Some of the information may be claimed or determined to be CBI. The contractor's and subcontractor's personnel will be required to sign nondisclosure agreements and will be permitted access to CBI. All contractor access to CAA CBI will take place at the contractor's facility. The contractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor and its subcontractor have access.

Clearance for access to CBI is scheduled to expire on January 31, 2003 or at contract termination.

Dated: December 16, 1998.

Jim Makris,

Director, Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response.

[FR Doc. 98–34045 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–1]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 311(b)(9)(A), CERCLA Section 311(b)(3), Announcement of Competition for EPA's Brownfields Job Training and Development Demonstration Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency will begin accepting applications for Brownfields Job Training and Development Demonstration Pilots through March 1, 1999. The application period will close March 1, 1999 and the Agency intends to competitively select ten Pilots by June, 1999.

DATES: This action is effective as of the date of publication in the **Federal Register**. All proposals must be received by March 1, 1999.

ADDRESSES: Interested applicants must submit a response to the Brownfields Job Training and Development Demonstration Pilot Guidelines. Job training guidelines can be obtained via the Internet: http://www.epa.gov/brownfields/, or by calling the Superfund Hotline at 1–800–424–9346 (TDD for the hearing impaired at 1–800–553–7672).

FOR FURTHER INFORMATION CONTACT: EPA's Office of Solid Waste and Emergency Response, Myra Blakely, Outreach and Special Projects Staff, (202) 260–4527 or Nancy Wilson at (202) 260–1910.

SUPPLEMENTARY INFORMATION: The Brownfields Job Training and Development Demonstration Pilots will each be funded up to $200,000 over two-years. These funds are to be used to bring together community groups, job training organizations, employers, investors, lenders, developers, and other affected parties to address the issue of providing training for residents in communities impacted by brownfields. The goals of the pilots are to facilitate cleanup of brownfields sites contaminated with hazardous substances and prepare the trainees for future employment in the environmental field. The pilot projects must prepare trainees in activities that can be usefully applied to a cleanup employing an alternative or innovative technology.

EPA expects to select approximately 10 Brownfields Environmental Job Training and Development pilots by the end of June 1999. Pilot applicants must be located within or near one of the 226 pre-1999 brownfields assessment pilot communities. Colleges, universities, non-profit training centers, community-based job training organizations, states, cities, towns, counties, U.S. Territories, and Federally recognized Indian Tribes are eligible to apply for funds. EPA welcomes and encourages applications from coalitions of such entities, but a single eligible entity must be identified as the legal recipient. Entities with experience in providing environmental job training and placement programs are invited to apply. The deadline for applications is March 1, 1999.

EPA's Brownfields Initiative is an organized commitment to help communities revitalize abandoned contaminated properties, and to thereby eliminate potential health risks and restore economic vitality to areas where these properties exist. EPA defines brownfields as abandoned, idled or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Date Signed: December 14, 1998.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 98–34043 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–2]

Mobile Source Outreach Assistance Competition Fiscal Year 1999: Solicitation Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Today's Notice announces the availability of funding and solicits proposals from state, local, multi-state and tribal air pollution control agencies for mobile sources-related public education and outreach projects. The funding will be allocated by EPA's Office of Mobile Sources through the competitive process described in this notice.

DATES: The deadline for submitting Final Proposals is Friday, February 19, 1999. To allow for efficient management of the competitive process, OMS is requesting agencies to submit an informal Intent to Apply by January 7, 1999. (Instructions for submitting final proposals and Intents to Apply are found in Section X. below.)

ADDRESSES: This proposal can also be found on the Office of Mobile Sources Web Page: ''www.epa.gov/oms/'' click on ''What's New.'' Addresses for submitting proposals can be found in Section X. below.

FOR FURTHER INFORMATION CONTACT: Susan Bullard, Director of Outreach and Communication, USEPA Office of Mobile Sources, 401 M Street SW, Washington, 20460 (mail code 6401). Telephone (202) 260–2614; Fax (202) 260–6011. Or email ''bullard.susan@epa.gov''

Contents by Section

I. Overview and Deadlines
II. Eligible Organizations
III. Funding Issues
IV. Program Emphasis
V. Selection Criteria
VI. Evaluation and Selection
VII. Proposals
VIII. Current OMS/Section 105 Funded Outreach Projects
IX. Other Items of Interest
X. How to Apply
XI. Program Contact

Deadline for informal Intent to Apply–January 7, 1999.

Deadline for Final Proposal—Friday, February 19, 1999.

This proposal can also be found on the Office of Mobile Sources Web Page: ''www.epa.gov/oms/'' click on ''What's New?''

FY 99 MOBILE SOURCE OUTREACH ASSISTANCE AGREEMENTS

Request for Proposals

Section I. Overview and Deadlines

A. Overview: Over the past two years, OMS has entered into agreements and established partnerships with a number of organizations to (1) provide national support for community-based mobile source public education efforts and, (2) encourage responsible choices for organizational and individual actions through public education. Current outreach projects funded through OMS (listed in Section VIII(U) below) emphasize transportation choices; education of vehicle owners and drivers of the future; car care and the role of the automotive technician; and, related projects such as ozone mapping and small engines. EPA's Office of Mobile Sources has set aside funds from the State and Tribal Assistance Grants (STAG) account to provide support to community-based mobile source-related projects. This notice solicits proposals for public education and outreach projects which directly support state and local air management organizations in their efforts to improve air quality from mobile sources. Proposals will be accepted from state, local, tribal and multi-state air management agencies which are identified as such under Section 302(b) of the Clean Air Act.

Interested persons can also obtain copies of this solicitation at no charge by accessing ''What's New?'' on the OMS Website, ''http://www.epa.gov/oms.''

B. What are the deadlines for this competition?

In order to efficiently manage the selection process, the Office of Mobile Sources requests that an informal ''Intent to Apply'' be submitted by January 7, 1999 (Please provide email address if available). An ''Intent to Apply'' simply states in the form of e-mail, phone, or fax that your organization intends to submit a proposal to be received by the deadline. Including the name or subject of the project would also be helpful. Submitting an Intent to Apply does not commit an organization to submit a final proposal. Those not submitting an Intent to Apply may still apply by the deadline.

The deadline for submitting completed final proposals (original and six copies) is February 19, 1999. The Office of Mobile Sources expects to complete the Evaluation/Selection process in early April, 1999.

Section II. Eligible Organizations

C. Who is eligible to submit proposals? According to funding policies associated with the State and Tribal Assistance Grants regulations (STAG funds), proposals can be accepted only from air pollution control agencies as defined under Section 302(b) of the Clean Air Act, (for projects to be undertaken will have replicability to other communities nationally), as well as multi-state organizations supporting Section 302(b) agencies. OMS has no discretion over this requirement. Interested air management or related organizations which are not air pollution control agencies as defined under Section 302(b) of the Clean Air Act are encouraged to create partnerships with eligible organizations.

In that situation, the eligible organization would be required to submit the final proposal and serve as the funding recipient if selected.

Section III. Funding Issues

D: What is the amount of available funding? Approximately $550K.

E. How will funds be allocated? The competition process will be managed by OMS and selected cooperative agreements will be awarded by EPA's Regional offices and funded through either Section 103 (for multi-state organizations as defined by law only) or Section 105 authority (state and local air pollution control agencies.) OMS has no discretion over this requirement.

F. How many agreements will be awarded? Approximately six agreements will be awarded, none to exceed $100,000. The total dollar amount of the final awards must be within available funding.

G. Are matching funds required? Possibly. Clean Air Act Section 105 mandates that eligible agencies provide matching funds of at least 40%. Therefore, if an air pollution control agency submits a proposal for which they do not already have sufficient matching funds, they must include a statement in their proposal indicating that the match could be met if their proposal is selected. Organizations unable to meet a required match must be considered ineligible. (This requirement does not apply to multi state organizations.) Organizations which are unclear as to their matching status are recommended to contact their EPA Regional Grant Coordinator.

H. Can funding be used to acquire services or fund partnerships?

Yes—subgrants and other procurement services are allowed. Because the method used to fund subgrants is not a federal matter, procedures governing your organization's procurement practices must be followed. Please indicate any intent to enter into such agreements in the proposal.

Section IV. Program Emphasis

I. Program Emphasis

—Voluntary Measures
—Commuter Choice initiatives
—Transportation choices
—Car care (testing, repair, maintenance)
—Environmental education for future drivers and consumers
—Other mobile source issues (including but not limited to: on-board diagnostics, diesel, particulate matter, heavy duty engines; nonroad engines; ozone mapping/forecasting, and alternative fuels)

Section V. Selection Criteria

J. Primary Criteria

—Addresses environmental goals of improved air quality from mobile sources
—Presents a strong public health message
—Demonstrates national or regional applicability
—Provides for at least minimal replication for use by other organizations in the budget
—Demonstrates effectiveness of delivery mechanism to reach targeted audience
—Exhibits clearly-stated and appropriate levels of funding Includes effective measurement/evaluation methods
—Reflects the potential for sustainability

K. Other Factors to be Considered

—Innovation in public awareness
—Effectiveness of collaborative activities and partnerships with other stakeholders needed to effectively develop or implement the project
—Integration with existing programs
—Willingness to coordinate with other OMS-funded outreach activities

L. Presentation Criteria

—Completeness
—Action-oriented
—Clearly-stated objectives
—Reasonable time frames

Section VI. Evaluation and Selection

M. The Evaluation Team is chosen to address a full range of mobile source and EPA program expertise. In addition, each EPA Regional office is given the opportunity to review those proposals generated by eligible organizations within that Region. The Evaluation Team will base its evaluation on the criteria referenced in this *Request for*

Proposal. Completed evaluations will be referred to a Selection Committee representing OMS senior managers and Regional representatives who are responsible for further consideration and final selection. To ensure equity and objectivity throughout the process, the OMS Program Contact (listed below) and staff who facilitate the process and participate in pre-application assistance, do not serve as members of either the Evaluation Team or the Selection Committee.

Section VII. Proposals

N. What must be included in the proposal? Proposals should be approximately 5–7 pages in length (please do not include binders) and must include:

(1) A brief statement that candidate organization is defined as an air pollution control agency under Section 302(b) of the Clean Air Act.

(2) A statement that any required match could be met.

(3) A concise statement of project background/objectives highlighting relationship to improving air quality from mobile sources.

(4) A detailed project summary—description of specific actions to be undertaken, including estimated time line for each task.

(5) Associated work products to be developed.

(6) Explanation of project benefits.

(7) Detailed explanation of how project outcomes will be designed for replication in other communities.

(8) A detailed budget estimate (clearly explain how funds will be used, including estimated cost for each task).

(9) Projected time frame for project from initiation through completion.

(10) Project contact(s) (provide name, organization, phone, fax, and e-mail where available).

O. Will 2-year proposals be considered? Yes. If a proposal with a 2-year project period is submitted, OMS requires that the budget and cost estimate be designed to indicate what will be accomplished in each of the first and second years.

P. May an eligible organization submit more than one proposal? An organization may submit more than one proposal only if the proposals are for different projects.

Q. May an eligible organization resubmit a proposal which was previously submitted to the Mobile Source Outreach Assistance Competition, but was not selected? Yes. The proposals received by OMS in both 1997 and 1998 were generally of very high quality. Clearly, all proposals of merit could not be selected due to finite resources available.

R. May an eligible organization submit a proposal for this fiscal year, even if it was awarded funding under this program in its first year? Yes. Applicants awarded funding in last year's competition may submit new proposals to fund a different project. This program is designed to provide seed money to initiate new projects or advance existing projects that are new in some way (e.g. new audiences, new locations, new approaches.)

S. Does this funding expire at the end of FY 99? No. The statute states that State and Tribal Assistance Grants (STAG) for environmental programs remain available until expended (''no-year money'').

T. Ineligible proposals. Proposals will be determined to be ineligible if: (1) The candidate organization is not currently defined as an air pollution control agency under Section 302(b) of the Clean Air Act; (2) a required match cannot be met; (3) the proposal is incomplete; or (4) the proposal is postmarked after the deadline.

Section VIII. Current OMS/Section 105 Funded Outreach Projects

U. The following offers a brief sketch of projects currently funded through the Office of Mobile Sources, either with Section 105 funding or OMS program funding.

Transportation Choices

''Reusable City''

Illinois EPA and the Chicago Museum of Science and Industry
Contact: Betsy Tracey, 217/782–0408

The project is designed to:

—enhance the air quality and mobile source component of ''Reusable City''—a permanent environmental science exhibit at the Chicago Museum of Science and Industry.

—Present basic science, describe health effects, explain citizen role in contributing to mobile source emissions, explain ''calls to action'' such as Ozone Action Days,'' foster critical problem-solving and decision-making skills.

—Create ''real'' meteorological station measuring actual ambient conditions outside the Museum, an interactive learning device (computer with CD Rom) and supporting materials to illustrate the relationship between meteorology and ozone. The user can become an ozone forecaster.

—Ribbon-cutting, June 24, 1998.

''Screen Seen''

Maine Department of Environmental Protection
Ron Severance, 207/287–2437

The project includes:

—Full screen cinema commercials for captive audience of moviegoers.

—20 minute rotation of 3 messages (visual images, trivia questions—OBD, PM, heavy duty, health message).

—Posting of all slides on WWW; Maine will assist states in adapting.

''Chattanooga Lifestyle Campaign: Improving Chattanooga's Air Quality Through Voluntary Citizen Behavior Change of Transportation Choices''

Chattanooga-Hamilton County Air Pollution Control Board
Contact: Angela Turner, 423/867–4321

Working with the Global Action Plan (GAP), the project goal will be to enhance the mobile source component of Chattanooga's Household EcoTeam Project. The project includes:

—4-month tracking of specific actions to reduce auto emissions through transportation choices in 50 households.

—Peer support and handbook to support family involvement.

—Follow up research to determine sustainability of new transportation practices.

—Two-part national technology transfer—invitational conference for local, state and federal air quality managers after demonstration period; broad-based outreach through presentations at meetings and conferences.

''It All Adds Up To Cleaner Air'': Transportation/Air Quality Public Information Initiative

Contacts:
Kathy Daniel (DOT/FHWA), 202/366–6276
Patrice Thornton (EPA/OMS), 734/214–4329
Abbe Marner (DOT/FTA), 202/366–0096

This DOT/EPA collaborative effort is:

—Community-based with support from federal agencies to increase public awareness of impact of travel behavior on air quality, and increase driving public's awareness of alternative modes of transportation and importance of travel choices on traffic congestion and air quality.

—Built on results from 3 pilot community sites—Dover, DE; Milwaukee, WI; and San Francisco, CA.

—Designed to include coalition-building, environmental education for youth, production of informational materials for public and media, and evaluation of changes in public awareness and actions.

—Nationally available to as many as 12 Demonstration Communities in 1999.

—TV spots being aired began Clean Air Week, '98.

—Initial meeting of national coalition stakeholders late summer '98.

''Let Kid Lead: Youth VMT Initiative'' [Creating Community-Based Solutions to Community-Defined Problems'']

Academy for Educational Development (AED)
Contacts: Bill Smith, 202/884–8750; Rick Bossi, 202/884–8898

The purpose of this youth-based program, which has entered into partnership with Kansas City, Tampa and Boston as its pilot sites is to:

—Create a replicable and sustainable program for involving youth and families in reducing growth in vehicle miles traveled (VMT).

—Enable youth to communicate about travel choices, solve problems and make sound travel decisions to minimize VMT.

—Share successful practices, lessons learned and tools developed in the pilot sites with other communities.

—Serve as a blueprint for communities interested in including a youth component in efforts to reduce growth of VMT.

''Public Outreach on Congestion Relief Pricing and Cash-Out Parking''

NY Department of Environmental Conservation/Tri-State Transportation Campaign
Dave Shaw (NYDEC), 518/457–7231
Janine Bauer (Tri-State), 212/777–8181

The project will:.

—Research, produce and disseminate educational materials about market based pricing mechanisms to reduce auto travel.

—Build on work with cash-out parking demo projects and Pricing Project Implementation on I–287/Tappan Zee Corridor.

—Send clear public health message.

''Air World''—Interactive Information Kiosk

Ventura County Air Pollution Control Board
Contact: Barbara Page, 805/645–1415

This initiative will:

—Develop a stand-alone bilingual interactive information kiosk for the public focusing on transportation-related air quality issues with content which reflects national, state and local issues.

—Produce products including a prototype kiosk (providing other air quality management agencies with 60–70% of actual programming needed to produce a similar kiosk for their citizens—video, graphics, animation) and an instructional handbook.

—Be delivered in early 1999.

Educating Future Drivers and Consumers

''Smog City: Interactive Air Pollution Simulation for Use on Air Agency Internet Web Site''

Sacramento Air Quality Management District
Kerry Shearer, 916/386–6180

''Smog City'' will be:

—Designed for users to manipulate multiple on-screen controls with their mouse to control variables within Smog City, and the simulation will be able to respond to that input based information.

—Colorful, challenging, completely interactive, instantly applicable in the classroom.

''Cleaner Cars Module: An Initiative to Encourage Responsible Car Maintenance and Driving Habits Among Future Drivers''

Environmental Health Center (National Safety Council).
Contact: Nyki Brandon-Palermo, 202/974–2484

Networking and coordinating with other similar projects across the country, this effort has:

—Developed a driver education curriculum module for new drivers linking benefits of responsible maintenance to responsible driving for use in 1500+ public and private driver education programs nationwide.

—Products including teacher plans, exercises, information wheel, interactive CD ROM, overheads.

—Available now!

Driver Education Pilot

NESCAUM
Contact: Ginger Lawrence, 617/367–8540

This effort:

—Piloted the driver education curriculum module developed by the Environmental Health Center (see above) in several cities in the northeast.

''I.D.L.E. in Dade''

Dade County Department of Environmental Resources Management
Contact: Kristin Buch, 305/372–6895

The program will:

—Educate new drivers on the air quality impacts of driving, use of alternative fuels and transportation choices.

—Encourage responsible maintenance and driving practices.

—Teach critical-thinking, problem-solving, and decision-making skills through educational videos, informational handouts, creative hands-on demonstrations and design contests.

''Easy Breathers''

Wisconsin Department of Natural Resources
Sara Burr, 608/266–2621

The project will be designed to:

—As a national educational effort focusing on the science of mobiles sources.

—Raise awareness and understanding high schools, technical and community colleges and business communities.

—Be integrated/coordinated with Partners for Clean Air (involved in pilot activities for transportation/air quality initiative) and EHC driver education curriculum.

—Represent a multimedia approach (interactive CD, poster, research materials, link to websites).

Teacher Workshops—NESEA Tour de Sol

Northeast Sustainable Energy Association (NESEA)
Contact: Nancy Hazard, 413/774–6051

Designed as a teacher training course, this project:

—Brought issues of transportation and the environment into middle school classrooms along the route of the 1998 Tour de Sol.

—6 workshops delivered—May, 98.

Dealing with In-Use Emissions

''Workshop Series on OBDII''

Utah Department of Air Quality/Division of Air Quality
Bill Colbert (Utah DAQ), 801/536–4423
Joe Thomas (Weber State University), 801/536–4175

The national OBDII Trainer the Trainer Workshop Series will be:

—Designed to on 2 tracks to support state I/M regulators and technical and communication staff (Technical Track and Public Awareness Track).

''OBD Training Course for Technicians''

Service Technicians Society (STS)
Contact: 412/772–7166

STS is:

—Developing a training course on-board diagnostic systems for technicians.

—Course delivered, 1998.

''Motivating Timely Repair of Vehicles not subject to I/M through Remote Sensing, Public Outreach, and Repair Community Incentives''

Oregon Department of Environmental Quality
Nina DeConcini (Oregon DEQ), 503/229–6788
Ken Mays (Central Oregon Community College), 541/383–7753

This project will:

—Raise awareness of highly polluting vehicles and their impact on public health.

—Motivate community actions to encourage repair of high emitting vehicles NOT subject to I/M.

—Mobilize the repair industry to offer repair incentives for vehicles identified as high emitters.

—Stimulate communities to use resources to promote and evaluate effectiveness of the program.

''Car Care for Clean Air''

Contacts: Mia Zmud, Weber State University, Bill Colbert, Utah DAQ 801/536–4423

This pilot project is designed to:

—Raise public awareness of ways in which automotive service affects air quality.

—Create coalitions to identify ways to improve vehicle maintenance practices—elevating the number, skill sets, performance and image of vehicle maintenance technicians.

—Encourage environmentally-sound transportation choices in anticipation of 2002 Olympics and beyond.

''The Air Repair Communications Project''

Missouri Department of Natural Resources
Contact: Kerry Cordray, 573–751–4817

A bi-state effort in partnership with the American Lung Association of Eastern Missouri, the ''Air Repair Communications Project'' will:

—Focus on enhanced inspection and maintenance.

—Create replicable materials including media kits, psas, exhibits, articles for newsletters, brochure to educate on enhanced I/M, theater screen slides, video to be distributed through Blockbuster;

—Undertake activities including car care clinics, community presentations, training and materials development for transportation management associations, participation at commuter fairs, open houses for public information exchange; make I/M program information available through posting on the WWW and other outreach tools.

—Market research underway—tools production temporarily on hold.

Heavy Duty

''Heavy Duty Vehicle Emission Reduction Outreach Program''

San Joaquin Valley United Air Pollution Control District
Dave Mitchell/Janis Parker, 209/497–1075

This comprehensive marketing program will:

—Target owners/operators of heavy duty on-road and non-road engines.

—Demonstrate operating advantages.

—Inform potential participants of all available local, state, and federal incentives for using clean technology.

—Involve participation in annual Tulare Farm and Equipment Show (display/product show and breakout session).

Small Engines

''Cash for Clippers''

Maryland Department of the Environment
Contact: Jessica Ritter, 410/631–3229

This program:

—Educated consumers about pollution prevention, ground-level ozone, MDE's forecasting program, and the impact of lawn and garden equipment.

—Offered rebates toward purchase of non-gasoline powered lawn mowers.

—Developed economic incentives to prevent pollution, foster creativity and innovation within the private and public sectors.

Projects in Support of NAAQS

''Air Pollution, Motor Vehicles and Public Health''

American Lung Association (ALA)
Contact: Katherine Pruitt, 202/785–3355

Mini-grants provided to 15 local lung associations (through ALA competitive process) for public education efforts which address a wide range of mobile source issues.

Projects were designed to:

—Send a strong public health message focused on children and asthma designed to raise public awareness of air quality and the impact of mobile sources.

—Be implemented in ozone season '98.

''Integrate the Televised Ozone Map with Mobile Source Outreach Initiatives''

NESCAUM/MARAMA/OTC Collaboration
Contact: Ginger Lawrence, NESCAUM, 617/367–8540

This project:

—Expanded the scope of the animated ozone map to 14 states+ represented by NESCAUM, MARAMA and OTC.

—Encourages region-wide distribution and use of the map, conduct public outreach to inform and motivate voluntary mobile source ozone abatement actions, and development of outreach materials for meteorologists and the public.

—Provides technical assistance to other regions of the country interested in the benefits of ozone mapping and forecasting, through creation of a web site and other outreach activities.

Ozone and Particulate Matter Outreach

STAPPA/ALAPCO
Contact: Gail Graves, 202/624–7864

STAPPA/ALAPCO is developing dynamic education and outreach materials to help state and local air agencies communicate the ozone and PM decisions and potential implications to elected officials, the media and the public. The project:

—Produced and distributed an informational video on PM 2.5—''Small Town Saves World'' to every state and local air agency. The video is designed to educate important constituents including state and local elected officials, civic and business groups and high school and college students.

—Will develop a modular PM implementation tool kit providing a variety of materials including communication tools to assist state and local agencies in explaining how the new PMfine standard will be implemented as well as potential implications

Section IX. Other Items of Interest

V. Is there other information I should have before applying? Yes.

—Submission of an Intent to Apply or a final proposal does not guarantee funding.

—Only those organizations selected will be required to submit a complete ''Application for Federal Assistance and Budget Information (SF 424 and SF 424A) to the appropriate EPA Regional Office.''

Section X. How to Apply

W. How do I apply?

Intents to Apply may take the form of email, letter or phone call to the Program Contact listed below. Please Submit Informal Intents To Apply by January 7, 1999.

Completed proposals must be postmarked or received on or before Friday, February 19, 1999 (original + 6—no binders please) and should be sent via regular mail to: Susan Bullard, Director of Outreach and Communication, US EPA Office of Mobile Sources, Mail Code 6401, 401 M Street SW, Washington, DC 20460.

[**Note:** Proposals may be faxed, but must be followed by a hard copy original and 6 copies.]

Proposals to be sent through express mail must be sent by Friday, February 19, to the following address: Susan Bullard, Director of Outreach and Communication, US EPA Office of

Mobile Sources, Room W737, 401 M Street SW, Washington, DC. 20460, (202) 260–2614, (202) 260–7645 (backup number for expressed proposals only).

Deadline for Completed Final Proposals, Friday, February 19, 1999.

Section XI. OMS Program Contact

Susan Bullard, Director of Outreach and Communication, EPA Office of Mobile Sources, 401 M Street SW (Mail Code 6401), Washington, DC 20460, (Phone) 202/260–2614 (Fax) 202/260–6011, ''bullard.susan@epa.gov''

Dated: December 17, 1998.

Margo T. Oge,

Program Official.

[FR Doc. 98–34047 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–9]

Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Local Government Advisory Committee will meet on January 21–22, 1999, in New York, NY. The Committee will host a panel discussion with several additional local government associations as a continuation of work begun at the previous meeting to build networks. Committee members will receive an update on the activities of the Small Community Advisory Subcommittee and the Policy Subcommittee since the Committee's September meeting. Staff from EPA's Brownfields Office will conduct a focus group on Resource Conservation and Recovery Act impediments to Brownfields redevelopment. The Subcommittees will meet on the 22nd.

The Committee will hear comments from the public between 11:15–11:30 am on January 21. Each individual or organization wishing to address the Committee will be allowed a minimum of three minutes. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

DATES: The meeting will begin at 8:30 am on Thursday, January 21 and conclude at 4:00 pm on the 22nd.

ADDRESSES: The meeting will be held in Room 27A in EPA's Region II Offices located at 290 Broadway in New York, NY.

Requests for Minutes and other information can be obtained by writing to the DFO at 401 M Street, SW (1306), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this Committee is Denise Zabinski Ney. She is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–0419.

Dated: December 10, 1998.

Denise Zabinski Ney,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 98–34042 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–8]

Notice of Fourth Meeting of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; announcement meeting.

SUMMARY: Fourth Meeting of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force.

TIME AND DATE: 8:00 a.m.–4:00 p.m., February 18, 1999.

PLACE: Holiday Inn Select Downtown Hotel, 160 Union Avenue, Memphis, TN; (901) 525–5491.

STATUS: Open to the public, limited only by the space available. The room accommodates approximately 125 people.

PURPOSE: The Task Force consisting of Federal, State, and Tribal members, leads efforts to coordinate and support nutrient management and hypoxia related activities in the Mississippi River and Gulf of Mexico watersheds.

MATTERS TO BE DISCUSSED: Agenda items include a discussion of new Federal legislation affecting the Task Force (Title VI—Harmful Algal Blooms and Hypoxia of P.L. 105–383—Coast Guard Authorization Act of 1998), an update on the Committee on Environment and Natural Resources' Hypoxia Science Assessment, and discussions on the draft interim strategy, including indicators of progress. The meeting of the Task Force will be open to the public, and the public will be afforded an opportunity to provide input during open discussion periods.

CONTACT PERSON FOR MORE INFORMATION: Dr. Mary Belefski, U.S. EPA, Assessment and Watershed Protection Division (AWPD), 401 M Street, S.W. (4503F), Washington, D.C. 20460, telephone (202) 260–7061; Internet: belefski.mary@epa.gov.

Dated: December 14, 1998.

Robert Wayland III,

Director, Office of Wetlands, Oceans, and Watersheds.

[FR Doc. 98–34039 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00573; FRL–6051–2]

Pesticide Program Dialogue Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act [Public Law 92–463], EPA's Office of Pesticide Programs (OPP) is giving notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC).

DATES: The meeting will be held on Thursday, January 7, 1999 from 9:00 a.m. to 5:30 p.m. and Friday, January 8, 1999 from 8:30 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at the: Holiday Inn Capitol, 550 C St., SW., Washington, DC 20024; telephone number: (202) 479–4000.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach or Terria Northern, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Crystal Mall 2 (CM #2), Rm. 1119, Arlington, VA 22202. Office telephone number; (703) 305–7090; Internet address: Fehrenbach.Margie@epamail.epa.gov or Northern.Terria@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The PPDC is composed of a balanced group of participants from the following sectors: pesticide industry and user groups; federal agencies and state governments;

consumer and environmental/public interest groups, including representatives from the general public; academia; and the public health community. The Committee was formed to foster communication and understanding among the parties represented on the Committee and with OPP, and to provide advice and guidance to the Agency regarding pesticide regulatory, policy, and implementation issues.

PPDC meetings are open to the public. Outside statements by observers are welcome. Oral statements will be limited to three to five minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement can do so before or after a Committee meeting. These statements will become part of the permanent file and will be provided to the Committee members for their information. Materials will be available for public review at the following address: U.S. Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

An agenda and background information are being developed and will be posted on the Agency's website December 30, 1998, at: http://www.epa.gov/pesticides.

To date, topics planned for discussion at the January 7–8, 1999 meeting will include: Inerts strategy, FQPA implementation activities, ecological standards, and BT resistance management.

List of Subjects

Environmental protection.

Dated: December 11, 1998.

Marcia E. Mulkey

Director, Office of Pesticide Programs.

[FR Doc. 98–33833 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34159; FRL–6053–6]

Initiation of Aluminum and Magnesium Phosphide Stakeholder Process; Notice of Availability of the Aluminum and Magnesium Phosphide Reregistration Eligibility Decision Document; and Proposed Risk Mitigation Measures for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of and starts a 90-day public comment period on the Reregistration Eligibility Decision (RED) document for the active ingredients aluminum and magnesium phosphide. The RED for these chemicals is the Agency's assessment of the health and environmental risks of the subject chemicals and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration. The RED contains a listing of possible mitigation measures that the Agency is considering for these chemicals. The main focus of the comment period is to collect input on these proposed mitigation measures, their potential impacts, and alternative mitigation measures that would accomplish the necessary risk reduction. This notice also announces two national stakeholder meetings in Kansas City, MO, and Sacramento, CA. The Agency specifically is asking for input regarding the need for additional meetings in other parts of the country and is seeking letters of interest regarding participating in a stakeholder meeting.

DATES: Written comments on the RED must be submitted by March 23, 1999. The stakeholder meeting(s) are expected to be held in May and June of 1999.

ADDRESSES: Three copies of comments identified with the docket control number ''OPP–34159'' and the case number (noted below) should be submitted to: By mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to the docket on the first floor (Room 119), Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to opp-docket@epamail.epa.gov. Please see Unit III. of this notice for additional instructions for electronic submissions. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI will be available for public inspection on the first floor (Room 119) at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED document or regarding the aluminum and magnesium phosphide stakeholder meetings as described above should be directed to Mark Hartman at (703) 308–0734 or Hartman.Mark@epamail.epa.gov.

To request a copy of the above listed RED document, a listing of the proposed risk mitigation measures or a RED Fact Sheet, contact the OPP Pesticide Docket, Public Information and Records Integrity Branch, first floor (Room 119), at the address given above or call (703) 305–5805.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Electronic copies of this document and various support documents 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/).

Electronic copies of the REDs and RED fact sheets can be downloaded from the Pesticide Reregistration Eligibility Decisions (REDs) home page at: http//www.epa.gov/REDs.

II. Background

The Agency has issued a Reregistration Eligibility Decision (RED) document for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988 and 1996, EPA is conducting a reregistration program to reevaluate the databases of existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete.

All registrants of products containing one or more of the above listed active ingredients have been sent the appropriate RED documents and must respond to product specific data requirements (if applicable) within 3 months of receipt. Any requirements for revision of labeling and use practices

will be determined at the conclusion of the stakeholder process. When final risk mitigation measures are determined, registrants must make the needed label changes within 8 months. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 90-day comment period. Although the 90-day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating amendments to the RED. All comments will be carefully considered by the Agency.

A. National Aluminum and Magnesium Phosphide Stakeholder Meeting(s)

Given the high toxicity of aluminum and magnesium phosphide and potential risks posed to applicators, and occupational and residential bystanders (people in work areas not directly involved in fumigation/aeration and people in nearby residential areas), the Agency has developed a number of mitigation measures which it proposes in order toreduce the risks outlined in the RED. However, since aluminum and magnesium phosphide have significant benefits and there are few, if any, viable alternatives, one of which is methyl bromide, the Agency believes that it is important that a broad stakeholder process be conducted to discuss these measures and/or to develop other workable mitigation measures that adequately protect occupational and residential bystanders.

Therefore, the Agency is planning to conduct a public comment and stakeholder process to accomplish this objective.

During the public comment period, commencing with the publishing of this notice, comments and suggestions will be collected and reviewed concerning these measures. Based upon this input, the proposed measures will be revised as needed. These revised mitigation measures will be discussed at stakeholder meetings that will be held in Kansas City, Missouri and Sacramento, California within 9 months from the issuance of the RED.

The Agency is requesting input on whether there is a need for additional meetings at other locations. Any input on this question should be provided to the Agency no later than January 22, 1999. These meetings will be open to the public and will also include a focused group discussion regarding the proposed mitigation measures. The Agency is requesting letters of interest from stakeholders who would like to participate in such a group discussion. These letters should be provided to the Agency no later than February 8, 1999. For these meetings to be most efficient and successful, all interested parties and viewpoints will be welcomed and considered.

Following the conclusion of this process, the Agency will make a final determination on the mitigation measures that must be adopted in order for products containing aluminum and magnesium phosphide to be eligible for reregistration. The outcome of this public comment and stakeholder process will affect all aluminum and magnesium phosphide products.

B. Consultation with United States Department of Agriculture Phosphine Task Force

EPA has initiated work with a task force of experts on pest management in stored commodities. The Phosphine Task Force was assembled by the United States Department of Agriculture (USDA) and is made up of scientists from the Land Grant Universities and the USDA Agricultural Research Service. The Phosphine Task Force will work closely with the EPA during the public comment period and the stakeholder meetings to provide input on the proposed risk mitigation strategy. The Phosphine Task Force will help refine the proposed risk mitigation measures, examine implementation issues, and suggest alternative measures.

C. Proposed Risk Mitigation Measures

The following is a summary list of the mitigation measures that are proposed for allaluminum and magnesium phosphide products. These measures are to be discussed aspart of the public review and stakeholder meeting process mentioned above. Please refer to Unit III. of the RED document if you would like a complete version of the riskmitigation proposals.

1. *Notification of authorities and on-site workers.* The Agency is proposing that applicators would be required to ensure that the local authorities (fire departments, police departments etc.) are notified of the date, time, and location of planned fumigation events at least 24 hours in advance of beginning operations. The Agency is also proposing that the applicators would be required to notify any worker or other person who might be expected to be in the proximity of the fumigation/aeration, prior to fumigation.

2. *Requirement for certified applicators.* The Agency is proposing to require that all persons who conduct fumigation/aeration activities be a certified applicator or that certified applicators supervising the activity be within 50 feet of the operation and within clear sight-line of the persons conducting the operation. Current labels allow for non-certified fumigators and aerators to conduct activities under the direct supervision and physical presence of a certified applicator. However, it is possible under this current language for the certified applicator to be a significant distance away from the actual operation, impeding his/her ability to adequately oversee the operations.

3. *Prohibit aeration of railcars, railroad boxcars, other vehicles, and containers en-route.* The Agency is proposing that aeration of fumigated railcars, railroad boxcars, shipping containers, and other vehicles while in transit would be prohibited. Labels would be required to include this prohibition.

4. *Placarding fumigated structures, containers, and vehicles.* The Agency is proposing as a possible requirement that placards, or someother documentation that accompanies the structure/container/vehicle, clearly state that prior to entering the structure/container/vehicle a certified applicator or trained person under the supervision of a certified applicator must monitor the concentration of phosphine therein. Unloading where exposure to workers or bystanders is possible, or entry must not occur until the measured concentrations are below the pertinent standard unless appropriate PPE is worn. These placards must also contain information for reporting incidents which is consistent with the incident reporting program developed by the registrants.

5. *Establish an incident reporting program.* The Agency is proposing that registrants would be required to establish programs for the comprehensive reporting of incidents to the Agency on an annual basis.

6. *Personal protective equipment.* The Agency is proposing to require that all persons involved infumigation/aeration operations wear respiratory protection during those operations unless it can be verified via monitoring that the concentrations of phosphine are at or below the established standard. Personal protective equipment (PPE) would be required to be worn by any person conducting monitoring activities until concentrations are known to be

below the established limit. In the event of a spill or leak, a self-contained breathing apparatus (SCBA) or supplied air would be required to be worn until the spill has been cleaned or the leak has been repaired.

7. *Require two-man operation for any activity that would involve entry into a fumigated structure.* The Agency is proposing that a minimum of two qualified persons would be needed to carry out any fumigation requiring entry into a structure. By implementing a two-man rule, if an applicator is unable to remove oneself from a dangerous exposure situation the second person can then assist in the safe removal of that person from danger. One person would be required to be a certified applicator and one person would need to be trained in the use of monitoring equipment and the health effects of phosphine gas.

8. *Establish 500 foot buffer zone and restricted area around all fumigated structures.* The Agency is proposing to prohibit the fumigation and aeration of structures that are within 500 feet of residential areas. Further, a 500 foot restricted area would be implemented for all areas/structures undergoing fumigation/aeration. These steps would be taken primarily to prevent exposure to residential bystanders. Prior to entry to this area monitoring would need to be conducted to ensure that the concentration of phosphine in the atmosphere is less than the 0.03 ppm standard or the limit of detection of the best available technology. Entry would not be allowed above that concentration unless appropriate PPE is worn. Placarding would be required to occur around the perimeter of the 500 foot restricted zone. Efforts would need to be made to request permission for placarding where placarding of the perimeter would involve other people's property.

9. *Institute more thorough monitoring around the commodity.* The Agency is proposing to require stringent monitoring when unloading or otherwise disturbing a commodity that has been fumigated, since the level of phosphine gas may be higher at the core of the commodity than in the surrounding air. Monitoring at the door or hatch is insufficient in some cases. Therefore, concentrations would be required to be monitored at the top, middle, and bottom levels of the commodity/storage facility, where feasible.

10. *Require seal/leak testing for fumigated structures.* The Agency is proposing that, prior to fumigation, the structure would undergo seal/leak testing using established methods to ensure that leakage during fumigation will not occur or is significantly minimized. Record of seal/leak testsmust be retained by the certified applicator. Leaks would need to be repaired prior to fumigation. Fumigation would prohibited in cases where substantial leaks are discovered and cannot be sealed.

11. *Establish a minimum distance from residences for burrow use and PPE for applicators during these applications.* The Agency is proposing that treatment of burrows for rodent control be prohibited within 100 feet of a residence. Note that current labels have a restriction of 15 feet, which may not be protective if burrow tunnels extend toward residences (basements). Applicators involved in the fumigation of animal burrows would be required to wear respiratory protection during the course of the operation. These actions would eliminate the residential uses of aluminum and magnesium phosphide but would allow for rodent control to continue under other circumstances. In cases of public health, where no other alternatives can be found, exceptions to this item may be made.

12. *Notification of local residents.* The Agency is proposing to require notification so that residents in adjoining properties can make decisions regarding temporarily leaving their property during fumigation. Such notification would also be required for commercial and industrial sites that are near a planned fumigation operation. The Agency proposes that the certified applicator would be required to ensure that all residents are notified within 750 feet of the fumigated structure.

13. *Requirement for improved training for certified applicators.* The Agency is proposing to require that the registrants work with the appropriate personnel in the Agency and in the States to develop a fumigator-specific certification program that adequately addresses all risks associated with the use of these chemicals. These programs would stress the highly toxic nature of the chemicals, fumigation/aeration-specific issues, and the importance of understanding and following label language exactly. Also, those requirements that result from the outcomes of the stakeholder meetings, must be emphasized. This effort would also include consideration of the most effective method of delivering this training.

14. *Monitoring methods to minimize exposure.* The Agency is proposing to require additional monitoring of areas around fumigated structures in order to reduce the potential for occupational and residential bystander exposure to phosphine. The Agency is further proposing to require that no fumigated structure be entered until it can be verified that the concentrations of phosphine present are at or below the 0.03 ppm standard unless appropriate PPE is worn. A certified applicator or other competent person (industrial hygienist etc.) Would be required to conduct the monitoring. All fumigation/aeration operations would be covered by this requirement including outdoor operations.

The Agency recognizes that current technology may not be capable of detecting phosphine at the 0.03 ppm level. Therefore, the best available technology would be used with the limit of detection acting as the standard until new technology becomes available at which time the 0.03 ppm standard would be required.

The Agency is aware of a ''real-time'' direct-read device technologies with a limitof detection of 0.05 ppm that are currently available. These devices can be equipped with audible alarms and data loggers.

15. *Establish and define applicable exposure limits for the label.* The Agency is proposing to require that all applicable safety standards appear on the label.

III. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established under docket control number ''OPP–34159'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (OPP–34159). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Fumigation

Dated: December 18, 1998.

Jack E. Housenger,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 98–34049 Filed 12–22–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[PF–849; FRL–6047–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–849, must be received on or before January 22, 1999.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
James Tompkins	Rm. 239, CM #2, 703–305–5697, e-mail:tompkins.jimepamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Amelia M. Acierto	Rm. 707A, CM #2, 703–308–8377, e-mail:acrieto.ameliaepamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–849] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–849] and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 15, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Monsanto Company

PP 7F4840

EPA has received a pesticide petition (PP 7F4840) from Monsanto Company, 600 13th Street, N.W., Suite 600, Washington, D.C., proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of sulfosulfuron; 1-(4,6-dimethoxypyrimidin-2-yl)-3-(2-ethanesulfonyl-imidazo 1,2-a pyridine-3-yl)sulfonylurea, and its metabolites converted to 2-(ethylsulfonyl)-imidaazol 1,2-a pyridine and calculated as sulfosulfuron in or on the following raw agricultural commodities and animal products:

Commodity	Part per million (ppm)
Wheat.	
Grain	0.02
Straw	0.1
Hay	0.3
Forage	4.0
Animal Products.	
Milk	0.006

Commodity	Part per million (ppm)
Fat (cattle, goats, horses, hogs, sheep).	0.005
Meat (cattle, goats, horses, hogs, sheep).	0.005
Meat by-products (cattle, goats, horses, hogs, sheep).	0.05

EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data maybe needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. Metabolism of sulfosulfuron in plants is negligible. The nature of the major sulfosulfuron residues in wheat matrices depends primarily on the mode of application with a reliance upon metabolism in the soil.

Postemergence applications result in residues that are mostly made up of parent compound, with small amounts of five to six metabolites that together make up less than 15% of the total radioactive residue (TRR).

Preemergence application result in soil degradation of the parent compound followed by uptake primarily of the imidazopyridine ring-containing metabolites and small amounts of the parent compound. The pyrimidine ring-containing metabolites under these conditions are tightly bound to the soil, resulting in negligible uptake of these residues. Little further metabolism of the imidazopyridine metabolites takes place in the plant. The predominant residues resulting from preemergence applications were sulfonamide (22% TRR) and guanidine (18.3% TRR).

In both cases, translocation of residue to the grain is negligible. The highest residues are observed following postemergence applications and the residues are primarily parent compound.

In rotational crops, residues were low, with the TRR's not exceeding 0.01 ppm in most crops. The most abundant metabolite was sulfonamide, with low levels of a sulfonamide-sugar conjugate and parent compound also observed.

2. *Analytical method*. The primary crop (wheat) residue and the secondary (animal products) residues are analyzed as total residue by hydrolyzing sulfosulfuron and its imadazopyrimidine-containing metabolites under acidic conditions to the common chemophore, ethyl sulfone. Ethyl sulfone is then separated and quantitated by High Performance Liquid Chromatography (HPLC) with fluorescence detection.

3. *Magnitude of residues*. Field residue trials at 25 locations were made in winter and spring wheat as preplant incorporated (PPI), preemergent (PRE) and, postemergent (POST) applications at a target application rate of 0.035 lb a.i./acre. Residues in grain from all modes of application were < 0.008 ppm; residues in the other RACs in PRE and PPI applications did not exceed 0.016 ppm. Residues in forage samples from POST applications taken on the day of and 2-weeks after application showed maximum residues of 3.04 ppm and 0.70 ppm, respectively.

Spring and winter wheat treated with an exaggerated rate of 10x the anticipated use rate resulted in grain residues below the analytical limit of quantitation. Since no quantifiable residue were detected at rates greater than the maximum theoretical concentration (9x for wheat), processing studies were not required.

B. Toxicological Profile

1. *Acute toxicity*. A rat acute oral study with an LD_{50} of >5,000 milligrams/kilogram (mg/kg), EPA Category IV.

i. A rabbit acute dermal study with an LD_{50} of >5,000 mg/kg, EPA Category IV.

ii. A rat inhalation study with an LC_{50} of >3.0 mg/l, the highest concentration generated, EPA Category IV.

iii. A primary eye irritation study in the rabbit showing moderate eye irritation, EPA Category III.

iv. A primary dermal irritation study in the rabbit showing essentially no irritation, EPA Category IV.

A dermal sensitization study in the guinea pig showing no potential for sensitization. Acute and subchronic neurotoxicity studies in rats demonstrating no neurotoxicity potential. Sulfosulfuron has a low order of acute toxicity.

2. *Genotoxicity*—i. An *in vitro Ames/Salmonella* mutagenicity assay in five commonly used strains was negative for mutagenic potential. An *in vitro* CHO/HGPRT Gene Mutation assay was negativefor mutagenicity up to the limit of solubility.

ii. An *in vitro* chromosomal aberration test in cultured mammalian cells demonstrated the induction of chromosomal aberrations only under conditions of prolonged incubation at high dose levels that exceeded the solubility of the test material. The mechanism responsible for this induction and the biological relevance of the effect is not clear. Other, more relevant, chromosomal aberration tests were negative.

iii. An *in vitro* chromosome aberration study in human lymphocytes was negative for chromosomal aberrations.

iv. An *in vivo* bone marrow micronucleus assay in the mouse was negative for chromosomal effects. The weight of evidence demonstrates that sulfosulfuron does not produce significant genotoxic or mutagenic effects.

3. *Reproductive and developmental toxicity*. A developmental study in the rat demonstrated no signs of maternal or developmental toxicity up to the maximum dose level of 1,000 mg/kg/day. The no-observed adverse effect level (NOAEL) was considered to be 1,000 mg/kg/day. A developmental study in the rabbit demonstrated no signs of maternal or developmental toxicity up to the maximum dose level of 1,000 milligram/kilogram/day (mg/kg/day). The NOAEL was considered to be 1,000 mg/kg/day. A 2-generation reproduction study in the rat demonstrated a subchronic toxicity NOAEL of 5,000 ppm based on body weight and food consumption decreases, urinary bladder calculi formation and minor bladder and kidney pathology. There were no effects on reproduction or fertility up to 20,000 ppm, the highest dose tested (HDT). Sulfosulfuron demonstrates no reproductive effects in rats and no teratogenic or developmental effects in rats, and rabbits.

4. *Subchronic toxicity*. A 28 day dermal study in the rat with a NOAEL of at least 1,000 mg/kg/day, HDT. A 90 day feeding study in the rat resulted in only mild body weight/weight gain effects at 20,000 ppm, the HDT. The NOAEL for both males and females was considered to be 6,000 ppm. A 90 day feeding study in the dog demonstrated subchronic toxicity, primarily in the urinary bladder, secondary to urinary crystal formation and, urolithiasis at dose levels of 300 and, 1,000 mg/kg/day in females and, at 1,000 mg/kg/day in males. The NOAEL was considered to be 100 mg/kg/day in females and, 300 mg/kg/day in males. Sulfosulfuron has a low order of subchronic toxicity, related only to the precipitation of test material in the urinary bladder of dogs at high doses.

5. *Chronic toxicity*. A 1 year study in the dog demonstrated toxicity in the urinary bladder secondary to urinary crystal and calculus formation at 500 mg/kg/day in a single male animal. Urinary crystal formation was observed in females at 500 mg/kg/day with no

subsequent pathology. The NOAEL was considered to be 100 mg/kg/day for male and female dogs.

A combined chronic toxicity/oncogenicity study in the rat demonstrated chronic toxicity, primarily in the urinary bladder, in males and females at 5,000 and females at 20,000 mg/kg/day. The NOAEL for chronic toxicity was considered to be 500 ppm or 24.4 mg/kg/day. This is the lowest NOAEL and is used in the calculation of the Reference Dose (RfD).

An 18 month oncogenicity study in the mouse demonstrated chronic toxicity, primarily in the urinary bladder, of male mice at 3,000 and 7,000 ppm. No chronic toxicity was observed in females. The NOAEL for chronic toxicity was considered to be 700 ppm for male mice, and 7,000 ppm for female mice.

Sulfosulfuron demonstrates chronic toxicity related only to the formation of crystals and calculi of the compound in the urinary bladders of mice, rats, and, dogs.

An 18 month oncogenicity study in the mouse demonstrated a small increase in the incidence of benign mesenchymal tumors of the urinary bladder submucosa in male mice with urinary bladder calculi at 7,000 ppm. However, these tumors are reportedly unique to Swiss-derived mice and were considered to be of biological relevance only to the mouse by an Independent Working Group on Mouse Mesenchymal Tumors convened by the International Life Sciences Institute (ILSI).

A combined chronic toxicity/oncogenicity study in the rat (same as above) demonstrated a urinary bladder transitional cell carcinoma and, a urinary bladder transitional cell papilloma in two females at 5,000 mg/kg/day, probably secondary to urinary system calculi formation and, (chronic) irritation.

The low incidences of oncogenicity observed in the oncogenicity studies conducted with sulfosulfuron are either considered to be relevant to the mouse only or a secondary threshold effect related to chronic irritation resulting from bladder stone formation at high doses. Sulfosulfuron is not considered to be a primary oncogen.

Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986, Monsanto believes that the EPA would classify sulfosulfuron as a Group C carcinogen, without quantitative risk assessment, i.e., using the margin of exposure (MOE) approach for risk assessment. Under the proposed guidelines published April 10, 1996, however, Monsanto believes that sulfosulfuron should be included in the ''Not Likely Human Carcinogen'' category based upon mechanistic considerations. To quote the 1996 EPA guideline document discussing a similar effect in a rat study.

A major uncertainty is whether the profound effects of (substance 5) may be unique to the rat. Even if (substance 5) produced stones in humans, there is only limited evidence that humans with bladder stones develop cancer. Most often human bladder stones are either passed in the urine or lead to symptoms resulting in their removal.

In either case, a MOE assessment or RfD approach would be utilized. Since the chronic NOAEL for male rats is lower than the oncogenic NOAEL for female rats (24 mg/kg/day vs 30 mg/kg/day), the male rat chronic NOAEL was used with a 100 fold safety factor for a RfD of 0.24 mg/kg/day, for the quantitation of human risk.

6. *Animal metabolism*. An animal metabolism study was conducted in the rat using sulfosulfuron radio labeled in both the pyrimidine and iminodazopyridine rings to detect possible cleavage of the sulfonylurea bond. Following oral dosing of sulfosulfuron, absorption was found to be greater at low doses (>90%) than at the higher doses (40%). Sulfosulfuron was readily excreted, mostly unchanged, with urinary excretion the major route of elimination at low doses and fecal excretion the major route at high doses. Greater than 90% of the dose was excreted 3-days after administration. Expiration as carbon dioxide or volatiles was not a significant route of elimination. Metabolism of sulfosulfuron in the rat occurred to only a limited extent with demethylation and pyrimidinering hydroxylation as the major metabolic routes, yielding desmethyl-sulfosulfuron and 5-hydroxy-sulfosulfuron as the major metabolites. There was no evidence of bio-retention of sulfosulfuron or its metabolites; tissue and blood levels were negligible, with no individual tissue showing levels exceeding 0.2% of the doses.

7. *Metabolite toxicology*. Dietary residues are comprised almost entirely of parent sulfosulfuron and the imidazopyridine-containing metabolites sulfonamide and guanidine. Specific toxicology data is not available on these metabolites, but the structures do not suggest any specific toxicologic concern and the level of dietary exposure is low. These metabolites are not considered to present a significant toxicological risk.

8. *Endocrine disruption*. There was no evidence that exposure to sulfosulfuron had any effect on reproduction, fertility or mating indices, development or maturation of embryos, or development, growth and survival of offspring in the battery of short-term, chronic, reproductive and, developmental mammalian, avian and aquatic studies conducted. There were no gross or microscopic pathologic effects in endocrine organs or endocrine-sensitive tissues, or in any reproductive organs, tissues or endpoints that were considered related to exposure to sulfosulfuron. With no evidence of bioaccumulation and low environmental concentrations, there is negligible risk of endocrine disruption in humans or wildlife

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Estimates of dietary exposure to residues of sulfosulfuron utilized the proposed tolerance-level residues for wheat grain (0.01 ppm) and for the following animal products: milk (0.004 ppm), fat (0.004 ppm), meat (0.004 ppm), and meat by-products (0.1 ppm, including kidney, and liver). 100% market share was assumed as well as the assumption that no loss of residue would occur due to processing and cooking. A RfD of 0.24 mg/kg/day was assumed based on the low NOAEL from the chronic/oncogenicity study in rats (24 mg/kg/day) with a safety factor of 100. Since the present label lists only wheat or fallow as approved rotations, no residues were entered for rotational crops. Using these conservative assumptions, dietary residues of sulfosulfuron contribute only 0.000149 mg/kg/day (0.006% of the RfD) for children 1-6 years, the most sensitive sub-population. For the U.S. population as a whole, the exposure was only 0.000048 mg/kg/day (0.02% of the RfD).

ii. *Drinking water*. Given the low use rates, rapid soil degradation, strong soil binding characteristics and low soil mobility of sulfosulfuron, the risk of significant ground and surface water contamination and exposure via drinking water is considered to be negligible. Assuming that 10% of the RfD is allocated to drinking water exposure (0.024 mg/kg/day), and the average, 70 kg human consumes 2 liters of water per day, a Maximum Allowable Concentration (MAC) value for drinking water of 0.84 mg/l is proposed for sulfosulfuron.

iii. *Non-dietary exposure*. Sulfosulfuron is proposed for a variety of non-crop uses including roadsides, fence rows,industrial sites, parks, apartment complexes, schools and, other public areas. Exposure assessments have been made for mixer/loaders and applicators in these situations (occupational exposure) and, the cumulative (amortized) daily

exposure from both these activities has been estimated to be less than 0.5 mg/kg/day, or approximately 0.2% of the RfD. The non-occupational exposure in these locations to the casual passer-by would be expected to be orders of magnitudeless. The exposure in either instance does not present a significant exposure risk.

D. Cumulative Effects

Sulfosulfuron falls into the common category of sulfonylurea SU herbicides; however, there is no information to suggest that any of the SU s have a common mechanism of mammalian toxicity or even produce similar effects. It is not appropriate to combine exposures in this case, and Monsanto is considering only the potential risk of sulfosulfuron in its aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. As presented above, the exposure of the U.S. General population to sulfosulfuron is low, and the risks, based on comparisons to the reference dose, are negligible. Margins of safety are expected to be considerable. Monsanto concludes that there is a reasonable certainty that no harm will result to the U.S. population from aggregate exposure to sulfosulfuron residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of sulfosulfuron, Monsanto considered data from developmental toxicity studies in the rat, and rabbit and a 2-generation reproduction study in rats. No developmental or reproductive effects were observed up to the HDT in each of the three studies. The NOAELs were 1,000 mg/kg/day, 1,000 mg/kg/day and 20,000 ppm, respectively. Using the same conservative assumptions that were made previously for the dietary exposure analysis for the U.S. general population, the percent of the RfD utilized by pre-adult sub-populations are: all infants-0.03%;, nursing infants-0.005%;, and non-nursing infants-0.04%; children, 1-6 years-0.06%; children, 7-12 years-0.04%. Monsanto concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to sulfosulfuron residues.

F. International Tolerances

There are currently no international (Codex) tolerances established for sulfosulfuron.

Sulfosulfuron is currently registered on wheat in Ireland, Switzerland, Poland, the Czech Republic, Slovakia and, South Africa. There are no harmonized MRL's at the European Union level at present. Petitions for tolerances for sulfosulfuron in/on wheat have been submitted in Canada, Australia and, in other countries in the European Union.

2. Whitmire Micro-Gen Research Laboratories, Inc.

PP 5E4442

EPA has received a pesticide petition (PP 5E4442) from Whitmire Micro-Gen Research Laboratories, Inc., 3568 Tree Court Industrial Bvd., St. Louis, MO 63122-6682, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for Dibasic esters (DBE). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

DBE is a colorless liquid that consists of a mixture of dimethyl glutarate (55-75%), dimethyl adipate (10-25%), and dimethyl succinate (19-26%). The identity and properties of each component of DBE is summarized in the table below.

DBE Component	CAS	Formula	MW	Density
Dimethyl succinate	106-65-0	$CH_3OOC(CH_2)_2COOCH_3$	146.14	1.12
Dimethyl glutarate	1119-40-0	$CH_3OOC(CH_2)_3COOCH_3$	160.17	1.09
Dimethyl adipate	627-93-0	$CH_3OOC(CH_2)_4COOCH_3$	174.20	1.06

Analytical method. DBE vapors may be detected by gas chromatography using a flame ionization detector, for which a detection limit of 0.7 µg/L has been reported (Morris *et al.* 1991). In aqueous media, DBE may be detected by high pressure liquid chromatography using a diode ray detector, for which no detection limit was reported (Bogdanffy *et al.* 1991).

B. Toxicological Profile

1. *Acute toxicity*. Acute (24 hours) dermal contact with DBE produced mild to severe erythema and mild edema in rabbits exposed to undiluted DBE (Sarver, 1989). Fourteen day dietary exposure to large concentrations of DBE in feed (10,000, 20,000, or 50,000 ppm) did not produce any gross or microscopic pathological changes in rats (Henry, 1981). Body weight gain was slightly reduced in a dose-dependent manner at the end of the exposure period. This study identified a no-observed adverse effect level (NOAEL) of 10,000 ppm (842 milligrams/kilogram/day (mg/kg-day)). Similarly, body weight gains were significantly reduced in rats exposed via inhalation to concentrations of 0.4 and 1.0 milligram/liter (mg/L) DBE for 6 hours/day, 5 days/week for 2 weeks (Alvarez, 1988). In both studies, however, decreases in body weight gain appear to be attributable to a dose-dependent decreases in feed consumption, rather than a pathological change caused by treatment.

2. *Genotoxicity*. DBE was not mutagenic in a *Salmonella typhimurium* assay in the presence or absence of a rat liver activation system (Koops, 1977; Arce, 1988). A significant increase in chromosomal aberrations was observed *in vitro* in human lymphocytes when metabolically activated (using a rat liver S-9 fraction), but not in the absence of metabolic activation (Vlachos, 1987). However, in an *in vivo* mouse bone marrow micronucleus assay, no significant increase in micronucleated cells were observed (Rickard, 1987).

3. *Reproductive and developmental toxicity*. No effects on fetal survival, fetal weight, litter size, implantation, or the incidence of terata were observed in rats exposed via inhalation to concentrations 0.16, 0.4, or 1.0 mg/L DBE on days 7-16 of gestation (Alvarez, 1988). In addition, no treatment-related effects were observed for various reproduction indices (male fertility, female fertility, born alive, viability, gestation, and lactation) in rats exposed via inhalation to 0.16, 0.4, or 1.0 mg/L DBE for 14 weeks prior to mating, and continuing through breeding (15 days), gestation (21 days), and lactation (21

days). Pup weights were significantly reduced at concentrations of 1.0 mg/L DBE, however, this appears to be attributable to decreased food intake and body weight gain in maternal animals, which were significantly depressed at concentrations of 0.4 mg/L and higher (Kelly, 1988).

4. *Subchronic toxicity*. In rats exposed via inhalation to 0.02, 0.08, or 0.40 mg/L DBE for 6 hours/day, 5 days/week, for 14 weeks, the only histopathological change of significance included mild squamous metaplasiain the olfactory epithelium (Kelly, 1987). Slight changes in liver weight, body weight, blood calcium, and sodium levels were also reported, however, these were considered to be of minimal biologic significance. A no effect concentration was not identified for nasal effects. However, for systemic effects, the highest concentration tested (0.4 mg/L) was considered to be a NOAEL.

5. *Chronic toxicity*. In rats exposed via inhalation to 0.16, 0.4, or 1.0 mg/L DBE for 22 weeks, the only histopathological change of significance included squamous metaplasia in the olfactory epithelium (Kelly, 1988). The incidence and severity of the nasal lesions was greater in this study in comparison to the 14 week study discussed above. A no effect concentration was not identified for nasal effects.

6. *Animal metabolism*. The compounds that comprise DBE are derivatives of three naturally occurring dicarboxylic acids (adipic, glutaric, and succinic acids). Specifically, DBE consists of dimethyl esters of these three acids. Due to the presence of carboxylesterases and other diesterases in mammalian tissues, these dimethyl esters are rapidly cleaved in the body to form their corresponding dicarboxylic acids: adipic, glutaric, and succinic acids.

7. *Metabolite toxicology*. By the oral route, the toxicity of DBE metabolites is low. The principle metabolites of DBE are naturally occurring dicarboxylic acids: succinic, glutaric, and adipic acids. Adipic, and succinic acids are classified as Generally Recognized As Safe (GRAS) by the U.S. FDA for substances directly added to human food (21 CFR 184.1009 and 21 CFR 184.1091 respectively). Although glutaric acidis not classified as GRAS, its relative safety can be inferred since its carbon chain length (5) is intermediate of adipic (6) and succinic (4) acids. The dicarboxylic acids are substrates for glycolytic and gluconeogenic reactions in the cell, and as such, the components of DBE possess nutritional value (Ladriere *et al*. 1996).

By the inhalation route, the metabolites of DBE are irritants to the nasal mucosa, and are likely responsible for the metaplasia of the olfactory epithelia observed in exposed rats. *In vitro* studies indicate that inhibition of nasal carboxylase activity reduces the toxicity in rat nasal explants (Trela and Bogdanffy, 1991). In the rat, carboxylesterases appear to be preferentially localized in cells of the Bowman's gland and sustentacular epithelial cells which are immediately adjacent to olfactory nerve cells (Olson *et al*. 1993).

8. *Endocrine disruption*. Mono- and dimethyl esters of succinic acid are capable of stimulating insulin release in rats (Vicent et al. 1994;, Ladriere et al. 1996). However, rather than evidence of endocrine disruption, this observation is likely attributable to the nutritional value of DBE.

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure due to use of DBE as an antifreeze agent is believed to be minimal, as is discussed for food and drinking water below.

2. *Food*. DBE is not intended to be directly applied to foods. Rather, the use of DBE in pesticide formulations for food handling areas will be limited to sprays and aerosols for crack/crevice applications. Any incidental dietary exposure to DBE from such uses will be minimal in comparison to the currently permitted use of DBE component, dimethyl succinate, as a food additive in beverages, ice cream, candy, and baked goods (21 CFR 172.515). Furthermore, the levels of dimethyl esters present in food as a result of DBE application in food areas are likely to be far less, on a molar equivalent basis, than the levels of naturally occurring dicarboxylic acids present in foods.

3. *Drinking water*. Because DBE-containing pesticide formulations are not applied to agricultural crops, its migration to groundwater aquifers or to surface water bodies that may serve as suitable sources of drinking water is not anticipated.

4. *Non-dietary exposure*. The greatest potential for exposure to DBE is to pesticide applicators, who may be exposed via inhalation or dermal routes. USEPA's Pilot Inter disciplinary Risk Assessment Team (PIRAT,1997) evaluated potential exposures to workers using a handwand applicator or a backpack applicator.

For the handwand applicator scenario, assuming a unit exposure of 29.178 milligrams/pound (mg/lb) handled for the dermal pathway and a unit exposure of 1.063 mg/lb handled for the inhalation pathway, average daily doses of 0.03 and 0.001 mg/kg-day were calculated for dermal and inhalation exposures, respectively. In their calculations, USEPA conservatively assumed 100% absorption via both routes, a 70 kilogram/body/weight (kg/bwt), an application rate of 0.08 lbs DBE/day for product containing 4.2% (w/w) DBE yielding a finish spray containing 0.065% DBE.

For the backpack applicator scenario, assuming a unit exposure of 482.581 mg/lb handled for the dermal pathway and a unit exposure of 0.329 mg/lb handled for the inhalation pathway, average daily doses of 1.0 and 0.007 mg/kg/day were calculated for dermal and inhalation exposures, respectively. In their calculations, USEPA conservatively assumed 100% absorption via both routes, a 70 kilogram/body/weight, an application rate of 0.14 lbs DBE/day for product containing 4.2% (w/w) DBE yielding a finish spray containing no more than 1% DBE.

D. Cumulative Effects

Since exposures to DBE from food and drinking water are believed to be minimal, the potential for cumulative exposures (i.e., summed across multiple routes of exposure) exceeding those estimated for pesticide applicators is very small. Furthermore, because the components of DBE are readily metabolized to polar, water-soluble metabolite, DBE is not expected to be persistent in biological tissues. Because DBE is irritating to the skin and nasal passages, any exposures are expected to be self-limiting. For these reasons, the potential for cumulative effects from exposure to DBE is low.

E. Safety Determination

1. *U.S. population*. Potential dietary exposures to DBE are not likely to pose a significant risk to the general U.S. population. The components of DBE are dimethyl esters of three naturally occurring dicarboxylic acids (adipate, succinate, and glutarate), two of which are currently classified as GRAS by the U.S. FDA for direct addition to human foods. It should be noted that the presence of methyl groups does not increase the toxicity of DBE. To the contrary, methylation is one of the metabolic pathways by which the body attempts to detoxify xenobiotics (Hodgson and Levi, 1987). As such, dimethyl succinate, dimethyl glutarate, and dimethyl adipateare likely to be less toxic than succinate, glutarate, and adipate, respectively. In support of this statement, Trela and Bogdanffy (1991)

reported that succinate, glutarate, and adipate produced concentration-dependent increases in cytotoxicity in a rat nasal explant system. The cytotoxicity of DBE in the same system, however, was greatly diminished by a carboxylesterase inhibitor which effectively blocks the conversion of DBE to the dicarboxylic acids.

The potential hazards posed by DBE to pesticide applicators exposed via inhalation and dermal routes are low. For the handwand applicator, the average daily dermal and inhalation doses of 0.03 mg/kg/day, and 0.001 mg/kg/day, respectively, are well below exposures which are believed to be without risk of deleterious effects (8.42 mg/kg/day for dermal exposures, and 0.38 mg/kg/day for inhalation exposures). Specifically, USEPA conservative assumptions for a worker applying a DBE-containing (4.2% w/w) product with a handwand maintain margin of exposures (MOEs) of 280 and 380 for dermal, and inhalation exposures, respectively. Based on these MOEs workers applying a hypothetical formulation containing 100% DBE would still be adequately protected. For the backpack applicator, the average dermal and inhalation doses of 1 and 0.007 mg/kg/day, are also below exposures which are believed to be without risk of deleterious effects. USEPA's conservative assumptions for a backpack applicator maintain a MOE of 8, and 54 for dermal and inhalation exposures, respectively. Based on these MOEs, workers applying a hypothetical formulation containing 33% DBE would still be adequately protected. As this percentage far exceeds the levels anticipated for DBE-containing products, no concentration limit need be specified for DBE.

2. *Infants and children*. There is no information available which suggests that infants and children are more highly exposed or are more susceptible to the effects of DBE. The lack of any significant toxicity in reproductive/developmental studies on DBE suggests that growing organisms are not at increased risk. Since potential dietary exposures to infants and children are minimal based on anticipated use patterns, and since the toxicity of DBE by the oral route is very low, it is unlikely that these types exposures will result in any deleterious effects. Direct exposures to infants and children via the inhalation and dermal routes are not anticipated for the intended use of DBE.

F. International Tolerances

Whitmire is not aware of any tolerances for DBE outside of the United States.

[FR Doc. 98–33834 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6208–7]

Proposed Administrative Agreement for Collection of CERCLA Response and Oversight Costs

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

ACTION: Proposed CERCLA 122(h) Administrative Agreement.

SUMMARY: U.S. EPA is proposing to execute an Administrative Agreement (Agreement) under Section 122 of CERCLA for collection of a percentage of response and oversight costs at the West Roosevelt Drum Superfund Site. Respondent has agreed to pay $17,000 out of total response and oversight costs of Approximately $23,120, and in return will receive a covenant not to sue and contribution protection from U.S. EPA. U.S. EPA today is proposing to execute this Agreement because it achieves collection of a high percentage of total Site costs. (The Respondent at the Site previously performed a Superfund removal under a CERCLA Section 106 Unilateral Order, at a cost of approximately $50,000. Thus, the overall value of the clean up and settlement to U.S. EPA is $67,000 out of an approximate total of $73,120. This is 91% of total Site costs).

DATES: Comments on this proposed settlement must be received by January 22, 1999.

ADDRESSES: Copies of the proposed settlement are available at the following address for review: (It is recommended that you telephone Mr. Derrick Kimbrough at (312) 886–9789 before visiting the Region V Office). Mr. Derrick Kimbrough, OPA (P19–J), Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 886–9789.

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible) Mr. Derrick Kimbrough, Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 886–9789.

FOR FURTHER INFORMATION CONTACT: Mr. Derrick Kimbrough, Office of Public Affairs, at (312) 886–9789.

SUPPLEMENTARY INFORMATION: The West Roosevelt Drum Superfund Site is located at 5728–32 W. Roosevelt Road, Chicago, Illinois (Cook County). In response to the release or threatened release of hazardous substances at or pursuant to Section 104 of CERCLA, 42 U.S.C. 9604. A January 27, 1995, EPA site assessment found the Site Buildings unsecured, and containing approximately 300 drums and other materials. On February 24, 1995, EPA issued a General Notice of Potential Liability to the Settling Party. The Settling party performed the clean up pursuant to the UAO. The removal was completed on August 8, 1995, and an EPA Completion of Work letter was issued by the EPA On-Scene Coordinator (OSC) on April 2, 1998.

Subsequent negotiations with the Settling party extended the Statute of Limitations for EPA to act upon or settle this matter until March 16, 1999. EPA has accrued Past Response Costs (including oversight costs) in connection with the Site of $23,120.

A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed Administrative Agreement.

Comments should be sent to Mr. Derrick Kimbrough of the Office of Public Affairs (P–19J), U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Thomas Turner,

Assistant Regional Counsel,

United States Environmental Protection Agency.

[FR Doc. 98–34038 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51919; FRL–6051–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of

TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from November 2, to November 30, 1998. This document also corrects PMN 97–1041 which published on January 8, 1998.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51919]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51919]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51919]'' (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 3 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received, (II) Notices of Commencement to manufacture/import, and (III) Correction.

I. 109 Premanufacture Notices Received From: 11/02/98 to 11/30/98

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0104	11/02/98	01/31/99	Owens Corning Science & Technology Center	(G) Develop a sizing to coat glass fibers	(G) Diadduct (monomaleate/fatty acid $C_{16–18}$, ester with ethylene glycol/diethyl amine) bisphenol a diglycidyl ether-bisphenol a copolymer, acetate salt
P–99–0106	11/02/98	01/31/99	CBI	(G) Binder resin	(G) Polycarbonate resin
P–99–0107	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0108	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0109	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0110	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0111	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0112	11/02/98	01/31/99	Henkel Adhesives	(S) Adhesive for woodworking industry, especially profile wrapping	(G) Isocyanate terminated polyurethane resin
P–99–0113	11/02/98	02/03/99	Arco Chemical Company	(G) Fuel additives	(G) Alkoxylated alkyl phenols
P–99–0114	11/02/98	02/03/99	CBI	(S) Acid dye for the dyeing of leather	(G) Chromate, bis[hydroxy-[hydroxynaphthalenyl)azo]-[(substitutedphenyl)azo]-naphthalenesulfonato-, sodium salt*
P–99–0115	11/02/98	01/31/99	CBI	(G) Emulsifier	(G) Aminoester of high-molecular weight carboxylic acid
P–99–0116	11/02/98	01/31/99	BASF Corporation	(G) Colorant	(G) Napthhalenedisulfonic acid, 4-amino-3,6-bis(substituted amino)-2-sulfophenyl)azo)-, mixed salt
P–99–0118	11/02/98	01/31/99	Protein Technologies International, Inc.	(S) Component of coating adhesives in paper and paper board industry	(G) Silane soy protein hydrolyzed
P–99–0119	11/06/98	02/04/99	H. B. Fuller Company	(S) Adhesive dispersion for membrane pressing	(G) Amine-terminated polyester polyurethane
P–99–0120	11/06/98	02/04/99	H. B. Fuller Company	(S) Adhesive dispersion for membrane pressing	(G) Amine-terminated polyester polyurethane
P–99–0121	11/06/98	02/04/99	H. B. Fuller Company	(S) Adhesive dispersion for membrane pressing	(G) Amine-terminated polyester polyurethane
P–99–0122	11/06/98	02/04/99	H. B. Fuller Company	(S) Adhesive dispersion for membrane pressing	(G) Amine-terminated polyester polyurethane
P–99–0123	11/06/98	02/04/99	H. B. Fuller Company	(S) Adhesive dispersion for membrane pressing	(G) Amine-terminated polyester polyurethane
P–99–0124	11/05/98	02/03/99	CBI	(G) Raw material/ intermediate	(G) Tetra alkyl thiuram disulfide
P–99–0125	11/05/98	02/03/99	CIBA Specialty Chemicals Corporation North America - performance polymers	(S) Epoxy curing agent	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with (chloromethyl)oxirane, reaction products with 1,3-benzenedimethanamine and an epoxy resin
P–99–0126	11/06/98	02/04/99	3M Company - Group Compliance 3M Automotive and Chemical Markets Group	(G) Coating for film	(G) Silicone polymer
P–99–0127	11/06/98	02/04/99	3M Company - Group Compliance 3M Automotive and Chemical Markets Group	(G) Coating for film	(G) Silicone polymer
P–99–0128	11/06/98	02/04/99	CBI	(G) Coating additive	(G) Alkyl ammonium salt of a high-molecular weight carboxylic acid
P–99–0129	11/06/98	02/04/99	CBI	(G) Open non-dispersive (coatings material)	(G) Aqueous polyurethane dispersion
P–99–0130	11/06/98	02/04/99	CBI	(G) Basic dye for ground wood fibers	(G) Benzenamine, 4,4′-[[4-(alkylimino)-2,5-cyclohexandien-1-ylidene]methylene]bis[n,n-dialkyl-, monoacetate

I. 109 Premanufacture Notices Received From: 11/02/98 to 11/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0131	11/06/98	02/04/99	CBI	(G) Basic dye for ground wood fibers	(G) Benzenamine, 4,4′-[[4-(alkylimino)-3-alkyl-2,5-cyclohexandien-1-ylidene]methylene]bis[*n,n*-dialkyl-, monoacetate
P–99–0132	11/06/98	02/04/99	CBI	(G) Basic dye for ground wood fibers	(G) Benzenamine, *n,n*-dialkyl-4-[[4-(alkylamino)-3-alkylphenyl][4-(alkylimino)-3-alkyl-2,5-cyclohexandien-1-ylidene]alkyl]-, monoacetate
P–99–0133	11/06/98	02/04/99	Reichhold, Inc.	(G) Hot melt polyurethane adhesive	(G) Hot melt polyurethane adhesive
P–99–0134	11/05/98	02/03/99	CBI	(S) Adhesive	(G) Waterborme polyurethane dispersion
P–99–0135	11/05/98	02/03/99	CBI	(S) Tackifier in hot melt packaging adhesives; tackifier in hot melt pressure sensitive adhesives	(G) Rosin esters with polyol
P–99–0136	11/05/98	02/03/99	CBI	(G) Binder resin	(G) Saturated copolyester resin
P–99–0137	11/04/98	02/02/99	CBI	(S) Chemical intermediate	(G) Alkylarylamine
P–99–0138	11/06/98	02/04/99	CBI	(G) Dye dispersant and fixative	(G) Acrylic copolymer
P–99–0139	11/06/98	02/04/99	CBI	(G) Dye dispersant and fixative	(G) Acrylic copolymer
P–99–0140	11/06/98	02/04/99	CBI	(G) Dye dispersant and fixative	(G) Acrylic copolymer
P–99–0141	11/06/98	02/04/99	CBI	(G) Dye dispersant and fixative	(G) Acrylic copolymer
P–99–0142	11/09/98	02/07/99	CIBA Specialty Chemicals Corporation	(S) textile coating additive	(G) Polydimethylsiloxane grafted polyacrylate
P–99–0143	11/09/98	02/07/99	Arizona Chemical	(G) Open, non-dispersive use	(G) Dimer acid/ rosin amidoamine reaction product
P–99–0144	11/09/98	02/07/99	Arizona Chemical	(G) Open, non-dispersive use	(G) Dimer acid/polymerized rosin amidoamine reaction product
P–99–0145	11/09/98	02/07/99	Arizona Chemical	(G) Open, non-dispersive use	(G) Rosin amidoamine
P–99–0146	11/09/98	02/07/99	Arizona Chemical	(G) Open, non-dispersive use	(G) Polymerized rosin amidoamine reaction product
P–99–0147	11/13/98	02/11/99	BASF Corporation	(S) Polymerization catalyst	(G) Metal organic compound
P–99–0148	11/09/98	02/07/99	CBI	(S) General purpose single component 1oo% nv moisture reactive hot melt adhesive for industrial lamination	(G) Aromatic isocyanate-polyester-polyemer based polyurethane prepolymer
P–99–0149	11/08/98	02/06/99	Bedoukian Research, Inc.	(G) Contained use, open, non dispensive use, Industrial Strutural adhesive	(S) 3,6-nonadien-1-ol, acetate, (3e, 6z)-*
P–99–0150	11/12/98	02/10/99	CBI	(S) Polyurethane adduct for adhesive use	(G) Capped polyurethane adduct
P–99–0151	11/12/98	02/10/99	CBI	(S) Polyurethane adduct for adhesive use	(G) Capped polyurethane adduct
P–99–0152	11/12/98	02/10/99	CBI	(G) Magnetic media binder	(G) Thermoplastic polyurethane resin
P–99–0153	11/12/98	02/10/99	Henkel Corporation - Chemical Group	(S) Uv cross linker for coatings	(G) Polyoxyalkylene acrylate
P–99–0154	11/12/98	02/10/99	CBI	(G) Reactant ingredient in polymer synthesis	(G) Aryl phosphonic acid salt
P–99–0155	11/12/98	02/10/99	CBI	(G) Reisn for coating	(G) Modified acrylic resin
P–99–0156	11/12/98	02/10/99	CBI	(G) Resin for coating	(G) Modified acrylic resin
P–99–0157	11/12/98	02/10/99	CBI	(G) Industrial coating for open, non-dispersive use	(G) Hydrolyzed silane oligomer
P–99–0158	11/12/98	02/10/99	CBI	(S) Polymer adduct for adhesive use	(G) Epoxy resin polymer adduct
P–99–0159	11/13/98	02/11/99	CBI	(G) Colorant, open non-dispersive	(G) Perylene pigment
P–99–0160	11/13/98	02/11/99	CBI	(G) Open, non-dispersive use	(G) Modified acrylic polymer
P–99–0161	11/13/98	02/11/99	CBI	(G) Open, non-dispersive (urethane resin)	(G) Blocked polyisocyanate
P–99–0162	11/13/98	02/11/99	Dow Corning Corporation	(S) Ink additive; lubricant coating	(G) Alkyl-crosslinked polymethylsiloxane
P–99–0163	11/13/98	02/11/99	CBI	(S) Electrodeposition coating for metallic substrates	(G) Amine functional epoxy based resin salted with an organic acid
P–99–0164	11/13/98	02/11/99	CBI	(S) Electrodeposition coating for metallic substrates	(G) Amine functional epoxy based resin salted with an organic acid
P–99–0165	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0166	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0167	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester

I. 109 Premanufacture Notices Received From: 11/02/98 to 11/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0168	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0169	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester emulsion
P–99–0170	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester emulsion
P–99–0171	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester emulsion
P–99–0172	11/16/98	02/14/99	Vianova Resins Incorporated	(S) Uv and eb cure coatings	(G) Acrylate functional polyester emulsion
P–99–0173	11/17/98	02/15/99	Pilot Chemical Company	(S) Surfactant/ emulsifier for metalworking fluids and industrial lubricants	(G) Sodium dialkylbenzene sulfonate
P–99–0174	11/16/98	02/14/99	CBI	(G) Ingredient for use in consumer products; highly dispersive use	(G) Methyl propyl ether
P–99–0175	11/16/98	02/14/99	Dystar L. P.	(S) Dystuff for coloration of cellulosic fibers	(G) 1-naphthalenesulfonic acid, substituted-3-[[substituted phenyl]azo]-, salt*
P–99–0176	11/16/98	02/14/99	CBI	(S) Component of inks; component of coatings	(G) Fatty acid modified acrylate
P–99–0177	11/16/98	02/14/99	Vianova Resins	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0178	11/16/98	02/14/99	Vianova Resins	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0179	11/16/98	02/14/99	Vianova Resins	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0180	11/16/98	02/14/99	Vianova Resins	(S) Uv and eb cure coatings	(G) Acrylate functional polyester
P–99–0181	11/17/98	02/14/99	Vianova Resins Incorporated	(S) Epoxy resin curing agent (for coating and repairs putties)	(G) Aliphatic polyamine, modified
P–99–0182	11/17/98	02/15/99	Cook Composites & Polymers Co.	(S) Diluent for electrocoating vehicle Resin	(G) Polyol ester
P–99–0183	11/17/98	02/15/99	Cook Composites & Polymers Co.	(S) Diluent for electrocoating vehicle Resin	(G) Ester of Tall Oil Fatty Acid
P–99–0184	11/17/98	02/15/99	Zeon Chemicals U.S.A., Inc.	(S) Dry etching agent for production of semiconductors; chemical vapor deposition (cvd)agent for production of semiconductors	(S) Cyclopentene, octafluoro-* Perfluoroolefin
P–99–0185	11/19/98	02/17/99	Clariant Corporation	(S) Wax dispersant for middile distillant fuels	(S) Amines, dicoco alkyl alkyl, reaction products with ditallow alkyl amines and 1-hexadecene-maleic anhydride- polyethylene glycol allyl me ether-1-tetradecene polymer*
P–99–0186	11/19/98	02/17/99	CBI	(S) Laminating adhesive	(G) Polyester polyurethane methacrylic graft copolymer
P–99–0187	11/19/98	02/17/99	Mackenzie Corporation	(G) Chemical intermediate	(S) Glycine, *n,n*-dimethyl-aminoacetic Acid*
P–99–0188	11/20/98	02/18/99	3M Company - group compliance 3m automotive and chemical markets group	(G) Fiber coating N-Metnylsarcosine	(G) Fluorochemical urethane
P–99–0189	11/20/98	02/18/99	CBI	(G) Open, non-dispersive use	(G) Styrenated acrylic compolymer
P–99–0190	11/20/98	02/18/99	CBI	(G) Automotive refinish paint	(G) Polyester polymer
P–99–0191	11/24/98	02/22/99	CBI	(G) Thermosetting resins	(G) Allyl ester oligomer; allyl ester resin
P–99–0192	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0193	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0194	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0195	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0196	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0197	11/24/98	02/22/99	CBI	(G) Coating with open use	(G) Cationic resin
P–99–0198	11/27/98	02/25/99	CBI	(G) Coating system intermediate Additive	(G) Tetraaryltin
P–99–0199	11/27/98	02/25/99	CBI	(G) Coating system intermediate Additive	(G) Triaryltin
P–99–0200	11/23/98	02/21/99	Huntsman Corporation	(G) Paper processing chemical	(G) Fatty acid imidazolium alkyl sulfate
P–99–0201	11/23/98	02/21/99	Huntsman Corporation	(G) Paper processing chemical	(G) Fatty acid imidazolium alkyl sulfate
P–99–0202	11/23/98	02/21/99	Huntsman Corporation	(G) Paper processing chemical	(G) Fatty acid imidazolium alkyl sulfate
P–99–0203	11/23/98	02/21/99	Huntsman Corporation	(G) Paper processing chemical	(G) Fatty acid imidazolium alkyl sulfate

I. 109 Premanufacture Notices Received From: 11/02/98 to 11/30/98—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0204	11/23/98	02/21/99	CBI	(G) Automotive refinisher paint	(G) Polyester polymer
P–99–0205	11/27/98	02/25/99	CBI	(G) An open non-dispersive use	(G) Alkyd resin
P–99–0206	11/23/98	02/21/99	CBI	(G) Fluorescent dye	(G) Benzopyranone
P–99–0207	11/23/98	02/21/99	Hampshire Chemical Corp.	(S) Isolated intermediate	(S) L-glutamic acid, *N*-(1-oxododecyl)-, disodium salt*
P–99–0208	11/23/98	02/21/99	Hampshire Chemical Corp.	(S) Isolated intermediate	(S) L-glutamic acid, *N*-(1-oxododecyl)-*
P–99–0209	11/24/98	02/22/99	CBI	(G) Open - non dispersive use	(G) Metallic salt of 2 naphthalene carboxylic acid 4,4′ methylene bis [3 hydroxy
P–99–0210	11/23/98	02/21/99	CBI	(G) Additive for fiber and pesticide formulation	(G) Alkylbenzenesulfonic acid, substituted amine salt
P–99–0211	11/23/98	02/21/99	CBI	(G) Component of a sealant adhesive	(G) Polyester polyurethane
P–99–0212	11/27/98	02/25/99	CBI	(G) Commercial pesticide intermediate	(G) Substitutea biphenylamine
P–99–0213	11/23/98	02/21/99	CBI	(G) Industrial coating binder component	(G) Polymer of hydroxy polyester acrylate with phthalate ester of alkyl triglycidyl ether
P–99–0214	11/27/98	02/25/99	CBI	(S) Solvent; cleaning and drying agent	(G) Hydrofluorocarbon (hfc)

II. 52 Notices of Commencement Received From: 11/02/98 to 11/30/98

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–0105	11/17/98	11/02/97	(G) Unsaturated polyester
P–95–1038	11/05/98	10/02/98	(G) Polyvinyl fluoride copolymer
P–96–0045	11/12/98	10/11/98	(G) Modified melamine, formaldehyde, urea polymer
P–96–0969	11/05/98	10/12/98	(G) Epoxy-amine adduct salt.
P–96–0970	11/05/98	10/21/98	(G) Epoxy-amine adduct salt.
P–97–0468	11/12/98	11/04/98	(G) Substituted polyphosphonic acid
P–97–0535	11/03/98	10/21/98	(G) Acrylated urethane
P–97–0536	11/03/98	10/21/98	(G) Acrylated urethane
P–97–0991	11/06/98	10/28/98	(S) Propanoic acid, 2-hydroxy-, 1,2,3 -propanetriyl ester, [2s-[2r*[2(r*), 3(r*)]]]-*
P–97–0994	11/30/98	11/17/98	(G) Oligomeric anhydride
P–97–1059	11/02/98	10/21/98	(G) Naphthol red pigment
P–97–1095	11/12/98	11/04/98	(G) Salt of a substituted polyphosphonic acid
P–98–0151	11/23/98	11/11/98	(G) Amino carboxylate salt
P–98–0181	11/19/98	10/19/98	(G) Non-volatile emulsion acrylic polymer
P–98–0275	11/20/98	10/19/98	(G) Organo silane ester
P–98–0285	11/09/98	11/03/98	(G) Substituted aromatic compound reaction product with sodium sulfides, reduced
P–98–0333	11/16/98	10/14/98	(G) Polysiloxane modified aluminum-cerium hydroxide
P–98–0386	11/17/98	10/19/98	(G) Polymer of methylenebis[isocyanatobenzene], benzenedicarboxylic acid-based polyester, and mixed polyether polyols
P–98–0472	11/23/98	10/02/98	(G) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with alkyl 2-methyl-2-propenoate and alkyl 2-propenoate
P–98–0495	11/24/98	07/15/98	(G) Substituted naphthalenetrisulfonic acid, salt
P–98–0508	11/02/98	10/08/98	(G) Polyester polyurethane acrylic copolymer
P–98–0534	11/02/98	10/15/98	(G) Polyoxyalkylated alcohol
P–98–0690	11/23/98	10/02/98	(G) 2-propenoic acid, 2-methyl-, polymers with 2-hydroxypropyl acrylate, ethenyl benzen, alkyl 2-methyl-2-propenoate, alkyl 2-propenoate and chlorinated polypropylene
P–98–0691	11/23/98	10/02/98	(G) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with alkyl 2-methyl-2-propenoate and alkyl 2-propenoate
P–98–0692	11/23/98	10/02/98	(G) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with alkyl 2-methyl-2-propenoate and alkyl 2-propenoate
P–98–0702	11/16/98	11/15/98	(G) Modified acid anhydride
P–98–0705	11/09/98	10/19/98	(G) Modified acid anhydride
P–98–0713	11/16/98	10/27/98	(G) Mixed polyhydroxyl/ adipate polyester polyol
P–98–0739	11/16/98	10/30/98	(G) Substituted benzoic acid, salt
P–98–0741	11/16/98	11/06/98	(G) Substituted phenol salt
P–98–0743	11/02/98	10/07/98	(G) Substituted triazole, salt
P–98–0744	11/16/98	11/02/98	(G) Substituted pyridine metal complex
P–98–0751	11/02/98	10/21/98	(G) Substituted benzimidazole, salt
P–98–0779	11/02/98	10/21/98	(G) Metal carboxylic acid complex
P–98–0819	11/03/98	10/16/98	(G) Nco terminated polyurethane
P–98–0822	11/18/98	11/06/98	(G) Reaction product of-methyl methacrylate, n-butyl methacrylate, hydroxy functional methacrylate, aliphatic methacrylates and methacrylic acid*

II. 52 Notices of Commencement Received From: 11/02/98 to 11/30/98—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–98–0837	11/20/98	10/28/98	(G) Metal complex, copolymer of substituted acrylic acid, substituted methacrylate, substituted acrylate, and ethylene glycol substituted acylate alkyl ether
P–98–0843	11/05/98	10/08/98	(G) Phenyl, alkyl, hydroxyalkyl substituted imidazole
P–98–0864	11/12/98	10/29/98	(G) Acrylic polymer
P–98–0897	11/12/98	10/28/98	(G) Polyurethane
P–98–0904	11/12/98	10/27/98	(G) Polyalkymethacrylate
P–98–0922	11/27/98	11/01/98	(G) Organo silane ester
P–98–0956	11/20/98	11/06/98	(G) Acrylic polymer
P–98–0965	11/02/98	10/09/98	(G) 4,11-triphenodioxazinedisulfonic acid, 3,10-bis[alkyl amino]-6,13-dichloro-, reaction products with 2-amino-1,4-benzenedisulfonic acid, 2-[amino aryl)sulfonyl]ethyl hydrogen sulfate and 2,4,6-trifluoro-1,3,5-triazine, sodium salts
P–98–0975	11/04/98	10/15/98	(G) Polyglycerol ester
P–98–1005	11/09/98	10/22/98	(G) Acrylic copolymer
P–98–1021	11/13/98	11/04/98	(S) (trichloromethoxy) benzene (trichloroanisole, or tcan)*
P–98–1026	11/02/98	10/19/98	(G) Chlorinated, methylated aromatic
P–98–1041	11/23/98	11/13/98	(G) Chlorinated, alkylated, aromatic acid
P–98–1052	11/05/98	10/22/98	(S) Hexanedioic acid, polymer with butanedioic acid, 2,2′-oxybis[ethanol], pentanedioic acid, and 1,2,3-propanetriol*
P–98–1055	11/24/98	11/12/98	(G) Crosslinking stoving urethane resin
P–98–1063	11/16/98	10/28/98	(G) Polyurethane prepolymer

In the **Federal Register** of January 8, 1998, (63 FR 1312)(FRL–5756–6) the submission for P–97–1041, had incorrect information for the Use and Chemical which is now corrected to read as follows:

III. Correction

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–1041	08/28/97	11/26/97	Unocal	(S) Synthetic-based drilling mud fluid	(S) Alkanes, $C_{10–24}$ branched and linear

List of Subjects

Environmental protection, Premanufacture notices.

Dated: December 14, 1998.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–34050 Filed 12–22–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 17, 1998.

SUMMARY: The Federal Communications Commissions, 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: Persons wishing to comment on this information collection should submit comments on or before February 23, 1999. 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 Les Smith, Federal Communications Commissions, Room A1804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0020.

Title: Application for Ground Station Authorization in the Aviation Services.

Form Numbers: FCC 406.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Individuals or households; State, Local or Tribal Governments.

Number of Respondents: 1,600.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,600 hours.

Total Annual Costs: $146,000.

Needs and Uses: FCC Rules require the collection of this information on new, modifications, renewal with modifications, and assignments of ground station authorizations. Data are used to update the existing database to ensure the most efficient use of the frequency spectrum. Data are also used by Compliance personnel in conjunction with Field Engineers for enforcement and interference resolutions. Applicants may also use Form 406 to renew an authorization when the renewal application generated by the FCC (FCC Form 452R) is not required by the applicant. The data collected are required by the Communications Act of 1934, as amended, International Treaties, and FCC Rules 47 CFR parts 1.922, 1.924, 87.21, and 87.31.

This collection is being revised to delete the fee payment blocks (i.e., Fee Type Code, Fee Multiple, and Fee Due). FCC Form 159, Fee Remittance Advice, is required to be submitted with any payment to the FCC. FCC Form 159 duplicates the fee payment information. A space has been added for the applicant to provide the FCC an e-mail address. The number of responses and estimated burden remain unchanged.

OMB Control Number: 3060–0134.

Title: Application for Renewal of Private Radio Station License.

Form Numbers: FCC 574R.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Individuals or households; State, Local or Tribal Governments.

Number of Respondents: 84,000.

Estimated Time per Response: 20 minutes. (0.33 hrs).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 27,720 hours.

Total Annual Costs: $4,960,000.

Needs and Uses: FCC Rules require that radio station licensees renew their radio station authorization every five or ten years, depending upon the type of license held (i.e., CMRS or PMRS). The data collected are used by FCC staff to update the existing database which ensures the most efficient use of the frequency spectrum. Data are also used by Compliance personnel in conjunction with Field Engineers for enforcement and interference resolutions.

Licensees may also use this form upon receipt from the Commission to cancel an authorization they do not wish to renew. At the time of renewal, licensees may opt to use this form to indicate a change of mailing address, change of licensee name (without change to corporate structure, ownership, or control), or change the number of mobile units.

The data collected are required by the Communications Act of 1934, as amended, International Treaties, and FCC Rules 47 CFR parts 1.922, 90.119, 90.135, 90.157, 95.89, 95.103, and 95.107.

This collection is being revised to remove the fee payment blocks (i.e., Fee Type Code, Fee Multiple, and Fee Due). FCC Form 159, Fee Remittance Advice, is required to be submitted with any payment to the FCC. FCC Form 159 duplicates the fee payment information. This change does not significantly affect the number of responses and the estimated burden.

This data collection may be submitted electronically via the FCC's interactive Form 900, which is available from the FCC's Internet site.

OMB Control Number: 3060–0443.

Title: Conditional Temporary Authorization to Operate a Part 90 Radio Station.

Form Numbers: FCC 572C.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents: 17,023.

Estimated Time per Response: 6 minutes (0.10 hrs.).

Frequency of Response: Recordkeeping; on occasion reporting requirements.

Total Annual Burden: 1,702 hours.

Total Annual Costs: None.

Needs and Uses: FCC Rules require that applicants complete FCC Form 572C if they wish to have immediate authorization to operate 2-way radio equipment in Part 90 radio services below 470 MHz or in the 929–930 MHz band. To be eligible for conditional authority, an applicant that has satisfied the frequency coordination requirements and filed the requisite FCC license application must certify on FCC Form 572C that it meets specified conditions that demonstrate the application can be routinely granted because it raises no special issues.

The Refarming (PR Docket No. 92–235, Second Report and Order, released on March 12, 1997, changed the rules to institute a ten business day waiting period in the refarming bands after coordination prior to when an applicant could operate pursuant to conditional temporary authority.

This form is required by the Communications Act of 1934, as amended, International Treaties, and FCC Rules 47 CFR parts 1.922 and 90.159.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–33978 Filed 12–22–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

ACTION: Notice of a combined and revised Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the FCC is combining former systems PRB/02, ''Application and License File'' and CCB–4, ''Public Land Mobile Individual Users File.'' The FCC will use the revised system to perform the licensing and enforcement functions performed by the Wireless Telecommunications Bureau. The combined system of records will be a component of a system referred to as the Universal Licensing System (ULS). The FCC is also revising its system of records to gather Taxpayer Identification Numbers (TINs) in order to meet the requirements of the Debt Collection Improvement Act of 1996. This notice meets the requirement of documenting the change to the Commission's system of records, and provides the public, Congress and the Office of Management and Budget (OMB) an opportunity to comment.

DATES: Any interested person may submit written comments concerning the routine uses of this system on or before January 22, 1999. The OMB, which has oversight responsibility under the Privacy Act to review the system may submit comments on or before February 1, 1999. This proposed system shall be effective on February 1, 1999, unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary. The Commission will publish Public Notices in accordance with 47 CFR 0.422 as radio services are converted and added to the ULS.

ADDRESSES: Address comments to Kathy Abbate, FCC, Performance Evaluation and Record Management, Room 1A827, Washington, DC 20554, or via internet at kabbate@fcc.gov.

FOR FURTHER INFORMATION CONTACT: William Knowles-Kellett, Commercial Wireless Division, Wireless Telecommunications Bureau, at (717) 338–2505 or via internet at wkellett@fcc.gov or Dorothy Conway, Management and Planning Staff,

Wireless Telecommunications Bureau, at (202) 418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: The purpose of maintaining ULS is to allow the Commission and the public access to current accurate information regarding the status of applications and licenses in radio services licensed by the Wireless Telecommunications Bureau under parts 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's rules, as well as Broadcast Auxiliary applications and licenses, part 74 of the Commission's rules, that are processed by the Wireless Telecommunications Bureau (pursuant to an agreement with Mass Media Bureau) (inclusively referred to hereafter as ''Wireless Services''). This will facilitate efficient management and use of the spectrum managed by the Wireless Telecommunications Bureau and serve to make available to all the people of the United States a rapid, efficient, nation-wide and world-wide radio communication service.

The proposed combined and altered system is as follows:

FCC/WTB–1, ''Wireless Services Licensing Records.'' This system is used to administer the FCC's regulatory responsibilities including licensing, enforcement, rulemaking, and other actions necessary to perform spectrum management duties. The system will also be maintained to provide public access to pending requests for authorizations and information regarding current licensees.

FCC/WTB–1

SYSTEM NAME:

Wireless Services Licensing Records.

SYSTEM LOCATION:

Federal Communications Commission (FCC), 1919 M Street, Washington, DC 20554. The records are maintained in electronic form for agency use; paper records will be archived. The scope of records includes applications, licenses and pleadings relating to such applications and licenses in the Wireless Services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Licensees and applicants (including persons or entities with attributable interests therein as described below); tower owners; and contact persons relating to radio systems licensed or processed by the Wireless Telecommunications Bureau under parts 13, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97, and 101 of the Commission's rules (Wireless Services).

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, licenses, pleadings, and correspondence relating to authorizations and requests for authorizations in the Wireless Services. The current application forms will include the collection of Taxpayer Identification Numbers (TINs) as defined by 26 U.S.C. 6109. The Debt Collection Improvement Act of 1996, 31 U.S.C. 7701, (DCIA) now requires the agency to collect TINs from all individuals or entities ''doing business'' with the FCC. The DCIA states that a person is ''doing business'' before an agency if a person is ''* * * an applicant for or recipient of a Federal license, * * *'' The FCC considers persons and entities with attributable interests under 47 CFR 1.2112 as being ''applicant(s) for, or recipient[s] of, a Federal license * * *'' for purposes of the DCIA. Entities subject to the disclosure requirements of § 1.2112—entities from whom we require submission of ownership information regarding their relationship with the applicant of record—are components of the applicant and thus constitute ''an applicant for, or recipient of, a Federal license * * *.'' Biennial Regulatory Review—Amendment of parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Report and Order, WT Docket No. 98–20, FCC 98–234,__ FCC Rcd __(released October 21, 1998)(paras. 132–42).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 301, 303, 309, 312, 362, 364, 386, 507 and 510. Authority to collect TINs is contained in 31 U.S.C. 7701.

PURPOSE(S):

Records are kept to administer the FCC's regulatory responsibilities including licensing, enforcement, rulemaking, and other actions necessary to perform spectrum management duties. The system will also be maintained to provide public access to pending requests for authorizations and information regarding current licensees. License records are routinely used to determine the availability of spectrum for licensing. The records are also used to determine when compliance filings, renewal applications and fees are due from licensees. FCC licensee records are used to resolve disputes between radio operators regarding who has certain rights to use particular frequency bands in particular geographic areas. The records may also be used to resolve cross border disputes e.g. disputes with entities operating in Canada and Mexico. Records will be used to allow licensees to transfer or assign their interests in particular licenses or portions of licenses as the rules permit (after agency approval). Records will be used to evaluate the completeness and sufficiency of requests for new or modified authorizations. Public access to license data (except TIN numbers) will promote the economically efficient allocation of spectrum and the resolution of radio interference problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The licensee records will be publicly available and routinely used in accordance with subsection (b) of the Privacy Act. TIN Numbers and material which is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 will not be available for Public inspection, however, these and all other records may also be disclosed for the following purposes:

1. A record from this system may be disclosed where there is an indication of a violation or potential violation of a statute, regulation or order, records from this system may be used to conduct enforcement proceedings within the agency, or may be referred to Federal, state, or local law enforcement personnel responsible for investigating, prosecuting or for enforcing or implementing the statute, regulation or order.

2. Records may be utilized to report to the President, NTIA and other federal agencies regarding the current uses and utilization of the spectrum that the FCC manages.

3. A record on an individual may be used where pertinent in any legal proceeding to which the Commission is a party before a court or administrative body.

4. A record from this system may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when:

(a) The United States, the Commission, a component of the Commission, or, when arising from his employment, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and

(b) The Commission determines that the disclosure is relevant or necessary to the litigation.

5. A record from this system may be disclosed to debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) for the purpose of collecting and reporting on delinquent

debts as authorized by the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996;

6. A record from this system may be disclosed to Treasury; the Defense Manpower Data Center, Department of Defense; the United States Postal Service; government corporations; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals, including Federal employees, who are delinquent in their repayment of certain debts owed to the U.S. Government, including those incurred under certain programs or services administered by the FCC, in order to collect debts under common law or under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996 which include by voluntary repayment, administrative or salary offset, and referral to debt collection contractors.

7. A record from this system may be disclosed to the Department of Justice, United States Attorney, Treasury, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

8. A record from this system may be disclosed to credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the DCIA, the FCC may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt timely. Proposed revisions to the Federal Claims Collection Standards (FCCS) published in the **Federal Register** on December 31, 1997, direct agencies to report information on delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS). The FCC will report this information to CAIVRS if the proposed requirement is contained in the final rule amending the FCCS.

9. A record from this system may be disclosed to any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal government on the FCC's behalf. The FCC may counsel the debtor for voluntary repayment or may initiate administrative or salary offset procedures, or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996. Pursuant to the DCIA, the FCC may garnish non-Federal wages of certain delinquent debtors so long as required due process procedures are followed. In these instances, the FCC's notice to the employer will disclose only the information that may be necessary for the employer to comply with the withholding order.

10. A record from this system may be disclosed to the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by the FCC against the taxpayer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3717, and 3718 or common law. Disclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agent to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996, except that disclosure of a mailing address to a reporting agency is for the limited purpose of obtaining a credit report on the particular taxpayer. Any mailing address information obtained from the IRS will not be used or shared for any other FCC purpose or disclosed by the FCC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purposes.

11. A record from this system may be disclosed to refer legally enforceable debts to the IRS or to Treasury's Debt Management Services to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

12. A record from this system may be disclosed to prepare W–2, 1099, or other forms or electronic submittals, to forward to the IRS and applicable State and local governments for tax reporting purposes. Under the provisions of the DCIA, the FCC is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on the FCC's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including payments made to persons not treated as employees (e.g., fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

13. A record from this system may be disclosed to banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

14. A record from this system may be disclosed to another Federal agency that has asked the FCC to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to name, address, TIN, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

15. A record from this system may be disclosed to Treasury or other Federal agencies with whom the FCC has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of the FCC to satisfy, in whole or in part, debts owed to the U.S. government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, and referral to the Department of Justice. The DCIA requires agencies to transfer to Treasury or Treasury-designated Debt Collection Centers for cross servicing certain nontax debt over 180 days delinquent. Treasury has the authority to act in the Federal government's best interest to service, collect, compromise, suspend, or terminate collection action in accordance with existing laws under which the debts arise.

16. Information on past due, legally enforceable nontax debts more than 180 days delinquent will be referred to Treasury for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the government to the debtor, or held by the government for the debtor under the DCIA's mandatory, government-wide Treasury Offset Program (TOP). Under TOP, Treasury maintains a database of all qualified delinquent nontax debts, and works with agencies to match by computer their payments against the delinquent debtor database in order to divert payments to pay the delinquent debt. Treasury has the authority to waive the computer matching requirement for the FCC and other agencies upon written certification that administrative due process notice requirements have been complied with.

17. For debt collection purposes, the FCC may publish or otherwise publicly disseminate information regarding the identity of delinquent nontax debtors and the existence of the nontax debts under the provisions of the Debt Collection Improvement Act of 1996.

18. A record from this system may be disclosed to the Department of Labor (DOL) and the Department of Health and Human Services (HHS) to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to match the FCC's debtor records with the records of DOL and HHS to obtain names, name controls, names of employers, addresses, dates of birth, and TINs. The DCIA requires all Federal agencies to obtain taxpayer identification numbers from each individual or entity doing business with the agency, including applicants and recipients of licenses, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, or penalties to the agency. The FCC will use TINs in collecting and reporting any delinquent amounts resulting from doing business with applicants and licensees.

19. If the FCC decides or is required to sell a delinquent nontax debt pursuant to 31 U.S.C. 3711(i), information in this system of records may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

20. If the FCC has current and delinquent collateralized nontax debts pursuant to 31 U.S.C. 3711(i)(4)(A), certain information in this system of records on its portfolio of loans, notes and guarantees, and other collateralized debts will be reported to Congress based on standards developed by the Office of Management and Budget, in consultation with Treasury.

21. A record from this system may be disclosed to Treasury in order to request a payment to individuals owed money by the FCC.

22. A record from this system may be disclosed to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

In each of these cases the FCC will determine whether such use of the records is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records will be stored and accessed electronically. Records that are submitted to the FCC on paper will be scanned or keyed into the computer system as appropriate. Paper records submitted to the FCC will be archived after being entered into ULS. Tape backups of records will be periodically created. Records of prior licensees will be archived.

RETRIEVAL:

Records may be retrieved by searching electronically using a variety of parameters including name, a licensee's unique identifier, call sign, file number, etc. Paper records which contain TINs will not be available for Public Inspection. A primary purpose of the system is to provide easy access to the information.

SAFEGUARDS:

Records (other than TINs and materials which are afforded confidential treatment under 47 CFR 0.459) are accessible to the public. Access to certain records may be available on the internet. Access to other records will be available using a web browser on the Commission wide area network. The ability to enter and change individual records will be protected by passwords issued to applicants and licensees. Records will be protected from unauthorized changes by passwords and other computer security measures within the agency. TINs reported to the agency as requested on appropriate forms will not be available to the public. (The agency cannot be responsible for the disclosure of TINs by applicants in attachments to applications or pleadings in situations where confidentiality is not requested.) Each applicant or licensee will be given a unique identifier generated by the ULS after such applicant or licensee provides its TIN to the agency. These identifiers will be used within the agency and by the public to obtain information on the licenses held by particular individuals or entities. These identifiers will be used in lieu of tracking by TINs so that the agency can avoid unnecessary disclosure of TINs. Within the agency, access to TINs will be available only to those persons whose jobs require such access (e.g., FCC staff who report debt information to the U.S. Department of Treasury).

RETENTION AND DISPOSAL:

Records will be actively maintained as long as an individual remains a licensee. Paper records will be archived after being keyed or scanned into the system. Electronic records will be backed up on tape. Electronic and paper records will be maintained for at least eleven years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Wireless Telecommunications Bureau, FCC, 2025 M Street, N.W., Washington, D.C. 20554.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager. In order to identify a specific record please indicate name, address, type of record as well as file number or call sign where applicable.

RECORD ACCESS PROCEDURES:

Information regarding procedures for accessing records can be found at the FCC Web site <www.fcc.gov> or by calling 888–CALL–FCC.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above.

An individual requesting amendment must also follow the FCC Privacy Act regulations regarding verification of identity and amendment of records (47 CFR 0.556 and 0.557).

RECORD SOURCE CATEGORIES:

The individual to whom the information applies.

Federal Communications Commission,

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 98–33870 Filed 12–22–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNCIATIONS COMMISSION

[Report No. 2308]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

December 7, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by January 7, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Galesburg, Illinois

and Ottumwa, Iowa) (MM Docket No. 97–130).

Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Martin, Tiptonville and Trenton, Tennessee) (MM Docket No. 96–204; RM–8876 and RM–9015.

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–33871 Filed 12–22–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 98–31]

Publication of Inactive or Inaccurate Ocean Common Carrier Tariffs

Order to Show Cause

This proceeding is instituted pursuant to sections 8 and 11 of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. 1707 and 1710, and the Commission's regulations governing the filing and publication of tariffs of ocean common carriers, 46 CFR Part 514.

Section 8 of the 1984 Act, 46 U.S.C. app. 1707, provides that an ocean common carrier holding out to provide service in the United States foreign trades must file and maintain a tariff with the Federal Maritime Commission showing all of the carrier's rates, charges and practices. According to a review of records maintained by the Commission's Bureau of Tariffs, Certification and Licensing, a tariff has been filed with the Commission in the Automated Tariff Filing and Information System (ATFI) in the name of the those ocean common carriers identified in schedule A. Such tariffs purport to identify the rates and port ranges within which these carriers hold out to furnish vessel-operating common carrier services to the public.

It has come to the attention of the Commission that those ocean common carriers identified in Schedule A do not appear to currently operate any vessels in the trades in which they have published tariffs. A review of respected publications which survey the maritime industry, such as Lloyd's Register, Containerisation International and Fairplay, fails to identify any vessels currently owned or operated by the above listed carriers. Of similar import, access to commercial trade databases such as PIERS likewise fails to furnish any indicia that these carriers are currently furnishing vessel-operating services to the public.[1]

The Commission previously has found that the maintenance of common carrier tariffs absent a present intention to furnish those services held out in such tariffs is contrary to the purposes of the Shipping Act and the Commission's tariff regulations. In Docket No. 80–77, Failure of Vessel Operating Common Carriers in the Foreign Commerce of the United States to Comply With the Certification Filing requirements of Section 21(b) of the Shipping Act, 1916, the Commission held that:

> [C]arriers not actively carrying cargo or clearly committed to commence carrying cargo between ports named in a tariff at the rates stated therein are not common carriers by water within the meaning of Section 18(b) and their tariffs in such unserved trades are subject to cancellation. See Publication of Inactive Tariffs, 20 FMC 433, (1978). The Commission will, therefore, cancel the tariffs of the Appendix B carriers as contrary to Section 18(b) and the Commission's tariff filing regulations (46 CFR Part 536), but will take no further action against them.

21 SRR 706, 707 (1978). See also, Publication of Inactive Tariffs By Independent Carriers, 17 SRR 471 (1977) in which the Commission concluded that tariff cancellations were necessary to serving important public purposes:

> It is misleading to the public, potentially unfair to competing carriers, and an administrative burden upon our staff for ''paper'' tariffs to be kept on file, available for possible use if it should suit the narrow purposes of the person issuing them to quickly enter the trade, but otherwise describing a nonexistent service. We construe such a situation as contravening the implicit requirements of Shipping Act section 18(b), subsections (1) through (3), which necessitates the prompt submission of accurate information concerning the services offered by a common carrier, including the suspension of all or any part of the operations described by its published tariffs. [Citations omitted.]

17 SRR 471, at 472; Ghezzi Trucking Inc.—Cancellation of Inactive Tariffs, 11 SRR 598, 600 (1970). The Commission also seeks to assure that vessel-operating common carrier tariffs not be used as a means or device by which to circumvent the bonding requirements applicable to NVOCCs.

Now therefore, it is ordered that pursuant to section 11 of the Shipping Act of 1984, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not cancel their tariffs currently on file with the Commission, for failure to provide service as vessel-operating common carriers in accordance with the routes and rates set forth therein;

It is further ordered that this proceeding is limited to the submission of facts and memoranda of law;

It is further ordered that any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered that the entities listed in Schedule A to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than January 19, 1999;

It is further ordered that the Commission's Bureau of Enforcement be made a party to this proceeding;

It is further ordered that reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than February 18, 1999;

It is further ordered that rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than March 5, 1999;

It is further ordered that:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case; and

(c) Any request for evidentiary hearing or oral argument shall be filed no later than February 18, 1999;

[1] In some instances, parties listed in Schedule A are identified as shippers or consignees of cargo physically transported on the vessels of others. Such commercial operations may be indicative of service as a non-vessel-operating common carrier (NVOCC). Under section 23 of the 1984 Act, 46 USC app. 1721, each NVOCC must secure and file with the Commission a bond covering its financial responsibility for its transportation-related activities. If the NVOCC is not domiciled in the United States, it must also designate and maintain a person in the United States to serve as legal agent for the receipt of judicial and administrative process.

It is further ordered that notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon each Respondent at its last known address;

It is further ordered that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, as well as being mailed directly to all parties of record;

Finally, it is ordered that pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the final decision of the Commission in this proceeding shall be issued by April 19, 1999.

By the Commission.

Joseph C. Polking,

Secretary.

SCHEDULE A—LISTING OF OCEAN COMMON CARRIERS

Name and address	Tariff No.
Cheong Fung Shipping Ltd., Room 701, Conic Investment Building, 13 Hok Yuen Street, Hunghom, Kowloon,Hong Kong, PRC	011281–002
Golden Seals Shipping Inc, 4 Orchard Drive, Saddle River, New Jersey 07458	014889–001
Rich Sky Shipping Ltd., 1704–5 Alliance Building, 130–136 Connaught Road, Central Hong Kong, PRC	011025–003
Chonggam International Ltd., 20th Floor, Bangkok Bank Building, 18 Bonham Strand West, Sheung Wan, Hong Kong, PRC	013736–001
Shekou Intermodal Forwarders Ltd., 8th Floor, SCT Building, Jetty No. 3, Shekou, Shenzhen, PRC	012822–001
Topitz International Ltd., Room B, 18th Floor, Yue On Comm. Building, 385–387 Lockhart Road, Wanchai, Hong Kong, PRC	012084–001
Triple Shipping Ltd., 12/B, Shun Point Comm. Building, 5–11 Thomson Road, Wanchai, Hong Kong, PRC	012446–001
Trinity Marine Services Ltd., Room 1212, Cheung Sha Wan Plaza, Tower II, 833 Cheung Sha Wan Road, Kowloon, Hong Kong, PRC	011707–002
Long Trend Ltd., Room 2009–2010, 20th Floor, Fortress Tower, 250 King's Road, North Point, Hong Kong, PRC	012029–002, 012029–003

SCHEDULE A—LISTING OF OCEAN COMMON CARRIERS—Continued

Name and address	Tariff No.
SK Shipping Co. Ltd., 19th Floor, Namsan Green Building, 267, 5-Ga, Namdaemun-Ro, Chung-gu, Seoul, Republic of Korea	015155–002
Chinese Glory Express Ltd., Room 1618 Hollywood Plaza, 610 Nathan Road, Kowloon, Hong Kong, PRC	015165–001
China Travel Service (Cargo) Hong Kong Ltd., 11th Floor, China Travel Building, 77 Queen's Road, Central, Hong Kong, PRC	010895–002
Swellchief Shipping Co. Ltd., 16th Floor, Bupa Centre, 141 Connaught Road, West, Hong Kong, PRC	013715–001
Intermodal Systems Ltd., Room 2302, 23rd Floor, 118 Connaught Road West, Hong Kong, PRC	008006–002

[FR Doc. 98–33895 Filed 12–22–98; 8:45 am]

BILLING CODE 6730–01–M

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 January 15, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Central Bancshares of Kansas City, Inc., Kansas City, Missouri; to acquire 100 percent of the voting shares of ASB Bancshares, Inc., Harrisonville, Missouri and thereby indirectly acquire Winterset State Bank, Harrisonville, Missouri.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. WB&T Bancshares, Inc., Duncanville, Texas, and WB&T Delaware Bancshares, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Western Bank & Trust, Duncanville, Texas.

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. Hancock Park Acquisition, L.P., and Hancock Park Acquisition, L.L.C., both of Washington, D.C.; to acquire at least 24.99 percent of the voting shares of The Bank of Hollywood, Hollywood, California.

Board of Governors of the Federal Reserve System, December 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–33893 Filed 12–22–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Statement of Organizations, Functions, and Delegation of Authority

Part P, Program Support Center (PSC), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter P as last amended at 60 FR 51480, dated October 2, 1995 is being revised. The change is to place within the Program Support Center, the Freedom of Information Act function associated with the Public Health Service. The change is as follows:

Under Chapter PA, Office of the Director, include the following statement:

1. Provides responses to requests for records for the Public Health Service (PHS) or records involving more than one PHS component, including records relating to the PHS components located in the regions.

Dated: December 17, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–33922 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Comprehensive STD Prevention Systems (CSPS)—Enhanced Activities

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Comprehensive STD Prevention Systems (CSPS)—Enhanced Activities, Program Announcement #99000, meeting.

Times and Dates:

8:30 a.m.—9 a.m., January 13, 1999 (Open).

9 a.m.—4:30 p.m., January 13, 1999 (Closed).

9 a.m.—4:30 p.m., January 14, 1999 (Closed).

Place: National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, Building 11, Room 2214, Atlanta, Georgia 30329.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99000.

Contact Person for More Information: John R. Lehnherr, Chief, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 11 Corporate Square Boulevard, M/S E07, Atlanta, Georgia 30329, telephone 404/639–8025.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 17, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 98–33948 Filed 12–22–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1166]

Occidental Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Occidental Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium dichloroisocyanurate/sodium bromide as a slimicide for the manufacture of food-contact paper and paperboard.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4571) has been filed by Occidental Chemical Corp., c/o SRA International Inc., 1850 M St. NW., suite 290, Washington, DC 20036. The petition proposes to amend the food additive regulations in § 176.300 *Slimicides* (21 CFR 176.300) to provide for the safe use of sodium dichloroisocyanurate/sodium bromide as a slimicide for the manufacture of food-contact paper and paperboard.

The agency has determined under 21 CFR 25.32(q) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: December 7, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–33917 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 28, 1999, 9 a.m. to 5:30 p.m. and January 29, 1999, 8:30 a.m. to 4:30 p.m.

Location: National Institutes of Health, Natcher Conference Center, 45 Center Dr., Bethesda, MD.

Contact Person: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 419–259–6211, or John M. Treacy (HFD–21), 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 28, 1999, the committee will discuss new drug application (NDA) 20–931, Tikosyn™ Capsules (dofetilide), Pfizer Pharmaceuticals Production Corp., Ltd., for maintenance of normal sinus rhythm with associated symptomatic relief in patients with supraventricular arrhythmias, e.g., atrial flutter, atrial fibrillation, and paroxsysmal supraventricular tachycardia; and conversion of atrial fibrillation and flutter to normal sinus rhythm. On January 29, 1999, the committee will discuss NDA 20–920, Natrecor® Injection (nesiritide), Scios, Inc., for short term treatment of congestive heart failure.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 18, 1999. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.m. on January 28, 1999.

Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 18, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 16, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–33915 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 29, 1999, 8:30 a.m. to 5 p.m.

Location: Holiday Inn, Kennedy Grand Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Ermona B. McGoodwin or Mae Brooks, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12543. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–000, cladribine (Mylinax™, R. W. Johnson Pharmaceutical Research Institute) for the treatment of relapsing-remitting and secondary progressive multiple sclerosis.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 22, 1999. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 22, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 16, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–33916 Filed 121–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Publication of minor changes to system-of-records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the addresses of systems managers.

1. A new system of records, 09–15–0060, Minority/Disadvantaged Health Professions Programs, HHS/HRSA/BHPr, was added (63 FR 14121–14123, 3/24/98).

2. Routine uses were added to system of records 09–15–0056, National Vaccine Injury Compensation Program (VICP), HHS/HRSA/BHPr (63 FR 27734–27735, 5/20/98).

3. As of January 1, 1999, no further information will be gathered under system of records 09–15–0001, Division of Federal Occupational Health Medical and Counseling Records, HHS/HRSA/BPHC. Information gathered prior to that date will be maintained and used as stated in the system-of-records notice. Information gathered on and after January 1, 1999, will be maintained in system of records OPM/GOVT–10, Employee Medical File System Records.

4. Other minor system-of-records changes affecting individual categories are published below.

Dated: December 11, 1998.

James J. Corrigan,

Associate Administrator for Management and Program Support.

Table of Contents

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09–15–0001 Division of Federal Occupational Health (FOH) Health Records, HHS/HRSA/BPHC.

09–15–0002 Record of Patients' Personal Valuables and Monies, HHS/HRSA/BPHC.

09–15–0003 Contract Physicians and Consultants, HHS/HRSA/BPHC.

09–15–0004 Federal Employee Occupational Health Data System, HHS/HRSA/BPHC.

09–15–0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BPHC.

09–15–0028 PHS Clinical Affiliation Trainee Records, HHS/HRSA/BPHC.

09–15–0037 Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participant Records System, HHS/HRSA/BPHC.

09–15–0038 Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr.

09–15–0039 Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.

09–15–0042 Physician Shortage Area Scholarship Program, HRSA/HRSA/BPHC.

09–15–0044 Health Educational Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.

09–15–0046 Health Professions Planning and Evaluation, HHS/HRSA/OA.

09–15–0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.

09–15–0055 Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/OSP.

09–15–0056 National Vaccine Injury Compensation Program, HHS/HRSA/BHPr.

09–15–0057 Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr.

09–15–0058 Faculty Loan Repayment Program, HHS/HRSA/BHPr.

09–15–0059 Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OMPS.

09–15–0060 Minority/Disadvantaged Health Professions Programs, HHS/HRSA/BHPr.

Changes

09–15–0007

SYSTEM NAME:

Patients Medical Record System PHS Hospitals/Clinics, HHS/HRSA/BPHC.

Minor changes have been made to this system-of-records notice. The following categories should be revised:

* * * * *

Appendix 1

A. Public Health Service Facilities

Director, Public Health Service Health Data Center, 5445 Point Clair Road, Carville, Louisiana 70721–9607.

B. Successor Organizations

Director, Johns Hopkins Medical Service, 3100 Wyman Park Drive, Baltimore, Maryland 21211.

Administrator, Lutheran Medical Center, 2609 Franklin Boulevard, Cleveland, Ohio 44114.

Administrator, Martins Point Health Center, 331 Veranda Street, Portland, Maine 04103.

Director, Pacific Medical Center, 1200 12th Avenue South, Seattle, Washington 98144.

Appendix 2—Federal Records Centers

Federal Archives and Records Center, 380 Trapelo Road, Waltham, Massachusetts 02452–6399. Area served: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Federal Records Center, Central Plains Region, 200 Space Center Drive, Lee's Summit, Missouri 64064–1182. Area served: New York, New Jersey, Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

Federal Archives and Records Center, 14700 Townsend Road, Philadelphia, Pennsylvania 19154–1096. Area served: Delaware and Pennsylvania east of Lancaster.

Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20746–8001. Area served: District of Columbia, Maryland, Virginia, and West Virginia.

Federal Archives and Records Center, 1557 St. Joseph Avenue, East Point, Georgia 30344–2593. Area served: North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, and Kentucky.

Federal Archives and Records Center, 7358 South Pulaski Road, Chicago, Illinois 60629–5898. Area served: Illinois, Wisconsin, and Minnesota.

Federal Records Center, 3150 Springboro Road, Dayton, Ohio 45439–1883. Area served: Indiana, Michigan, and Ohio.

National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, Missouri 63118–4199. Area served: Greater St. Louis Area.

Federal Archives and Records Center, Post Office Box 6216, Fort Worth, Texas 76115–0216. Area served: Texas, Oklahoma, Arkansas, Louisiana, and New Mexico.

Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, California 94066–2350. Area served: Nevada (except Clark County), California (except Southern California), and American Samoa.

Federal Archives and Records Center, Post Office Box 6719, Laguna Niguel, California 92607–6719. Area served: Clark County, Nevada; Southern California (Counties of San Luis Obispo, Kern, San Bernadino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial, Inyo, and San Diego); and Arizona.

Federal Archives and Records Center, 6125 Sand Point Way, NE., Seattle, Washington 98115–7999. Area served: Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean area (except American Samoa).

* * * * *

09–15–0038

SYSTEM NAME:

Disability Claims of the Nursing Student Loan Program, HRSA/HRSA/BHPr.

Minor changes have been made to this system-of-records notice. The following category should be revised:

* * * * *

CONTESTING RECORD PROCEDURES:

Contact the System Manager and reasonably identify the record, specify the information being contested, and state corrective action sought with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

* * * * *

09–15–0039

SYSTEM NAME:

Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.

Minor changes have been made to this system-of-records notice. The following category should be revised:

* * * * *

CONTESTING RECORD PROCEDURES:

Contact the System Manager giving a reasonable description of the record, specify the information you want to contest, and state the corrective action sought with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, or untimely (obsolete).

* * * * *

09–15–0056

SYSTEM NAME:

National Vaccine Injury Compensation Program, HHS/HRSA/BHPr.

Minor changes have been made to this system-of-records notice. The following categories should be revised:

* * * * *

PURPOSE(S):

1. To determine eligibility of petitioners to receive compensation under the National Vaccine Injury Compensation Program.

2. To compensate successful petitioners in the amount determined by the court.

3. To evaluate vaccine safety through research programs.

* * * * *

RETRIEVABILITY:

Retrieval is by (1) docket number assigned by the U.S. Court of Federal Claims and (2) the petitioner and/or name of person vaccinated.

* * * * *

RECORD SOURCE CATEGORIES:

Petitioner, petitioner's legal representative, health-care providers, health-care consultants, and other interested persons.

* * * * *

09–15–0058

SYSTEM NAME:

Faculty Loan Repayment Program, HHS/HRSA/BHPr.

Minor changes have been made to this system-of-record notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–48, Rockville, MD 20857.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

11. The amount of the contract awarded the individual will be reported as taxable income to the Internal Revenue Service (IRS).

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–48, Rockville, MD 20857.

* * * * *

09–15–0059

SYSTEM NAME:

Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OMPS.

Minor changes have been made to this system-of-records notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Executive Secretariat, Division of Policy Review and Coordination, Office of Management and Program Support, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

Office of Program Support, Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 8–15, Rockville, MD 20857.

Executive Secretariat, Office of Program Support, HIV/AIDS Bureau and Office of Special Programs, HRSA, 5600 Fishers Lane, Room 7–08, Rockville, MD 20857.

Office of Program and Policy Development, Bureau of Primary Health Care, HRSA, 4350 East West Highway, Room 7–2B3, Bethesda, MD 20814.

Office of the Director, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18–05, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20746–8001.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Coordinator: Director, Division of Policy Review and Coordination, Office of Management and Program Support, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

System Manager: Chief, Executive Secretariat, Division of Policy Review and Coordination, Office of Management and Program Support, HRSA, 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

System Manager: Executive Secretariat, Office of Program Support, HIV/AIDS Bureau and Office of Special Programs, HRSA, 5600 Fishers Lane, Room 7–08, Rockville, MD 20857.

System Manager: Information Systems Specialist, Office of Program and Policy Development, Bureau of Primary Health Care, HRSA 4350 East West Highway, Room 7–2B3, Bethesda, MD 20814.

System Manager: Correspondence Coordinator, Office of the Director, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18–05, Rockville, MD 20857.

* * * * *

[FR Doc. 98–33918 Filed 12–22–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C. The purpose of this meeting is to write the Annual Report to the President and to plan the 1999 meeting agenda. Premature disclosure of the specific details of these discussions and recommendations would be likely to significantly frustrate the subsequent implementation of proposed recommendations made by the Panel.

Name of Committee: President's Cancer Panel, Telephone Conference.

Date: December 22, 1998.

Time: 11:30 am to 12:30 pm.

Agenda: Finalize the 1998 Annual Report to the President.

Place: National Institutes of Health; National Cancer Institute, 31 Center Drive, Room 4A48, Bethesda, MD 20892–2473.

Contact Person: Maureen O. Wilson, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 98–34051 Filed 12–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4118–FA–03]

Research to Improve the Evaluation and Control of Residential Lead-Based Paint Hazards, Fiscal Year 1997

AGENCY: Office of the Secretary—Office of Lead Hazard Control.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the NOFA for Research to Improve the Evaluation and Control of Residential Lead-Based Paint. This announcement contains the names and addresses of the award recipients and the amounts of awards.

FOR FURTHER INFORMATION CONTACT: Peter J. Ashley, DrPH, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755–1785, ext 115. Hearing-and speech-impaired persons may access the number above via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The purpose of the competition was to award grant funding of approximately $2,500,000 for grants and cooperative agreements for research to improve the evaluation and control of lead-based paint hazards.

The 1997 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on November 27, 1996 (61 FR 60499). Applications were scored and selected on the basis of selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

A total of $3,614,852 was awarded to ten grantees. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as follows.

National Center for Lead-Safe Housing, 10227 Wincopin Circle Suite 205, Columbia, MD 21044, $654,000

University of Medicine and Dentistry of New Jersey, Robert Wood Johnson Medical School, 675 Hoes Lane, Piscataway, NJ 08854, $620,000

Public Health Institute, 2001 Addison Rd., Suite 210, Berkeley, CA 94704, $573,889
Research Triangle Institute, 3040 Cornwallis Rd., Research Triangle Park, NC 27709, $497,000
Battelle Memorial Institute, 505 King Avenue, Columbus, OH 43201, $361,000
University of Cincinnati, Department of Environmental Health, P.O. Box 670056, Cincinnati, OH 45267, $340,000
QuanTech, Inc., 1911 N. Fort Myer Dr., Rosslyn, VA 22209, $260,000
Kennedy Krieger Research Institute, 707 N. Broadway, Baltimore, MD 21205, $150,000
Saint Louis University School of Public Health, 3663 Lindell Blvd., St. Louis, MO 63108, $148,963
Critical Hygiene, Inc., 4428 Ironwood Dr., Virginia Beach, VA 23462, $10,000

Dated: December 17, 1998.

David E. Jacobs,

Director, Office of Lead Hazard Control

[FR Doc. 98–33876 Filed 12–22–98; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

National Recreation Lakes Study Commission

Notice of Fourth Meeting of the National Recreation Lakes Study Commission

AGENCY: National Recreation Lakes Study Commission, DOI.

ACTION: Notice of Fourth Meeting of the National Recreation Lakes Study Commission.

SUMMARY: The Omnibus Parks and Public Land Management Act of 1996 authorizes a presidential commission to review the demand for recreation at Federal lakes, and to develop alternatives for enhanced recreation uses, primarily through innovative public/private partnerships. This will be the fourth meeting of the Commission.

DATES: January 11–12, 1999, beginning at 8:00 a.m. and ending at 5:00 p.m. each day.

ADDRESSES: The meeting will be held at the National Guard Association Building Auditorium, One Massachusetts Avenue, NW, Washington, DC. The Commission will hear presentations on followup information, environmental values, and the draft report and recommendations (which will be available on the web at www.doi.gov/nrls/ on January 4, 1999, prior to the meeting).

The Commission will invite comments from the public beginning at 1:00 p.m. on January 11.

FOR FURTHER INFORMATION CONTACT: Jeanne Whittington at 202–219–7104.

Jana Prewitt,

Executive Director, National Recreation Lakes Study Commission.

[FR Doc. 98–33951 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Applicant: Timothy J. Krynak, Cleveland Metroparks, North Chagrin Nature Center, Willoughby Hills, Ohio.

The applicant requests a permit to take (capture and release) Indiana bats (*Myotis sodalis*) in Cuyahoga County, Ohio, for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application is available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: December 16, 1998.

Lynn M. Lewis,

Acting Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–33872 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Boise Cascade Timber Company, Clatsop County, Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

SUMMARY: This notice advises the public that the Boise Cascade Corporation (applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number TE005227–0. The proposed permit would authorize the incidental take, resulting from habitat modification, of the northern spotted owl (*Strix occidentalis caurina*), federally listed as threatened. The permit would be in effect for one year and would cover 65 acres.

The Service announces the receipt of the applicant's incidental take permit application and the availability of the proposed Boise Cascade Walker Creek Unit Habitat Conservation Plan (Plan) and draft Implementation Agreement, which accompany the incidental take permit application, for public comment. The Plan describes the proposed project and the measures the applicant is willing to undertake to mitigate for project impacts to the owl. These measures and associated impacts are also described in the background and summary information that follow. An environmental assessment on the permit application will be prepared and will be made available for public review.

DATES: Written comments on the permit application, Plan, and Implementation Agreement should be received on or before January 22, 1999.

ADDRESSES: Individuals wishing copies of the permit application or copies of the full text of the Plan should immediately contact the office and personnel listed below. Documents also will be available for public inspection, by appointment, during normal business hours at the address below. Comments regarding the permit application, Draft Implementation Agreement or the Plan should be addressed to State Supervisor, Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. Please refer to permit number TE005227–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Szlemp, Fish and Wildlife Service, Oregon State Office, telephone (503) 231–6179.

SUPPLEMENTARY INFORMATION: Under Section 9 of the Act and applicable federal regulations, the ''taking'' of a species listed as endangered or threatened is generally prohibited. However, the Service, under limited circumstances, may issue permits to ''incidentally take'' listed species, which is take that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

Summary of the Plan

Boise Cascade is proposing to harvest approximately 50 acres of mature and old growth forest from a 65-acre parcel of land. The surrounding ownership consists of Oregon Department of Forestry land and lands owned by the Agency Creek Management Company. The Boise Cascade property contains two nest trees that were occupied by a pair of northern spotted owls between 1990 and 1996. Other listed species may also be affected by the proposed Plan. Coho salmon (*Oncorhynchus kisutch*) are found in Walker Creek in the Plan area. No surveys have been conducted for marbled murrelets (*Brachyramphus marmoratus*) or bald eagles (*Haliaeeus leucocephalus*), but the Plan area does contain potential suitable nesting platforms for marbled murrelets and contains suitable bald eagle habitat.

The Boise Cascade Plan area contains the best northern spotted owl nesting habitat in the northern portion of the Oregon Coast Range. Most of the surrounding land has been logged or contains younger stands of timber that do not provide as high quality of nesting habitat as the Boise Cascade Plan area. Boise Cascade is proposing to have all harvest completed by March 1, 1999.

The Boise Cascade Plan contains two alternatives: a preferred alternative and no action. Under their preferred alternative, Boise Cascade would harvest 50 acres of mature and old growth timber in the Plan area to the extent allowed by the Oregon Forest Practices Act Rules. Under the no action alternative, the subject timber would be left standing to provide northern spotted owl habitat. Boise Cascade rejected the no action alternative because it believes it would deny the company all economically productive use of the subject timber.

The Boise Cascade Plan proposes the following minimization and mitigation measures:

a. Conduct harvest activities outside of the nesting season for the spotted owl and the marbled murrelet (March 1—September 15), except for road building.

b. Douglas-fir, Sitka spruce, western red cedar, and/or western hemlock would be replanted over the harvest units. In accordance with Oregon Forest Practices Act Rules, this planting would take place within 12 months after completion of harvest.

c. Meet current Oregon Forest Practices Act Rules with regard to management of riparian areas.

d. Meet the current Oregon Forest Practices Act Rules to leave trees standing and unharvested until they have fallen to the ground and rotted away, all snags and standing dead trees except when they pose a safety hazard for the logging operation.

Summary of Service's Concerns and Recommendations

The Service received the Plan and application on November 12, 1998. On November 20, 1998, the Service advised Boise Cascade of procedural requirements for processing an incidental take permit application and informed the company that the Plan raised issues regarding whether the proposed minimization and mitigation measures were adequate to meet the statutory issuance criteria. Service employees visited the Plan area on December 2, 1998, to assess existing habitat conditions and to evaluate additional options to minimize and mitigate impacts to spotted owls. On December 9, the Service suggested other options that may be practicable for Boise Cascade to implement. On December 10, Boise Cascade informed the Service that it is not interested in any alternative minimization or mitigation measures.

The Service continues to have concerns whether the proposed minimization and mitigation measures would meet the statutory requirement that a permittee minimize and mitigate the impacts of the taking to the maximum extent practicable. The public may wish to provide comments on the mitigation measures proposed by Boise Cascade as well as other alternative mitigation options which may be practicable.

As stated in the Plan, impacts from the proposed logging would likely make it impossible for a pair of northern spotted owls to nest on the subject property. The Boise Cascade Plan would leave a 100-foot riparian buffer along Walker Creek and an unknown distribution of approximately 100 trees at least 11-inches in diameter within the unit. The Service does not know whether any potentially suitable spotted owl nest trees would remain, including the two known nest trees. Based upon this information, the value of the site to provide habitat for owls post-harvest is difficult to accurately assess since the distribution and size classes of live and dead trees that will remain standing is not clear. However, the Service believes that the proposed harvest would diminish or eliminate the value of the site to spotted owls for foraging and roosting, especially in the short term. Except for some potential clumping of trees, and the riparian buffer areas, the remaining landscape would consist of a very open canopy that would not be conducive to owl nesting, roosting, or foraging. The proposed leave trees, especially if they are widely scattered, would provide limited habitat value to red-backed voles, red tree voles, and flying squirrels, which are important spotted owl prey items. Any use of the Walker Creek unit post-harvest by spotted owls would potentially make them more vulnerable to predation by barred owls and great-horned owls, which are more aggressive and generally more adaptable to a variety of habitat conditions and prey items.

The Service's site visit and review of available data indicate that other practicable minimization and mitigation measures may exist. While alternative plans based on these measures would not maintain current suitable spotted owl nesting habitat, they would provide the basis for reducing the net long-term adverse effects to owls by allowing for the regeneration of suitable nesting habitat conditions within a shorter time period than would result from the proposed harvest. These alternatives would also provide increased opportunities for owl foraging and roosting immediately after the timber harvest, which would minimize and mitigate the incidental take of owls. For example, retaining clumps of larger trees is more likely to provide potential roost sites, habitat for spotted owl prey items, and protective cover from spotted owl predators.

While the proposed harvest unit is relatively small, it does contain many old growth trees and large snags that generally serve as part of the foundation for suitable, productive spotted owl habitat. The 65-acre Boise Cascade ownership borders the Clatsop State Forest. The Tillamook State Forest is also nearby. The relatively few spotted owl nest sites or activity centers within the North Coast region of Oregon are concentrated on State Forest lands

within a 10–15 mile radius of the Walker Creek unit. This somewhat isolated cluster of spotted owl sites is reflective of the lack of suitable nesting habitat available in the region. The suitable spotted owl nesting habitat in the Walker Creek unit serves to support this cluster of owl sites. Additional erosion of suitable habitat, especially nesting quality habitat, would weaken the ability of this area to retain a population of reproducing spotted owls, and weaken the ability of spotted owls in this cluster to produce offspring that may be able to disperse to any available habitat in or outside the area. Alternative plans the Service suggested, would minimize and mitigate owl take at the Walker Creek site by maintaining older forest structural features that could contribute to maintenance of spotted owls in the area, particularly in the long term. Alternative mitigation options suggested by the Service, which Boise Cascade has stated that it is not interested in pursuing at this time, include:

1. Restricting harvest-related activities, including road building, to times outside of the spotted owl's breeding season (March 1-September 15).

2. Retaining old growth and mature trees to meet the Oregon Forest Practices Act requirements in a scattered distribution with allowances for blow-down and, retaining the standing dead and down timber that could be safely retained.

3. Retaining a mixture of only old growth and mature trees to meet the Oregon Forest Practices Act Rules leave tree requirement in clumped distributions.

4. Retaining eight green trees per acre greater than 20 inches dbh, including three trees greater than 32 inches dbh per acre. Additionally, retaining three snags per acre of the largest size class available. Where snags are not available, green trees of the largest size class available would be substituted on a 2:1 basis. Seventy percent of the retained trees should be in clumps of at least 0.5 acres in size. The remainder would be dispersed or in clumps smaller than 0.5 acres. A minimum of 15 percent of the harvest unit area (7.5 acres) would be retained. Trees in riparian management areas would not be counted towards meeting the above retention objectives.

5. Retaining clumps of trees of a few acres in which no harvest would occur that include multiple old-growth trees that would serve as the foundation for future suitable spotted owl nesting habitat. This would include retaining the two old growth trees that contained previous spotted owl nests.

6. Retaining old growth and mature trees in a clump around the known spotted owl nest trees, and scattering the remaining old growth and mature leave trees to meet Oregon Forest Practices Act Rules with allowances for blow-down.

The Service also has identified issues regarding some of the language in the proposed Implementation Agreement. These issues include, but are not limited to, the following. First, it is unclear why the company proposes to have the National Marine Fisheries Service as a signatory when it has not applied for a permit for coho. Second, paragraph 1.1 does not fully represent the court's reasoning in issuing the injunction enjoining the company from logging this unit. Third, paragraph 1.7 characterizes the requested permit as covering owls that ''formerly nested on the Walker Creek Unit and those that might reside there in the future'' although the requested duration of the permit is for only one year. Fourth, paragraph 1.9 states that the purpose of the Implementation Agreement is to ''obtain approval'' of the Plan and permit; however, the principal purpose of an Implementation Agreement is to provide adequate assurances that a Plan and permit would be implemented. Fifth, neither the Plan nor the Implementation Agreement address whether the mitigation would be completed within the one-year requested permit length, or discuss changed circumstances that may affect the mitigation and that can reasonably be anticipated by plan developers. *See* 50 CFR §§ 17.3 and 17.22. The public may wish to comment on these or other issues related to the Implementation Agreement.

This notice is provided pursuant to section 10(c) of the Act. The Service will evaluate the permit application, Plan, Implementation Agreement, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the northern spotted owl. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: December 17, 1998.

Anne Badgley,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–34093 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–01–24 1A; OMB Approval Number 1004–0041]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 28, 1998, BLM published a notice in the **Federal Register** (63 FR 40305) requesting comments on this proposed collection. The comment period ended on September 28, 1998. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

The Office of Management and Budget is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0041), Office of Information and Regulatory Affairs, Washington, D.C. 20503, telephone number (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401LS, Washington, D.C. 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for BLM's proper functioning, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected;

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, and other forms of information technology.

Title: 43 CFR 4130.1, Grazing Preference Statement.

OMB Approval Number: 1004–0041.

Abstract: BLM proposes to renew the approval of an information collection for an existing rule at 43 CFR 4130.1. The form associated with this rule is called the ''Grazing Preference Statement.'' The form is computer-generated and sent annually to grazing lessees and permittees. These individuals need only provide information to BLM when they want to change their authorized grazing level for the coming season. Otherwise, they sign and date the form. Their signature and date act as confirmation that BLM's record of the grazing use under the terms of their permit or lease is correct. BLM uses the information to compute grazing fee bills and to determine whether the lessees and permittees are complying with the terms of their permit or lease.

Bureau Form Number: 4130–3a.

Frequency: Annually.

Description of Respondents: Holders of BLM-issued grazing leases and permits.

Estimated Completion Time: Range of 5 to 30 minutes, with an average of 14 minutes.

Annual Responses: 23,000.

Annual Burden Hours: 1,794.

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: December 1, 1998.

Carole J. Smith,

Bureau of Land Management, Information Clearance Officer.

[FR Doc. 98–33902 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet Wednesday, January 13, 1999, and Thursday, January 14, 1999, from 8:00 a.m. to 6:00 p.m. local time, and on Friday, January 15, 1999, from 8:00 a.m. to 2:30 p.m. local time.

Submit written comments no later than close of business January 22, 1999.

ADDRESSES: The advisory board will meet at the Heritage Hotel and Convention Center, 1780 Tribute Road, Sacramento, California 95815.

Send written comments to Bureau of Land Management, WO–610, Mail Stop 406 LS, 1849 C Street, NW, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Wild Horse and Burro Public Affairs Specialist, (202) 452–5176. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Rely Service at 1–800–877–8339 between 8:00 a.m. and 4:00 p.m. Eastern Daylight Time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Wednesday, January 13, 1999

—Breakout into the four subcommittees (horses on the range, horses off the range, science and burros) to address the following topics: fee reduction clarification; sanctuary issues; interim selective removal policy; holding and training facilities; training of wild horses; fertility control guidelines; remote sensing; burro capture methods; 1992 Strategic Plan; range monitoring; setting appropriate management levels; and zeroing out herd management areas.

Thursday, January 14, 1999

—Review of the proposed plan for the adoption of the Oklahoma foals;

—Review of requirements for report to Congress;

—Public Comment and an opportunity for members of the public to address questions to the advisory board and to the BLM;

—Subcommittee follow-up;

—Review of BLM handbooks (Adoption; Management Considerations; Capture and Removal of Wild Horses and Burros; and Compliance).

Friday, January 15, 1999

—The advisory board will make formal recommendations to the BLM, discuss and agree on subcommittee assignments, and plan a preliminary agenda for their next meeting.

The meeting is open to the public. The advisory board will make detailed minutes of the meeting. BLM will make the minutes available to interested parties who contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Under the Federal advisory committee management regulations (41 CFR 101–6.1015(b)), BLM is required to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the advisory board on January 14, 1999, at the appropriate point in the agenda, which is anticipated to occur at 1:00 p.m. local time. Persons wishing to make statements should register with BLM by noon on January 14, 1999, at the meeting location. Depending on the number of speakers, the advisory board may limit the length of presentations. Speakers should address specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the advisory board meeting is not a prerequisite for submittal of written comments. BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments where

feasible. BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: mknapp@wo.blm.gov. Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: December 17, 1998.

Henri R. Bisson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 98–34023 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–024–1430–01—IDI–32122]

Amendment of the Monument Resource Management Plan and Notice of Realty Action: Sale of Public Land in Minidoka County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of the Monument Resource Management Plan and Sale of Public Land in Minidoka County, Idaho.

NOTICE: Notice is hereby given that the Bureau of Land Management has amended the Monument Resource Management Plan to change the land use plan designation of Lots 1 and 2 (34.89 acres), Township 8 South, Range 24 East from the current Management Area (retention) designation to an Adjustment Area (disposal) designation. Notice is also hereby given that the amendment allows only for the sale of lot 2 (2.87 acres), Township 8 South, Range 24 East, at this time.

SUMMARY: The following-described public land has been examined and through the public-supported land use planning process has been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, as amended. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Boise Meridian, Idaho

T. 8 S., R. 24 E.
Sec. 25: Lot 2.

Comprising 2.87 acres of public land, more or less.

The patent, when issued, will contain a reservation to the United States for ditches and canals and will be subject to existing rights-of-way for a buried telephone cable, a power line, and a county road. Lot 1, Township 8 South, Range 24 East (32.02 acres) will remain in public ownership until such time as it is no longer needed as a sheep trail rest area.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the direct sale can be obtained by contacting Karl A. Simonson, Realty Specialist, at (208) 677–6640.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

DIRECT SALE COMMENTS: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments on this notice to the District Manager, Bureau of Land Management, 1405 Hollipark Drive, Idaho Falls, ID, 83401–2100. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections regarding the land sale, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Karl A. Simonson, Realty Specialist, (208)677–6640.

Dated: December 14, 1998.

Tom Dyer,

Snake River Area Manager.

[FR Doc. 98–34028 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action: Recreation and Public Purposes (R&PP) Act Classification in Grand County, Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Realty Action.

SUMMARY: In response to an application from Colorado Division of Wildlife, (C–62525) the following public lands have been examined and found suitable for classification for lease and/or conveyance to Colorado Division of Wildlife, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

Affected Public Lands

Sixth Principal Meridian, Colorado

T. 1N. R. 76W.,
Sec. 4, Lots 5–9

The lands described above contain 161.16 acres. The affected public lands would be conveyed to the Colorado Division of Wildlife for management as the Red Mountain Wildlife Area.

FOR FURTHER INFORMATION CONTACT: The environmental assessment and other information concerning this proposed conveyance is available for review by contacting Madeline Dzielak at the Kremmling Resource Area Office at 1116 Park Avenue, P.O. Box 68, Kremmling, Colorado 80459, (970) 724–3437.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates that public land from the operation of the public land laws, including the mining laws, except for conveyance under the Recreation and Public Purposes Act and conveyance of the mineral estate under Section 209 of the Federal Land Policy and Management Act, for a period of two years from the date of publication of this notice. The segregative effect shall terminate upon issuance of a patent, upon rejection of the application, or two years from the date of publication of this notice.

The following reservations, terms and conditions will be made in a patent issued for the public lands:

1. Those rights for communication site purposes as have been granted to US WEST Communications, its successors and assigns, by right-of-way Colorado 10692 under the Act of March 4, 1911 36 STAT 1253.

2. Those rights for FAA beacon light as have been granted to Grand County, its successors and assigns, by right-of-way Colorado 40572 under Title V of

the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

3. The provisions of the Recreation and Public Purposes Act amended and to all applicable regulations of the Secretary of the Interior.

4. No portion of the land covered by such patent shall under any circumstances revert to the United States.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 81506. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this reality action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: December 7, 1998.

Mark Morse,

District Manager.

[FR Doc. 98–33903 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, Criteria for Evaluating Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: To meet the requirements of the Central Valley Project Improvement Act (CVPIA) and the Reclamation Reform Act of 1982, the Bureau of Reclamation (Reclamation) developed and published the Criteria for Evaluating Water Conservation Plans, dated April 30, 1993. In September 1996, Reclamation revised and renamed the Criteria for Evaluating Water Conservation Plans to Criteria for Evaluating Water Management Plans (Criteria). These Criteria were developed based on information provided during public scoping and public review sessions held throughout Reclamation's Mid-Pacific (MP) Region. Reclamation uses these Criteria to evaluate the adequacy of all water management plans developed by Central Valley Project contractors. The Criteria were developed and the plans evaluated for the purpose of promoting the most efficient water use reasonably achievable by all MP Region contractors. Reclamation made a commitment (stated within the Criteria) to publish a notice of its draft determination of the adequacy of each contractor's water management plan in the **Federal Register** to allow the public a minimum of 30 days to comment on its preliminary determinations.

DATES: All public comments must be received by January 22, 1999.

ADDRESSES: Please mail comments to Lucille Billingsley, Bureau of Reclamation, 2800 Cottage Way, MP–410, Sacramento CA 95825.

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Lucille Billingsley at the address above, or by telephone at (916) 978–5215 (TDD 978–5608).

SUPPLEMENTARY INFORMATION: Under provision of Section 3405(e) of the CVPIA (Title 34 Public Law 102–575), ''The Secretary [of the Interior] shall establish and administer an office on Central Valley Project water conservation best management practices that shall . . . develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of of the Reclamation Reform act or 1982.'' Also, according to Section 3405(e) (1), these criteria will be developed ''* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.''

The Criteria states that all parties (districts) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 irrigable acre-feet and agricultural contract over 2,000 irrigable acres) will prepare water management plans which will be evaluated by Reclamation based on the following required information detailed in the steps listed below to develop, implement, monitor, and update their water management plans. The steps are:

1. Describe the district.
2. Inventory water resources available to the District.
3. Best Management Practices (BMPs) for Agricultural Contractors.
4. BMPs for Urban Contractors.
5. Exemption Process.

Tulare Irrigation District has developed a water management plan which Reclamation has evaluated and preliminarily determined to meet the requirements of the Criteria.

Public comment on Reclamation's preliminary (i.e., draft) determinations is invited at this time. A copy of the plan will be available for review at Reclamation's MP Regional Office located in Sacramento, California and MP's South-Central California Area Office located in Fresno, California, If you wish to review a copy of the plan, please contact Ms. Billingsley to find the office nearest you.

Dated: November 9, 1998.

Robert F. Stackhouse,

Regional Resources Manager, Mid-Pacific Region.

[FR Doc. 98–33950 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

[FES 98–41]

Bureau of Reclamation

Proposed Sacramento County Water Agency and San Juan Water District Central Valley Project Water Service Contracts Under Public Law 101–514, Sacramento County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of final environmental impact statement/final environmental impact report (FEIS/FEIR).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Policy Act (CEQA), the Bureau of Reclamation (Reclamation) and the Sacramento County Water Agency (Agency) as lead agencies have prepared a joint FEIS/FEIR for the proposed Agency and San Juan Water District (District) Central Valley Project water service contracts for use in Sacramento County, California, and construction and operation of a temperature control device (TCD) on the water supply intake at Folsom Dam. Reclamation and the Agency prepared a Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the proposed contracts in July 1997. The Agency sent out a recirculated DEIR in August 1998 for a 45-day review.

The purpose of the FEIS/FEIR is to address the potential environmental and socioeconomic impacts resulting from the execution of water service contracts with the Agency and the District, and from the TCD. The FEIS/FEIR includes all comments received on the DEIS/DEIR (including the recirculated DEIR) and responses to those comments.

DATES: No Federal decision will be made on the proposed action until January 22, 1999. After this 30-day waiting period, Reclamation will

complete a Record of Decision. It is expected that the Board of Directors of the Agency will adopt a Notice of Determination pursuant to CEQA in December 1998.

ADDRESSES: Copies of the FEIS/FEIR may be requested from Mr. Tad Berkebile, Sacramento County Water Agency, 827 Seventh Street, Room 301, Sacramento CA 95814; telephone: (916) 874–6851. See Supplementary Information section for locations where the FEIS/FEIR is available for public inspection and review.

FOR FURTHER INFORMATION CONTACT: Mr. Tad Berkebile at (916) 874–6851 or Mr. Cecil Lesley, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630, telephone: (916) 989–7221 or TDD (916) 989–7285.

SUPPLEMENTARY INFORMATION: Public Law 101–514, Section 206, authorizes and directs the Secretary of the Interior to enter into long-term municipal and industrial water supply contracts to meet the immediate water needs of Sacramento County. Contracts under Public Law 101–514, Section 206, are not subject to the prohibition on new Reclamation contracts of Public Law 102–575, Title XXXIV. However, any contracts under Public Law 101–514 are required to have terms and conditions that allow the Secretary to amend the contracts as necessary to meet the obligations of applicable State and Federal laws. The law specifically directs the Secretary to enter into contracts up to 22,000 acre-feet per year with Sacramento County and up to 13,000 acre-feet per year with the San Juan Water District (serving a part of northeastern Sacramento County). Water delivered annually under these contracts is at the discretion of the Secretary, who will make a determination of the amount to be made available ''based upon the quantity of water actually needed after considering reasonable efforts to (i) promote full utilization of existing water entitlement within Sacramento County, (ii) implement water conservation and metering programs within areas served by the contract, and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater'' (Public Law 101–514, Section 206 [b][(1)]. Of its annual allocation of 22,000 acre-feet per year, the Agency intends to provide up to 7,000 acre-feet per year to the City of Folsom through a subcontract.

No potentially affected Indian Trust Assets (ITA's) have been identified by Reclamation for the proposed project or alternatives.

Copies of the FEIS/FEIR are available for public inspection and review at the following locations:

- Bureau of Reclamation, Central California Area Office at 7794 Folsom Dam Road in Folsom, CA.
- Bureau of Reclamation at 2800 Cottage Way, Room E–1704 in Sacramento, CA.
- Sacramento County Water Agency at 827 Seventh Street, Room 301 in Sacramento, CA.
- Sacramento County Clerk-Recorder's Office at 600 Eighth Street in Sacramento, CA.
- San Juan Water District at 9935 Auburn-Folsom Road in Granite Bay, CA.
- Sacramento Central Library at 828 I Street in Sacramento, CA.
- Folsom Library at 300 Purcifer Street in Folsom, CA.
- City of Folsom, Public Works Department at 50 Natoma Street in Folsom, CA.

Dated: December 14, 1998.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 98–34025 Filed 12–22–98; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 29, 1998, B.I. Chemical, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of amphetamine (1100), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture amphetamine for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33878 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Registration

By Notice dated October 1, 1998, and published in the **Federal Register** on October 9, 1998, (63 FR 544512), Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Phencyclidine (7471)	II
Phenylaceton (8501)	II
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances to make reagents for distribution to the biomedical research community.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Calbiochem-Novabiochem Corporation is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic

classes of controlled substances listed above.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33885 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 26, 1998, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylacetone (8501)	II

The firm plans to import the phenylacetone to manufacture methamphetamine and to import racemic methamphetamine for resolution into the d- and 1-stereoisomers.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simulateneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33879 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 26, 1998, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methamphetamine (1105), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture methamphetamine to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33880 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 2, 1998, and published in the **Federal Register** on September 10, 1998, (63 FR 48522), Dupont Pharmaceuticals, The Dupont Merck Pharmaceutical Co., 1000 Stewart Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Dupont Pharmaceuticals to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Dupont Pharmaceuticals on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33886 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 17, 1998, Eli-Elsohly Laboratories, Inc., Mahmoud A. Elsohly, PhD, 5 Industrial Park Drive, Oxford, Mississippi 38655, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1150)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II

The firm plans to bulk manufacture non-deuterated controlled substances for use as analytical standards and deuterated controlled substances for use as internal standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33881 Filed 12–27–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 12, 1998, High Standard Products, 1100 W. Florence Avenue, #B, Inglewood, California 90301, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Heroin (9200)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture analytical reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 2, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33889 Filed 12–23–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 4, 1998, Irix Pharmaceuticals, Inc., 101 Five Star Way, Florence, South Carolina 29501, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm place to manufacture methylphenidate for demonstration purposes and for dosage form development and stability studies.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representatives (CCR), and must be filed no later than February 22, 1999.

Dated: December 10, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33882 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–25]

Mary M. Miller, M.D.; Grant of Restricted Registration

On July 8, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mary Margaret Miller, M.D. (Respondent) of Louisville, Kentucky, notifying her of an opportunity to show cause as to why DEA should not deny her application for registration as a practitioner pursuant to 21 U.S.C. 823(f) and 824(a)(2).

By letter dated July 16, 1997, Respondent requested a hearing on the issues raised by the Order to Show Cause. Following prehearing procedures, a hearing was held in Frankfurt, Kentucky on December 10, 1997, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument. On June 25, 1998, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent be granted a DEA Certificate of Registration subject to several conditions. Neither party filed exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge and on July 28, 1998, Judge Randall transmitted the record of these proceedings to the then-Acting Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts the Opinion and Recommended Ruling of the Administrative Law Judge, but includes an additional condition on Respondent's registration. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact of law.

The Deputy Administrator finds that Respondent graduated from medical school in 1962 and obtained her first DEA registration in approximately 1963 while practicing in Colorado. In 1981, Respondent also became licensed to practice medicine in Kentucky.

In 1983, DEA noted that pharmacies in the Fort Collins, Colorado area were ordering large quantities of Schedule II controlled substances. Further investigation revealed that Respondent's name repeatedly came up as a large prescriber of Schedule II substances. As a result, DEA initiated an investigation of Respondent. An undercover DEA agent went to Respondent's office on five occasions to attempt to obtain controlled substance prescriptions for no legitimate medical purposes.

The first undercover operation was conducted on August 16, 1983, during which the undercover agent received prescriptions for Biphetamine and Seconal, both Schedule II controlled substances, from Respondent. Initially, the undercover agent told Respondent that she needed to lose weight, but later stated that she was a prostitute and that she needed Biphetamine to stay up all night and Seconal to allow her to sleep during the day. Respondent did not perform any physical examination and told the undercover agent not to fill the prescriptions in the Fort Collins area. Neither Biphetamine nor Seconal were acceptable for weight loss treatment in Colorado in 1983. Respondent later said that the prescribed substances were for narcolepsy and narcolepsy was noted on the prescriptions. However, there was no discussion regarding narcolepsy during this visit.

The undercover agent returned to Respondent's office on August 23, 1983, however she was unable to see Respondent on that day. The third undercover operation was conducted on September 15, 1983, during which the undercover agent obtained prescriptions from Respondent for Biphetamine, Seconal and Valium, a Schedule IV controlled substance. The undercover agent received the prescription for Valium after telling Respondent that she needed something to ''smooth her out'' between the Biphetamine and the Seconal. The undercover agent did not assert any medical complaints during this visit.

The undercover agent returned to Respondent's office on October 4, 1983. She obtained prescriptions for Biphetamine, Seconal and Valium from Respondent even though she did not give any medical reasons for needing the drugs. Respondent told the undercover agent to fill the prescriptions at different pharmacies and not to fill them at pharmacies in Fort Collins.

The final visit occurred on November 1, 1983, during which the undercover agent again obtained prescriptions for Biphetamine, Seconal and Valium from Respondent without giving any medical reason. Respondent again told the undercover agent not to have the prescriptions filled in Fort Collins. On this occasion the undercover agent asked for a prescription for another amphetamine and also asked for a prescription for a friend. Respondent refused both of these requests.

As a result of this investigation, Respondent was ultimately convicted on October 22, 1984, in the United States District Court of Colorado of 15 counts of distribution of controlled substances and prescriptions not issued for a letigimate medical purpose in violation of 21 U.S.C. 841(a)(1) and 21 CFR 1306.04(a). Respondent was sentenced to 30 months imprisonment followed by 5 years probation and fined $75,000. She served 10 months in prison during which time she inactivated her Kentucky medical license.

As a result of her conviction, in October 1984 the Colorado Board of Medical Licensure (Colorado Board) suspended her medical license. Her license was reinstated in 1986.

According to Respondent, she abused alcohol during her criminal trial and again after her release from prison. After being confronted by her family about her alcohol abuse she entered an in-patient treatment facility for three months. Respondent testified that she has not consumed any alcohol since January 29, 1990. While in treatment, the Colorado Board suspended her medical license and on September 28, 1990, Respondent's Colorado medical license was revoked based upon her ''habitual intemperance'', referring to her abuse of alcohol.

Thereafter, Respondent applied for reinstatement of her Kentucky medical license which was denied by the Kentucky Board of Medical Licensure (Kentucky Board) in November 1992. The Kentucky Board recommended that Respondent get involved with the Kentucky Impaired Physicians Program (Kentucky Program). Respondent became involved with the Kentucky Program in 1993 and was required to attend four to six Alcoholics Anonymous (AA) meetings per week.

In December 1992, Respondent also became involved with an outpatient facility that treats alcohol and drug addiction. Respondent participated in the physicians' therapy group for approximately two years and agreed to

undergo random urine screens. Respondent still has monthly individual sessions with the executive director of the facility. The executive director testified at the hearing in this matter that he does not have any concern about Respondent relapsing, as long as she continues to attend to herself as a recovering alcoholic.

In March 1994, Respondent applied for and received Kentucky institutional medical license so she could work as a resident in family practice at the University of Louisville. Beginning on April 1, 1994, she worked in the residency clinic for six months and then spent six months on assigned rotations. During her residency training, Respondent continued to participate in the Kentucky Program.

In March 1995, the Kentucky Board granted Respondent a full Kentucky license with conditions. Respondent was placed on probation for five years, was required to maintain her contractual relationship with the Kentucky Program, and was required to have all controlled substance prescriptions co-signed by another physician.

On May 1, 1995, Respondent submitted the application that is the subject of these proceedings for registration in Schedules III narcotic, III non-narcotic, IV and V. On the application, Respondent fully disclosed her prior conviction, sentencing and rehabilitation information.

Thereafter, on September 22, 1997, the Kentucky Board entered an Amended Order of Probation striking the co-signature requirement and replacing it with a requirement that Respondent maintain a log of her controlled substance prescriptions. The log must include the date, patient name, patient complaint, medication prescribed, date it was last prescribed and the amount last prescribed.

In the meantime, Respondent applied for recertification by the American Board of Family Practice, since such certification is a requirement for hospital privileges. Respondent was advised that she was not eligible for recertification due to the revocation of her Colorado medical license. Consequently, Respondent applied for reinstatement of her Colorado medical license. On February 15, 1996, the Colorado Board reinstated Respondent's medical license with the condition that she never practice medicine in Colorado. The Colorado Board's action was taken solely to enable Respondent to sit for recertification with the American Board of Family Practice. At the time of the hearing, Respondent was still attempting to be recertified.

Since August 1996, Respondent has been working at a family heath care clinic with two locations in Kentucky. Respondent is one of three physicians affiliated with the clinics. One of the clinics is the only medical provider in the city and is approximately a thirty minute drive from the nearest hospital. Four out of five days a week, Respondent is the only physician at this location. The head and senior partner of the clinics testified at the hearing that he reviews the charts of the other physicians. He further testified that Respondent is very professional, responsible, ethical, hard-working and has a good medical judgment.

A physician and professor in the Family Practice Residency at the University of Louisville provided an affidavit stating that Respondent demonstrated good medical judgment and good ethical standards during her residency, and that she did not exhibit any signs of substance abuse. He recommended that Respondent be granted a DEA registration provided that she ''be followed by an appropriate organization who can monitor her continued recovery from alcoholism.''

Respondent testified that she takes full responsibility for her actions that led to her conviction and that she does not attribute her prior misconduct to her alcoholism. However, since 1990, Respondent's urine screens have never tested positive for alcohol or any other substance of abuse. At the time of the hearing, she was still enrolled in the Kentucky program, participating in monthly sessions with the executive director of the outpatient facility, attending AA meetings on a regular basis, and participating in health care professional meetings.

The medical director of the Kentucky Program testified that nationally, physicians involved in impaired physicians programs have a 90–95% recovery rate. He further testified that he does not believe that Respondent will relapase as long as she remains involved with her recovery efforts, and in his opinion, Respondent can handle the responsibilities of a DEA registrant.

Respondent testified that she needs a DEA registration to be able to treat acute trauma patients and patients with chronic pain with controlled substances. She also wants her registration because she has been denied privileges at area hospitals and her current employer has been denied participation in various insurance plans due to her lack of a registration.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

(1) The recommendation of appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwartz, Jr., M.D.*, 54 FR 16,422 (1989).

Regarding factor one, it is undisputed that Respondent is currently licensed to practice medicine in Colorado and Kentucky. However, when Colorado granted Respondent a license in January 1996, it did so with the stipulation that Respondent never practice medicine in the state. In addition, Respondent's Kentucky medical license is currently on probation and she is required to maintain a log of her controlled substance prescribing.

As to factors two and four, Respondent's experience in dispensing controlled substances and her compliance with applicable laws relating to the handling of controlled substances, Respondent does not dispute that she issued controlled substance prescriptions to the undercover agent for no legitimate medical purpose in violation of 21 U.S.C. 841(a)(1) and 21 CFR 1306.04(a). In addition, as Judge Randall noted, ''her instructions to [the undercover agent] not to fill all of the prescriptions at the same pharmacy demonstrate an understanding that she was acting improperly, as well as an effort to avoid detection.'' This egregious conduct by Respondent raises serious concerns about her ability to responsibly handle controlled substances.

However, the Deputy Administrator notes that Respondent's misconduct occurred 15 years ago, and there is no evidence of any wrongdoing since that time. In fact, during the ensuing years, Respondent has attempted to rehabilitate her career by participating in the family practice residency at the

University of Louisville and by working at the family health care clinics since 1996. However, as Judge Randall noted, ''since she has not been registered by the DEA to handle controlled substances for the past fifteen years she has lacked the opportunity to demonstrate that she can responsibly handle controlled substances.''

Regarding factor three, it is undisputed that in 1984, Respondent was convicted in the United States District Court for the District of Colorado of 15 counts of distributing controlled substances and issuing prescriptions for other than a legitimate medical purpose in violation of 21 U.S.C. 841(a)(1) and 21 CFR 1306.04.

As to factor five, the Deputy Administrator is concerned with Respondent's history of alcohol abuse. However, Respondent's sobriety date is Janaury 29, 1990. In addition, she has taken tremendous steps toward rehabilitating herself, and there was credible evidence presented at the hearing that Respondent is unlikely to relapse if she continues to attend to her recovery.

The Deputy Administrator concludes that Respondent's actions in 1983 were clearly contrary to the public interest and raise serious concerns regarding her fitness to be registered with DEA. However, the Deputy Administrator finds that there is evidence in the record that supports granting Respondent's application. Respondent's criminal conduct occurred 15 years ago. As has been previously determined, ''[t]he paramount issue is not how much time has elapsed since [Respondent's] unlawful conduct, but rather, whether during that time Respondent has learned from past mistakes and has demonstrated that [she] would handle controlled substances properly if entrusted with DEA registration.'' *Leonardo V. Lopez, M.D.,* 54 FR 36,915 (1989). Here, the Deputy Administrator finds it significant that Respondent has accepted responsibility for her past misconduct and fully disclosed her history on her application for registration. In addition, she has recently participated in a family practice residency program and has continued to practice medicine at the family health care clinics in Kentucky. Also, if granted a DEA registration, Respondent's controlled substance prescribing will be monitored by the Kentucky Board.

Concerning her alcoholism the Deputy Administrator agrees with Judge Randall's finding ''that the significant steps the Respondent has taken to rehabilitate herself demonstrate her commitment to her continuing recovery and to her profession.'' The Deputy Administrator also finds it noteworthy that according to the medical director of the Kentucky Impaired Physicians Program, the chance of Respondent relapsing is 90–95% if she continues with her recovery efforts.

Therefore, the Deputy Administrator agrees with Judge Randall's conclusion that Respondent should be given the opportunity to demonstrate that she can responsibly handle controlled substances. But in order to protect the public health and safety, some controls are warranted given her illegal prescribing of controlled substances, her conviction and her alcohol abuse. Imposing controls upon Respondent's registration ''will allow the Respondent to demonstrate that [she] can responsibly handle controlled substances in [her] medical practice, yet simultaneously protect the public by providing a mechanism for rapid detection of any improper activity related to controlled substances.'' *Steven M. Gardner, M.D.,* 51 FR 12,576 (1986), as cited in *Michael J. Septer, D.O.,* 61 FR 53,762 (1996).

Judge Randall recommended that Respondent's application be granted, provided that for three years Respondent must provide the local DEA office with a log of her controlled substance handling; she must maintain her contractual relationship with the Kentucky Impaired Physicians Program; and she must inform DEA of any action taken by any state upon her license or authorization to practice medicine or handle controlled substances. The Deputy Administrator agrees with Judge Randall's recommended restrictions, but concludes that Respondent should also be required to consent to periodic inspections by DEA without requiring an Administrative Inspection Warrant.

Therefore, the Deputy Administrator concludes that Respondent's application for registration in Schedules III, IIIN, IV and V should be granted subject to the following restrictions for three years from the date of issuance of the DEA Certificate of Registration:

1. On a quarterly basis, Respondent must provide the DEA Louisville Resident Office with a log, which at a minimum, should indicate: (1) the date that the controlled substance prescription was written, or such substance was administered or dispensed; (2) the name of the patient for whom the prescription was written, or to whom the substance was dispensed or administered; (3) the patient's complaint; (4) the name, dosage, and quantity of the substance prescribed, dispensed or administered; and (5) the date that the medication was last prescribed, dispensed or administered to that patient, as well as the amount last provided to that patient.

2. Respondent must maintain her contractual relationship with the Kentucky Impaired Physicians Program and abide by their recommendations.

3. Within 30 days, Respondent must inform the DEA Louisville Resident Office of any action taken by any state upon her medical license or upon her authorization to handle controlled substances.

4. Respondent shall consent to periodic inspections by DEA personnel based on a Notice of Inspection rather than an Administrative Inspection Warrant.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the May 1, 1995 application for registration in Schedules III, IIIN, IV and V submitted by Mary M. Miller, M.D., be, and it hereby is, granted subject to the above described restrictions. This order is effective no later than January 21, 1999.

Dated: December 16, 1998.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 98–33890 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 26, 1998, Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

The firm plans to manufacture the listed controlled substances for distribution to its customers as bulk product.

Any other such applicant and any person who is presently registered with

DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33883 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 15, 1998, and published in the **Federal Register** on September 3, 1998, (63 FR 47040), Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine, a basic class of controlled substance listed in Schedule II.

The firms plans to manufacture a derivative of cocaine in grant quantities for validation of synthetic procedures.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Organix, Inc. to manufacture cocaine is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. § 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: December 11, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33887 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 6, 1998, Pressure Chemical Company, 3419 Smallman Street, Pittsburgh, Pennsylvania 15201, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 2,5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to bulk manufacture 2,5-dimethoxyamphetamine for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 22, 1999.

Dated: December 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–33884 Filed 12–22–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA # 179I]

Controlled Substances: Established Initial Aggregate Production Quotas for 1999

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of aggregate production quotas for 1999.

SUMMARY: This notice establishes initial 1999 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

The 1999 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 1999 to provide adequate supplies of each substance for: the estimated medical, scientific, research and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks (21 U.S.C. 826(a) and 21 CFR 1303.11). These quotas do not include imports of controlled substances for use in industrial processes.

On October 16, 1998, a notice of the proposed initial 1999 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (63 FR 55640). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before November 16, 1998.

Nine companies commented on a total of 28 Schedules I and II controlled substances. The companies commented that the proposed aggregate production quotas for 2,5-dimethoxyamphetamine, 4-methoxyamphetamine, alfentanil, amphetamine, codeine (for sale), codeine (for conversion), dextropropoxyphene, dihydrocodeine, fentanyl, hydrocodone (for sale), hydrocodone (for conversion), hydromorphone, levorphanol, meperidine, methadone (for sale), methadone (for conversion), methadone intermediate, methylphenidate, morphine (for sale), morphine (for conversion), oxycodone (for sale), oxycodone (for conversion), pentobarbital, propiram, secobarbital, sufentanil and thebaine were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and for the establishment and maintenance of reserve stocks. In addition, one company commented that the initial

aggregate production quota for diphenoxylate should be decreased.

After a review of 1998 manufacturing quotas, current 1998 sales and inventories, 1999 export requirements and research and product development requirements, the DEA agrees that changes are necessary for 2,5-dimethoxyamphetamine, 4-methoxyamphetamine, alfentanil, amphetamine, codeine (for sale), diphenoxylate, fentanyl, hydrocodone (for conversion), morphine (for conversion), oxycodone (for sale), oxycodone (for conversion), pentobarbital, sufentanil and thebaine.

In addition, one company requested a hearing to address the aggregate production quota for oxycodone (for sale) if the aggregate production quota was not increased sufficiently. The DEA has increased the aggregate production quota for oxycodone (for sale) and has determined that a hearing is not necessary.

The DEA also reviewed comments received concerning the aggregate production quotas for codeine (for conversion), dextropropoxyphene, dihydrocodeine, hydrocodone (for sale), hydromorphone, levorphanol, meperidine, methadone (for sale), methadone (for conversion), methadone intermediate, methylphenidate, morphine (for sale), propiram and secobarbital. In addition, 1998 manufacturing quotas, current 1998 sales and inventories, 1999 export requirements and research and product development requirements were reviewed, as well as other available data. Based on a review of the comments and this data, the DEA has determined that the proposed initial 1999 aggregate production quotas for these substances are sufficient to meet the current 1999 estimated medical, scientific, research and industrial needs of the United States.

Pursuant to Section 1303 of Title 21 of the Code of Federal Regulations, the Deputy Administrator of the DEA will, in early 1999, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 1998 year-end inventory and actual 1998 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby orders that the 1999 initial aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic CLass	Established initial 1999 quotas
SCHEDULE I	
2, 5–Dimethoxyamphetamine	10,501,000
2, 5–Dimethoxy–4–ethylampetamine (DOET)	2
3–Methylfentanyl	14
3–Methylthiofentanyl	2
3, 4–Methylenedioxyamphetamine (MDA)	20
3, 4–Methylenedioxy–N–ethylamphetamine (MDEA)	30
3, 4–Methylendioxymethamphetamine (MDMA)	20
3, 4,5–Trimethoxyamphetamine	2
4–Bromo–2, 5–Dimethoxyamphetamine (DOB)	2
4–Bromo– 2,5–Dimethoxyphenethylamine (2–CB)	2
4–Methoxyamphetamine	101,000
4–Methylaminorex	3
4–Methyl–2, 5–Dimethoxyamphetamine (DOM)	2
5–Methoxy–3, 4–Methylenedioxyamphetamine	2
Acetyl–alpha–methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	7
Allylprodine	2
Alpha–acetylmethadol	7
Alpha–ethyltryptamine	2
Alphameprodine	2
Alpha–methadol	2
Alpha–methylfentanyl	2
Alpha–methylthiofentanyl	2
Alphaprodine	2
Aminorex	7
Benzylmorphine	2
Beta–acetylmethadol	2
Beta–hydroxy–3–methylfentanyl	2
Beta–hydroxyfentanyl	2
Betameprodine	2
Beta–methadol	2
Betaprodine	2
Bufotenine	2
Cathinone	9
Codeine–N–oxide	2
Diethyltryptamine	3
Difenoxin	9,000
Dihydromorphine	7
Dimethyltryptamine	3
Heroin	2
Hydroxypethidine	2
Lysergic acid diethylamide (LSD)	57
Mescaline	8
Methaqualone	17
Methcathinone	11
Morphine–N–oxide	2
N, N–Dimethylamphetamine	7
N–Ethyl–1–Phenylcyclohexylamine (PCE)	5
N–Ethylamphetamine	7
N–Hydroxy–3, 4–Methylenedioxyamphetamine	4
Noracymethodol	2
Norlevorphanol	2
Normethadone	7
Normorphine	7
Para–fluorofentanyl	2
Pholcodine	2
Propiram	415,000
Psilocin	2
Psilocybin	2
Tetrahydrocannabinols	52,000
Thiofentanyl	2
Trimeperidine	2
SCHEDULE II	
1–Phenylcyclohexylamine	12
1–Piperidinocyclohexanecarbonitrile (PCC)	12
Alfentanil	3,800
Amobarbital	12
Amphetamine	5,740,000
Cocaine	251,000
Codeine (for sale)	67,332,000
Codeine (for conversion)	22,950,000
Desoxyephedrine	697,000
662,000 grams of levodesoxyephedrine for use in a non-controlled, non-prescription product and 35,000 grams for methamphetamine.	
Dextropropoxyphene	109,500,000
Dihydrocodeine	121,000
Diphenoxylate	846,000
Ecgonine	151,000
Ethylmorphine	13
Fentanyl	234,000
Glutethimide	2
Hydrocodone (for sale)	16,314,000
Hydrocodone (for conversion)	6,000,000
Hydromorphone	856,000
Isomethadone	12
Levo–alpha–acetylmethadol (LAAM)	201,000
Levomethorphan	2
Levorphanol	15,000
Meperidine	10,294,000
Methadone (for sale)	4,992,000
Methadone (for conversion)	267,000
Methadone Intermediate	7,223,000
Methamphetamine (for conversion)	723,000
Methamphetamine (for conversion)	723,000
Methylphenidate	14,442,000
Morphine (for sale)	12,445,000
Morphine (for conversion)	82,300,000
Nabilone	2
Noroxymorphone (for sale)	25,000

Basic CLass	Established initial 1999 quotas
Noroxymorphone (for conversion)	2,067,000
Opium	640,000
Oxycodone (for sale)	15,120,000
Oxycodone (for conversion)	106,000
Oxymorphone	166,000
Pentobarbital	18,039,000
Phencyclidine	40
Phenmetrazine	2
Phenylacetone	10
Secobarbital	25
Sufentanil	852
Thebaine	22,880,000

The Deputy Administrator further orders that aggregate production quotas for all other Schedules I and II controlled substances included in Sections 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage form manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: December 15, 1998.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 98–33888 Filed 12–23–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Notice of Determination Regarding Review of Submission U.S. #9803

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: The U.S. National Administrative Office (NAO) gives notice that on December 18, 1998, U.S. Submission #9803 was accepted for review. The submission was filed with the NAO on October 19, 1998 by the International Brotherhood of Teamsters, Teamsters Canada, Quebec Federation of Labor, Teamsters Local 973 (Montreal), and the International Labor Rights Fund. The submission raises issues of anti-union motivated plant closing and delays in the union certification procedure in cases involving multiple franchise business employers and locations. The issues arose from efforts to organize employees of a McDonald's restaurant in the city of St. Hubert, Quebec, Canada.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO. The objectives of the review of the submission will be to gather information to assist the NAO to better understand and publicly report on the Government of Canada's compliance with the obligations set forth in the NAALC.

EFFECTIVE DATE: December 18, 1998.

FOR FURTHER INFORMATION CONTACT: Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On October 19, 1998, U.S. Submission #9803 was filed with the NAO by the International Brotherhood of Teamsters, Teamsters Canada, Quebec Federation of Labor, Teamsters Local 973 (Montreal), and the International Labor Rights Fund. The submission raises issues of anti-union motivated plant closing and delays in the union certification procedure in cases involving multiple franchise employer and business locations.

The submitters allege that in February 1998, a franchisee of McDonald's Corporation violated workers' rights to organize when it closed its St. Hubert restaurant during the union certification process. They assert that the Quebec Government violated Articles 2 and 3 of the NAALC by not providing a remedy for a plant closure based on anti-union motives and not enforcing the freedom of association. The submitters also assert that the absence of recourse procedures to the individual workers who lost employment after the closure of McDonald's constitutes a violation of Article 4(2) of the NAALC.

The submitters allege that efforts to organize employees of a McDonald's restaurant in the city of St. Hubert, Quebec, Canada were hindered by the union certification process. The submitters assert that the Quebec Government's certification process violates Article 5(1) of the NAALC which commits the Parties to ensure that administrative, quasi-judicial, judicial, and labor tribunal proceedings are not unnecessarily complicated and do not entail unreasonable time limits or delays.

The procedural guidelines for the NAO, published in the **Federal Register** on April 7, 1994, 59 FR 16660, specify that, in general, the Secretary of the NAO shall accept a submission for review if it raises issues relevant to labor law matters in Canada or Mexico and if a review would further the objectives of the NAALC.

Submission U.S. #9803 relates to labor law matters in Canada. A review would appear to further the objectives of the NAALC, as set out in Article 1 of the NAALC, among them improving working conditions and living standards in each Party's territory, promoting the set of labor principles, and encouraging publication and exchange of information, data development and coordination to enhance mutually beneficial understanding of the laws and institutions governing labor in each Party's territory.

Accordingly, this submission has been accepted for review of the allegations raised therein. The NAO's decision is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objectives of the review will be to gather information to assist the NAO to better understand and publicly report on the freedom of association and protection of the right to organize raised in the submission, including the Government of Canada's compliance with the obligations agreed to under Articles 2,3,4 and 5 of the NAALC. The review will be completed, and a public report issued, within 120 days, or 180 days if circumstances require an extension of time, as set out

in the procedural guidelines of the NAO.

Signed at Washington, D.C. on December 18, 1998.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 98–34007 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such a request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 4, 1999.

Interested person are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 4, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 12/07/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,309	Amoco Corp (Co.)	Chicago, IL	11/24/1998	Oil and Gas.
35,310	A.L. Gebhardt (Co.)	Milwaukee, WI	11/25/1998	Leather for Footwear and Personal goods.
35,311	Siebe Applicance Controls (Co.)	Kendallville, IN	11/24/1998	Electomechanical Appliance Controls.
35,312	Best Manufacturing (Wkrs)	Cuthbert, GA	11/17/1998	Bibb Aprons.
35,313	AM Communications Inc (Wkrs)	Quakertown, PA	11/17/1998	Status Monitoring Equipment for Cable TV.
35,314	Crown Cork and Seal (Co.)	Olympia, WA	11/20/1998	Aluminum Beverage Cans.
35,315	Hensley Woodworking (Co.)	Strawberry Plns, TN	01/23/1998	Wood Furniture.
35,316	Weirton Steel Corp (ISWU)	Weirton, WV	11/12/1998	Hot Band Steel.
35,317	Tycom Corporation (Wkrs)	Arden Hills, MN	11/24/1998	Drill Bits.
35,318	LTV Steel (USWA)	Cleveland, OH	11/17/1998	Hot and Cold Rolled Steel.
35,319	Simpson Pasadena Paper (UPWIU)	Pasadena, TX	11/13/1998	Commodity Pulp, Coated and uncoated Paper.
35,320	Lucky Star Industries (Co.)	Baldwyn, MS	11/24/1998	Levi Jeans.
35,321	Tokyo Electron Oregon (Wkrs)	Hillsboro, OR	12/01/1998	Silcon Wafers.
35,322	International Paper (AWPPW)	Gardiner, OR	11/23/1998	Linerboard.
35,323	Blackhawk Services (Co.)	Odessa, TX	11/18/1998	Engine Repair Service.
35,324	Cooper Turbcompressor (Wkrs)	Cheektowaga, NY	10/22/1998	Centrifugal Air Compressors.
35,325	Charles Bluestone Co (USSW)	Elizabeth, PA	11/20/1998	Stainless Steel and Nickel Alloy Scrap.
35,326	Tube City, Inc (USWA)	West Mifflin, PA	11/23/1998	Scrap Steel.
35,327	Fashions International (UNITE)	Scranton, PA	11/24/1998	Men's Coats and Jackets.
35,328	Revlon, Inc (UAW)	Holmdel, NJ	11/10/1998	Cosmetics and Fragrances.
35,329	Philips Consumer Comm. (Wkrs)	Piscataway, NJ	11/18/1998	Cellular Telephones.
35,330	Ausco Products, Inc (Co.)	Benton Harbor, MI	11/23/1998	Mechanical Screw Jacks.
35,331	Hubco, Inc (UNITE)	Hutchinson, KS	11/05/1998	Fiber and Cloth Bags.
35,332	Inverness Designtech (Wkrs)	Fairlawn, NJ	11/23/1998	Hair Removal, Personal Electrolysis, Wax.
35,333	Coastal Oil and Gas (Wkrs)	Denver, CO	11/19/1998	Oil and Gas.
35,334	Dresser Rand Energy (IAMAW)	Wellsville, NY	11/20/1998	Steam Turbines.
35,335	New Holland North America (Wkrs)	Belleville, PA	11/20/1998	Skid-Steer Loaders, Manuer Spreaders.
35,336	Omak Wood Products (WCIW)	Omak, WA	11/30/1998	Soft Plywood.
35,337	Cross Creek Apparel (Co.)	Floyd, VA	11/25/1998	Turtleneck Shirts, T-Shirts.
35,338	Wundies, Inc (Wkrs)	Williamsport, PA	11/22/1998	Ladies' Intimate Apparel.

[FR Doc. 98–34008 Filed 12–22–95; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,816]

Cone International, Portland, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Cone International, Portland, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–34,816; Cone International, Portland, Oregon (December 17, 1998)

Signed at Washington, D.C. this 17th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34011 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,298]

Fort James Corporation Old Town, Maine; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1998 in response to a worker petition which was filed on November 19, 1998 on behalf of workers at Fort James Corporation, Old Town, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 11th day of December 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34015 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,004]

Harris Semiconductor Corp. Findlay, OH; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Harris Semiconductor Corporation, Findlay, Ohio. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,004; Harris Semiconductor Corporation Findlay, Ohio (December 17, 1998)

Signed at Washington, D.C. this 17th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34009 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,302]

Inter-National Childrenswear Ohatchee, Alabama; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1998 in response to a worker petition which was filed on behalf of workers at Inter-National Childrenswear, Ohatchee, Alabama.

Currently, there is an investigation (TA–W–35,262) in progress for the workers at the subject plant. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 11th day of December 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34016 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,169 and NAFTA–02704]

Jayo Sportswear, Bethlehem, Pennsylvania; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Jayo Sportswear, Bethlehem, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–35,169; Jayo Sportswear, Bethlehem, Pennsylvania (December 17, 1998)

Signed at Washington, D.C. this 17th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34012 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,272]

Mead Corporation; Rumford, Maine; Notice of Termination of Investigation

Pursuant to Section 250 of the Trade Act of 1974, an investigation was initiated on November 30, 1998, in response to a petition filed on the same date on behalf of workers at Mead Corporation, Rumford, Maine.

Currently, there is a petition investigation (TA–W–35,090) in progress for the workers at the subject firm. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 10th day of December 1998.

Grant D. Beale,

Acting Director, Office Trade Adjustment Assistance.

[FR Doc. 98–34017 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02747]

Aeroquip Corporation, Clinton Township, Michigan; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.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 November 4, 1998 in response to a petition filed on behalf of workers at Aeroquip Corporation, Clinton Township, Michigan.

The petitioner has requested that his petition for transitional adjustment assistance be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, D.C., this 16th day of December 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34014 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of December, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat of, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases that investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,052; Preferred Electronics, CPH Preferred Holding Corp., Somersville, CT

TA–W–34,879; Show Me Jacket Manufacturing, California, MO

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–35,069; Greenwich Air Services, d/b/a GE Engine Services, Miami, FL

The Workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–35,062; Chicago Rawhide, SKF USA, Gastonia, NC

TA–W–35,038. Litton Industries, Inc., Electro-Optical Systems

Div., Applied Optics Center, Dallas, TX

TA–W–35,114; Sprague Prutsman, Inc., Div. of Dana/Echlin Automotive Group, Traverse City, MI

TA–W–35,081; Fabcare, Inc., Pickwick Dam, TN

TA–W–35,064; Martech Medical Products, Inc., Harleysville, PA

TA–W–35,235; Dunn-It, Odessa, TX

TA–W–35,289; Grahm-Field Health Products, Inc., Hauppauge, NY

TA–W–35,019; Intel Corp., Fab 11, Rio Rancho, NM

TA–W–34,896; Paxar Woven Label, Paterson, NJ

TA–W–35,124; Twinstar Semiconductor, A Subsidiary of Texas Instruments, Richardson, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,183; Lincoln Brass Works, Inc., Waynesboro Div., Waynesboro, TN

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–34,991; Sappi Fine Papers North America, Westbrook, ME; September 9, 1997.

TA–W–35,196; Monarch Machine Tool Co., Cortland, NY; October 28, 1997.

TA–W–35,166; Leybold Vacuum Products, Inc., Export, PA; October 14, 1997.

TA–W–35,986, TA–W–34,987, TA–W–34,988; Russell Corp., Slocomb, AL, Midland, GA and Marianna, FL; August 25, 1997.

TA–W–35,070; CTS of Bentonville, Bentonville, AR: September 30, 1997.

TA–W–35,182; PL Subsidiary, Inc., PL Garment Finishers, Dublin, GA: October 21, 1997.

TA–W–35,245 & A; PL Industries, Inc., Puerto Rico Operations, Mayaguez, PR and Las Marias, PR: October 21, 1997.

TA–W–35,046; Gates Power Drive Products, Inc., Dothan, AL: September 18, 1997.

TA–W–35,336; Omak Wood Products, Omak, WA: November 30, 1997.

TA–W–35,016; Fasco (Formerly Eaton Technologies, Inc), DC Motors Div., Parsons, TN: September 12, 1997.

TA–W–35,307; Garment Finishers International, El Paso, TX: November 19, 1997.

TA–W–35,029 & A; Ouitman Manufacturing Co., Ouitman GA and Barwick Manufacturing Co., Barwick, GA: September 15, 1997.

TA–W–35,338; Wundies, Inc., Williamsport, PA: July 4, 1998.

TA–W–35,214; Owens-Brigam Medical Co., Newland, NC: November 2, 1997.

TA–W–35,232; Romart, Inc., Scranton, PA: November 4, 1997.

TA–W–35,300; ASARCO, Inc., Omaha, NE: September 7, 1998.

TA–W–35,094; Dash America d/b/a Pearl Izumi, Broomfield Plant, Broomfield, CO: September 30, 1997.

TA–W–35,261; Crane Valves Machine Shop, Rogers, AR: November 10, 1997.

TA–W–35,138; Curry Grain Co., Glenns Ferry, ID: October 9, 1997.

TA–W–35,130; Beloit Corp., Dalton, MA: October 5, 1997.

TA–W–35,240; Siemens Energy and Automation Industries Products

Div., NEMA Motors, Little Rock, AR: September 10, 1998.

TA–W–35,140; Georgia Pacific, Lebonite Hardboard Div., Lebanon, OR: October 13, 1997.

TA–W–35,174; Northwestern Steel and Wire Co., Sterling IL: October 20, 1997.

TA–W–35,882; B & B Corp., Miami Lakes, FL: August 11, 1997.

TA–W–35,015; Marcelle's Fashions, Inc., El Paso, TX: September 14, 1997.

TA–W–35,017; ABD, Inc., North Bergen, NJ: August 28, 1997: August 28, 1997.

TA–W–35,165; L and D Ladies' Bottom, Inc., Brooklyn, NY: October 13, 1997.

TA–W–35,135; Computalog Wireline Services, Haps, KS: October 9, 1997.

TA–W–35,895 & A; Loredo/Code West Boot Div. A Div. Of The Genesco Corp., Nashville, TN and Waynesboro, TN: July 30, 1997.

TA–W–35,195; Bulk-Pack, Inc., Denison, TX: October 20, 1997.

TA–W–35,125; Pool Co Headquartered in Houston, TX and Operating in the Following States; A; TX, B OK, C; NM, D; MT, E; ND: October 10, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.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 as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of December, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in ports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02558; Show Me Jacket Manufacturing, California, MO

NAFTA–TAA–02722; Dan River, Inc., Spindale Plant, Spindale, NC

NAFTA–TAA–02733; Saldan Bindery, Inc., Brooklyn, NY

NAFTA–TAA–02620; Windfall Products, Inc., St. Mary's, PA

NAFTA–TAA–02711; United States Leather, Inc., A.L. Gebhardt Div., Bruce Street Split Tannery, Milwaukee, WI

NAFTA–TAA–02700; Lincoln Brass Works, Inc., Waynesboro Div., Waynesboro, TN

NAFTA–TAA–02693; Sprague Purtsman, Inc., Div. of Dana/Echlin Automotive Group, Traverse City, MI

NAFTA–TAA–02757; Wundies, Inc., Williamsport, PA

NAFTA–TAA–02638; Martech Medical Products, Inc., Harleysville, PA

NAFTA–TAA–02644; Fabcare, Inc., Pickwick Dam, TN

NAFTA–TAA–02631; Preferred Electronics, CPH Preferred Holding Corp., Somersville, CT

NAFTA–TAA–02653; Litton Industries, Inc., Electro-Optical Systems Div., Applied Optics Center, Dallas, TX

NAFTA–TAA–02647; Chicago Rawhide SKF USA, Gastonia, NC

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NONE

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02775; Magnetek, Motor and Generator Group, Prairie Grove, AR: December 7, 1997.

NAFTA–TAA–02576; Crown Pacific, Bonners Ferry Div., Bonners Ferry, ID: August 15, 1997.

NAFTA–TAA–02709; Clar-Mar, Inc., Cherryville, NC: October 27, 1997.

NAFTA–TAA–02710: Bulk-Pack, Inc., Denison, TX: October 20, 1997.

NAFTA–TAA–02738 & A; Talon, Inc., Div. Of Coats North America, Stanley, NC and Lake City, SC: November 16, 1997.

NAFTA–TAA–02674; Fasco (Formerly Eaton Technologies, Inc)., DC Motors Div., Parsons, TN: October 20, 1997.

NAFTA–TAA–02702; Cordis Corp., A Johnson and Johnson Co., Miami Lakes, FL: October 23, 1997.

NAFTA–TAA–02752; ASARCO, Inc., Omaha, NE: June 14, 1998.

NAFTA–TAA–02701, A & B; PL Subsidiary, Inc., PL Garment Finishers, Dublin, GA and PL Industries, Inc., Puerto Rico Operations Located in Mayaguez, PR and Las Marias, PR: October 26, 1997.

NAFTA–TAA–02743; Crane Valves, Machine Shop, Roger, AR: November 10, 1997.

NAFTA–TAA–02676; Curry Grain Co., Glenns Ferry, ID: October 9, 1997.

NAFTA–TAA–02732; Siemens Energy and Automation, Industrial Products Div.—NEMA Motors, Little Rock, AR: February 1, 1999.

NAFTA–TAA–02729; Belden Wire & Cable Co., Franklin, NC: November 4, 1997.

NAFTA–TAA–02719; Quickie Manufacturing Corp & Assembly Services, Inc., El Paso, TX: October 21, 1997.

NAFTA–TAA–02731; Anvil Knitwear, Mullins, SC: November 9, 1997.

NAFTA–TAA–02756; Anvil Knitwear, Whiteville, NC: November 20, 1997.

NAFTA–TAA–02721; Champion Products, Inc., Dunn, NC: November 4, 1997.

I hereby certify that the aforementioned determinations were issued during the month of December, 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 16, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–34013 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–30–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 98–12A]

Promotion of Distance Education Through Digital Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The Copyright Office is preparing recommendations for Congress, in accordance with Section 403 of the Digital Millennium Copyright Act, on the promotion of distance education through digital technologies. This notice requests written comments from all interested parties, including representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, in order to elicit views and information to assist the Office in its analysis of the relevant issues preparatory to making its report and recommendations. This notice also announces the schedule for, and invites participation in, a series of three public hearings to be held in Washington, DC, Los Angeles, California and Chicago, Illinois.

DATES: Written comments must be received in the Copyright Office on or before 5 p.m. E.S.T. on February 5, 1999. Interested parties may submit written reply comments in direct response to the written comments or the oral testimony offered at the hearings. Reply comments will become part of the record if received on or before 5:00 p.m. E.S.T. on February 24, 1999.

See **SUPPLEMENTARY INFORMATION** for hearing dates and additional submission deadlines.

ADDRESSES: All submissions should be addressed to Sayuri Rajapakse, Attorney-Advisor, Office of Policy and International Affairs. Those sent by regular mail should sent to the U.S. Copyright Office, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Submissions delivered by hand should be brought to the Office of Policy and International Affairs, Office of the Register, James Madison Memorial Building, Room LM–403, 101 Independence Avenue, Southeast, Washington, D.C. Submissions by telefax should be made to (202) 707–8366. Submissions by electronic mail should be made to ''disted@loc.gov''; see **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

See **SUPPLEMENTARY INFORMATION** for hearing addresses.

FOR FURTHER INFORMATION CONTACT: Shira Perlmutter, Associate Register for Policy and International Affairs, or Sayuri Rajapakse, Attorney-Advisor, Office of Policy and International Affairs. Telephone: (202) 707–8350. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Written Comments

The Copyright Office will be placing all comments and reply comments on its Website (http://lcweb.loc.gov/copyright/disted/). Comments and reply comments should be sent, therefore, in one of the following formats:

If by regular mail or hand delivery: Send, to the appropriate address listed above, two copies, each on a 3.5-inch write-protected diskette, labeled with the name of the person making the submission, his or her title and organization. The document itself must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect Version 7 or earlier. The file name must be no longer than eight characters with a three-character extension.

If by electronic mail: Send to ''disted@loc.gov'' a message containing the name of the person making the submission, his or her title, organization, mailing address, telephone number, telefax number and e-mail address. The message should also identify the document clearly as either a comment or reply comment. The document itself must be sent as a MIME attachment, and must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect 7 or earlier. The file name must be no longer than eight characters with a three-character extension.

Anyone who is unable to submit a comment in electronic form should submit ten paper copies by hand or by mail to the appropriate address listed above.

All written comments should contain the name of the person making the submission, his or her title, organization, mailing address, telephone number, telefax number and e-mail address.

Public Hearings

The Copyright Office will hold three public hearings.

The first hearing will be held in Washington, DC, on January 26 and 27, 1999, beginning at 9 a.m. E.S.T. on both days, at the Postal Rate Commission, third floor Hearing Room, 1333 H St., Northwest, Washington, DC. This hearing will be preceded, on January 25, 1999 from 2 p.m. to 5 p.m., E.S.T. by a demonstration of distance education programs using digital technologies in the Automation Orientation Center, LM G–45, James Madison Building, Library of Congress, Washington, DC.

The second will be held in Los Angeles on February 10, 1999, beginning at 9 a.m. P.S.T., at the University of California at Los Angeles (UCLA), James West Alumni Center Conference Room, 325 Westwood Plaza, Los Angeles, California.

The third will be held in Chicago on February 12, 1999, beginning at 9:30 a.m. C.S.T., at the University of Illinois at Chicago, College of Medicine, Room 423, 1853 West Polk St., Chicago, Illinois.

Anyone desiring to testify at one of the hearings should submit a written request by hand delivery or telefax which should be received no later than 5 p.m. E.S.T. on January 12, 1999. All requests to testify should identify clearly the hearing to which reference is made and the individual or group desiring to appear. The Copyright Office will notify all witnesses of the date and expected time of their appearance, and the maximum time allowed for their testimony.

Anyone desiring to testify at one of the hearings must also submit a summary of their testimony, so designated. The summary may be delivered by hand or sent by telefax, electronic mail or regular mail. It must be received by 5 p.m. E.S.T. at least 10 days prior to the date of the hearing at which the testimony will be presented. Ten copies of the summary are required if delivered by hand or sent by regular mail.

Background

On October 28, 1998, H.R. 2281, the Digital Millennium Copyright Act, was enacted into law (Pub. L. 105–304, 112 Stat. 2860). Section 403 requires that the Copyright Office consult with representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, and thereafter to submit to Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the interests of users. Such recommendations may include legislative changes.

The statute instructs the Register of Copyrights to consider:

(1) The need for an exemption from exclusive rights of copyright owners for distance education through digital networks;

(2) The categories of works to be included under any distance education exemption;

(3) The extent of appropriate quantitative limitations on the portions of works that may be used under any distance education exemption;

(4) The parties who should be entitled to the benefits of any distance education exemption;

(5) The parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) Whether and what types of technological measures can or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition of eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2) of title 17, United States Code;

(7) The extent to which the availability of licenses for the use of copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) Such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

In accordance with its mandate, on November 16, 1998, the Copyright Office published a Notice of Request for Information in the **Federal Register** asking for the identification of parties interested in the promotion of distance education through digital technologies and of the issues with which those parties were concerned. 63 FR 63749 (Nov. 16, 1998). Although December 7, 1998 was fixed as the deadline for receipt of communications from interested parties, due in part to the large volume of late responses, the Office continued to accept materials for consideration and inclusion in the public record until December 14, 1998. By that date, 175 responses were received. The Office is in the process of reviewing all received materials.

Specific Questions

The Office seeks comment on the following specific questions. Parties need not address all questions, but are encouraged to respond to those as to which they have particular knowledge or information.

1. *Nature of Distance Education*

(a) How may distance education be defined? In what sense does it differ from traditional face-to-face education? To what extent does it utilize digital technologies? In what sense does it differ from the general use of electronic communications in educational settings?

(b) What is the nature of the distance education programs using digital technologies that are currently available, or in development? Do they involve students using the Internet as a resource, communicating with teachers by e-mail, communicating with class members in chat rooms, or participating in classes conducted by teleconferencing? To what extent are they interactive? To what extent are they asynchronous? To what extent are copies made or kept, and by whom?

(c) Are course materials made available in electronic form? To whom are they made available? What restrictions are imposed on their access, use, modification or retention?

(d) How are such programs funded? What proportion of the entities who develop or offer them are nonprofit? What types of fees are charged to students? Are the programs intended to, and do they, generate a profit?

(e) What proportion of such programs are accredited? By whom are they accredited?

(f) Who are the recipients of such programs? What communities are served? Are students primarily located in any particular geographic communities (e.g., urban or rural)? Are there particular criteria for enrolling in or otherwise gaining access to the programs? How many students participate in a program at a time? Are the programs made available to students in other countries?

(g) At what level are such programs offered? Are they offered at the level of elementary school, high school, college, graduate school, or adult education? Are courses offered for credit, and as part of degree programs?

(h) To what extent is new content created for such programs, and by whom? To what extent is pre-existing content used, and of what type (e.g., motion pictures, music, sound recordings, computer programs, books)? How is it used, and in what amounts?

(i) Are there institutional policies in place with regard to the creation and use of such programs? Is any instruction provided to students or teachers in connection with such programs regarding copyright law, or regarding the giving of attribution or credit?

2. *Role of Licensing*

(a) Where pre-existing content is used in distance education programs using digital technologies, to what extent do the persons or entities involved obtain permission for the use of that content? Is this accomplished by direct contact with the copyright owner, or in some other way? To what extent do the parties enter into negotiated licenses, or use form contracts?

(b) To what extent do the persons or entities providing such programs rely on defenses available under the copyright law in choosing not to obtain a license (e.g., fair use, section 110(2), or the doctrine of implied license)? To what extent do they use public domain material, and if so, of what type?

(c) Have there been difficulties in obtaining licenses? If so, for what reason(s)? Are the difficulties different in nature or degree than for other types of uses, including traditional education and including multimedia uses generally?

(d) To what extent can technology be used now or in the future to ameliorate any difficulties in licensing? Can it serve to facilitate the identification of rights holders, the clearance of rights and the process of obtaining licenses, including price differentiation based on such attributes as the user's purpose, need, institutional affiliation, or ability to pay?

(e) What other options exist for making the permissions process easier? How likely is the development of collective or blanket licensing, or ''one-stop shops,'' and within what time frame?

3. *Use of Technology*

(a) What technologies are used to prepare and disseminate digital distance education programs? Are these technologies specifically developed or produced for the distance education programs, or are they generally commercially available?

(b) What technologies are available to protect the security of digital distance education programs? In particular, are there technologies in use or under development that can prevent the unauthorized reception, use, or retention of copyrighted materials incorporated into such programs, or that can authenticate materials or protect their integrity? What is the time frame for the availability of such technologies? What parties or entities are developing them, and what type of costs are involved in implementing them?

4. *Application of Copyright Law to Distance Education*

(a) Is existing law adequate in addressing current and anticipated forms of distance education using digital technology? If not, in what ways is it inadequate? Are there reasons why digital transmissions should be treated differently from education through broadcasting or closed circuit technologies, or in a traditional classroom?

(b) Is it preferable to deal with the copyright issues raised by digital distance education through specific exemptions like section 110(2) or

through a flexible balancing approach like fair use? What role should be played by voluntary guidelines such as the Fair Use Guidelines for Educational Multimedia (sometimes referred to as the Consortium of College and University Media Centers (CCUMC) guidelines)?

(c) If a new or amended exemption or exemptions for distance education were to be adopted:

- Which section 106 rights should or should not be covered?
- What categories of works should or should not be covered?
- To what extent should there be quantitative limitations on the portions of a work that can be used?
- Who should be entitled to the benefits of such an exemption? Accredited or nonprofit institutions only?
- How should the class of eligible recipients be defined?
- Should such an exemption be limited to nonprofit distance education activities?
- Should the use of technological measures to protect against unauthorized access to, and use or retention of, copyrighted materials be required? If so, what types of measures?
- To what extent should the availability of licenses for the use of copyrighted works be considered in assessing eligibility?
- Should there be limitations on student copying or retention of the copyrighted materials?
- Should the provision of electronic reserves be included?
- Should the provision of any information about copyright law be required as a condition for eligibility?
- Are there other factors that should be taken into account?

(d) What would be the economic impact of such an exemption, including the impact on the actual or potential markets of copyright owners of different types of works?

(e) What would be the international implications of such an exemption? Would it be consistent with U.S. treaty obligations?

Dated: December 18, 1998.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 98–34010 Filed 12–22–98; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Conference Calls.

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming conference calls for NCD's advisory committees—International Watch and Technology Watch. Notice of this meeting is required under Section 10 (a)(1)(2) of the Federal Advisory Committee Act (P.L. 92–463).

INTERNATIONAL WATCH: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's International Committee on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

DATE: January 20, 1999, 12:00 noon-1:00 p.m. est.

FOR INTERNATIONAL WATCH INFORMATION, CONTACT: Lois T. Keck, Ph.D., Research Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), lkeck@ncd.gov (e-mail).

TECHNOLOGY WATCH: NCD's Technology Watch (Tech Watch) is a community-based, cross-disability consumer task force on technology. Tech Watch provides information to NCD on issues relating to emerging legislation on technology and helps monitor compliance with civil rights legislation, such as Section 508 of the Rehabilitation Act of 1973, as amended.

DATE: January 15, 1998, 1:15 p.m.-3:15 p.m. est.

FOR TECHNOLOGY WATCH INFORMATION, CONTACT: Jamal Mazrui, Program Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), jmazrui@ncd.gov (e-mail).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

These committees are necessary to provide advice and recommendations to NCD on international disability issues and technology accessibility for people with disabilities.

We currently have balanced membership representing a variety of disabling conditions form across the United States.

Open Conference Calls

These advisory committee conference calls of the National Council on Disability will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference calls at the NCD office. Those interested in joining these conference calls should contact the appropriate staff member listed above.

Records will be kept of all International Watch and Tech Watch conference calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on December 16, 1998.

Ethel D. Briggs,

Executive Director.

[FR Doc. 98–33999 Filed 12–22–98; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission, Indian Gambling Subcommittee.

ACTION: Notice of public meeting.

DATES: Thursday, January 7, 1999, 9:00 a.m. to 5:30 p.m. (PST).

ADDRESSES: The meeting site will be: Doubletree Hotel Seattle Airport, 18740 Pacific Highway South, Seattle, WA 98188, (206) 246–8600.

STATUS: The meeting is open to the public. However, seating may be limited. Members of the public wishing to attend are kindly requested to contact Dr. Kate Spilde at (202) 523–8217 to make arrangements.

SUMMARY: At the January 7 meeting of the Indian Gambling Subcommittee of the National Gambling Impact Study Commission, established under Public Law 104–169, dated August 3, 1996, the Members of the Subcommittee will hear testimony on Indian gambling issues as well as discuss the drafting of a subcommittee report to the full Commission.

CONTACT PERSONS: For further information on the agenda, meeting location or other matters contact Dr. Kate Spilde at (202) 523–8217 or write to 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002.

SUPPLEMENTAL INFORMATION: Written comments can be sent to the Commission at any time at 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002. Visit the Commission's Web site at *www.ngisc.gov*.

Tim Bidwill,

Special Assistant to the Chairman.

[FR Doc. 98–33907 Filed 12–22–98; 8:45 am]

BILLING CODE 6802–ET–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final annual fee rates of 0.00% for tier 1 and 0.08% (.0008) for tier 2 for calendar year 1998. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission.

FOR FURTHER INFORMATION CONTACT: Cindy Altimus, National Indian Gaming Commission, 1441 L Street , NW, Suite 9100, Washington, DC 20005; telephone 202/632/7003; fax 202/632/7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMAITON: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is self-administered by the gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the rates being finalized today are effective for calendar year 1998.

Montie R. Deer,

Chairman.

[FR Doc. 98–33904 Filed 12–22–98; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement submitted:

1. *The title of the information collection:* General Assignment.
2. *Current OMB approval number:* NRC Form 450.
3. *How often the collection is required:* Once during the closeout process.
4. *Who is required or asked to report:* Contractors, Grantees, and Cooperators.
5. *The number of annual respondents:* 150.
6. *The number of hours needed annually to complete the requirement or request:* 300 hours (2 hours per response).
7. *Abstract:* During the contract closeout process, the NRC requires the contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contractor performance.

Submit, by February 22, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L. Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 17th day of December 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–34002 Filed 12–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 100, ''Reactor Site Criteria''.
2. *Current OMB approval number:* 3150–0093.
3. *How often the collection is required:* As necessary in order for NRC to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power and test reactors constructed and licensed in accordance with 10 CFR Parts 50 or 52 and the Atomic Energy Act of 1954, as amended.
4. *Who is required or asked to report:* Applicants and licensees for nuclear power and test reactors.
5. *The number of annual respondents:* 1.
6. *The number of hours needed annually to complete the requirement or request:* 5,000.
7. *Abstract:* 10 CFR Part 100, ''Reactor Site Criteria,'' establishes approval requirements for proposed sites for the

purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR Parts 50 or 52. These reactors are required to be sited, designed, constructed, and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. NRC uses the information required by 10 CFR Part 100 to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power and test reactors.

Submit, by February 22, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 17th day of December 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–34003 Filed 12–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Licensing Support System Advisory Review Panel

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of renewal and amendment of the charter of the Licensing Support Network Advisory Review Panel (LSNARP).

SUMMARY: The Licensing Support System Advisory Review Panel was established by the U.S. Nuclear Regulatory Commission as a Federal Advisory Committee in 1989. Its purpose was to provide advice to (1) the Department of Energy (DOE) on the fundamental issues of design and development of an electronic information management system to be used to store and retrieve documents relating to the licensing of a geologic repository for the disposal of high-level radioactive waste, and (2) the Nuclear Regulatory Commission on the operation and maintenance of the system. This electronic information management system was known as the Licensing Support System (LSS). On November 24, 1998 the Commission approved amendments to 10 CFR Part 2 (SECY–98–237) to provide for a Network based electronic information management system. These amendments will be published shortly. The changes to 10 CFR Part 2 require that the Licensing Support System Advisory Review Panel be renamed as the Licensing Support Network Advisory Review Panel and that the Charter be amended to reflect other changes made to the rule.

Membership on the Panel continues to be drawn from those interests that will be affected by the use of the LSN, including the Department of Energy, the NRC, the State of Nevada, the National Congress of American Indians, affected units of local governments in Nevada, the Nevada Nuclear Waste Task Force, and a coalition of nuclear industry groups. Federal agencies with expertise and experience in electronic information management systems may also participate on the Panel.

The Nuclear Regulatory Commission has determined that renewal of the charter for the LSNARP until December 19, 2000 is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act after consultation with the Committee Management Secretariat, General Services Administration.

FOR FURTHER INFORMATION CONTACT: Andrew L. Bates, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: Telephone 301–504–1963.

Dated: December 17, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–34004 Filed 12–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on January 21, 1999, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, January 21, 1999—1:00 p.m. until the conclusion of business

The Subcommittee will continue its review of proposed options to make 10 CFR 50.59 (Changes, Tests and Experiments) risk-informed, and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff,

and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: December 16, 1998.

Medhat El-Zeftawy,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 98–34005 Filed 12–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Issuance, Availability; NUREG–1307, Revision 8

The Nuclear Regulatory Commission has issued Revision 8 to NUREG–1307, ''Report on Waste Burial Charges.'' This NUREG will assist nuclear power reactor licensees in annually adjusting their decommissioning cost estimates as part of the financial assurance requirements that are specified in 10 CFR 50.75, ''Reporting and recordkeeping for decommissioning planning.'' Revision 8 of NUREG–1307 provides the current waste disposal decommissioning cost adjustment factors for the Washington and South Carolina disposal sites. These factors should be used by licensees in the decommissioning cost estimating formula, specified in 10 CFR 50.75(c)(2), to determine the minimum decommissioning cost for which they are responsible.

Rapidly increasing fees for disposal of low-level radioactive waste has made the reactor waste disposal costs a significant contributor to the cost of decommissioning a nuclear power reactor. This report provides licensees with options to use in annually adjusting the decommissioning cost estimate of their nuclear power reactors. It is based on the most current information available at time of publication.

Licensees now have the option of using waste processing vendors for the disposal of most of their decommissioning waste. Power reactor licensees now routinely use waste processing vendors for a major portion of their decommissioning waste disposals.

Copies of NUREG–1307, Revision 8, are available at current rates from the U.S. Government Printing Office, P.O. Box 37082. Washington, DC 20402–9328 (telephone (202) 512–1800); or from the National Technical Information Service by writing NTIS at 5285 Port Royal Road, Springfield, Va 22161. Copies are available for inspection or copying for a fee from the NRC Public Document Room, at 2120 L Street NW., Washington, DC; the PDR's mailing address is Mail Stop LL–6, Washington, DC 20555; telephone (202) 634–3273; fax (202) 634–3343. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of December, 1998.

For the Nuclear Regulatory Commission.

John W. Craig,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–34001 Filed 12–22–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23606; 812–11136]

CIGNA Funds Group et al.; Notice of Application

December 17, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to invest excess cash in affiliated money market funds and/or short-term bond funds.

APPLICANTS: CIGNA Funds Group, CIGNA Institutional Funds Group, CIGNA High Income Shares, CIGNA Variable Products Group and INA Investment Securities, Inc. (collectively, the ''funds''), and CIGNA Investments, Inc. (the ''Adviser'').

FILING DATES: The application was filed on May 8, 1998 and amended on October 26, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 11, 1999 and should be accompanied by proof of service on the applicants in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, Applicants, c/o Jeffrey S. Winer, Esq., CIGNA Investments, Inc., *et al.*, 900 Cottage Grove Road, Hartford, CT 06252.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (telephone (202) 942–8090).

Applicants' Representations

1. The Funds, organized as Massachusetts business trusts with the exception of INA Securities, Inc. which is a Delaware corporation, are registered under the Act as management investment companies.[1] The Adviser, a Delaware corporation and a wholly-owned subsidiary of CIGNA Corporation, is registered under the Investment Advisers Act of 1940 and is the investment adviser for the Funds. Applicants also request relief for any other registered management investment company or series thereof that is currently, or in the future becomes, advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser (the ''Adviser Control Group'').[2]

[1] CIGNA Funds Group, CIGNA Institutional Funds Group and CIGNA Variable Products Group are open-end management investment companies and CIGNA High Income Shares and INA Investment Securities, Inc. are closed-end management investment companies.

[2] All investment companies that currently intend to rely on the order have been named as applicants. Any other existing or future registered management investment company that relies on the order will comply with the terms and conditions of the application.

2. Each participating Fund has, or may be expected to have, uninvested cash (''Uninvested Cash'') held by its custodian. The Uninvested Cash results from a variety of sources, including dividend payments, interest received from portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, and new investor capital. Currently, the Funds can invest Uninvested Cash directly in money market instruments or other short-term obligations.

3. Applicants request relief to permit Funds that are not money market funds (''Participating Funds'') to use Uninvested Cash to purchase shares of one or more of the Funds that are money market funds and/or short-term bond funds (''Central Funds''), and the Central Funds to sell to and purchase shares from the Participating Funds (the ''Proposed Transactions''). Central Funds that are money market funds will seek to maintain a stable net asset value and will be subject to rule 2a–7 under the Act. Central Funds that are short-term bond funds will seek current income consistent with the preservation of capital by investing in fixed-income securities while maintaining a dollar-weighted average maturity of three years or less. Investment in a Central Fund that is a short-term bond fund would be available only to Participating Funds for which a direct investment in short-term bonds would be consistent with their investment objectives, policies and restrictions. Applicants believe that the Proposed Transactions will reduce transaction costs, promote liquidity, increase returns on Uninvested Cash, and enhance diversification of holdings.

Applicant's Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represented more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person or transaction from any provision of section 12(d)(1), if and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) of the Act from the limitations of section 12(d)(1)(A) and (B) to permit the Funds to engage in the Proposed Transactions, provided, however, that a Participating Fund's aggregate investment of Uninvested Cash in Central Fund will not exceed 25% of the Participating Fund's total assets at any time.

3. Applications believe that the Proposed Transactions do not raise any of the perceived abuses that sections 12(d)(1)(A) and (B) were designed to address. Applicants state that each of the Central Funds will be managed specifically to maintain a highly liquid portfolio, and access to them will enhance each Participating Fund's ability to manage Uninvested Cash. Applicants also submit that the Proposed Transactions will not result in an inappropriate layering of fees because no sales load, redemption fee, asset-based distribution fee, or service fee will be charged in connection with the purchase and sale of shares of the Central Funds. In addition, applicants state that the Adviser will waive, or credit, its advisory fee for each Participating Fund in an amount that offsets the amount of advisory fees of the Central Fund incurred by the Participating Fund. Applicants also state that the Proposed Transactions will not result in a complex structure because no Central Fund will acquire securities of any other investment company in excess of the limitations of section 12(d)(1)(A).

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that the Funds have a common investment adviser and a common board of trustees. Thus, each Fund may be an affiliated person, or an affiliated person of an affiliated person, of another Fund. In addition, applicants state that a Participating Fund may become an affiliated person of a Central Fund by owning more than 5% of the outstanding voting securities of the Central Fund. Accordingly, applicants state that the sale of Central Fund shares to the Participating Fund, and the redemption of such shares by the Central Funds, may be prohibited under section 17(a) of the Act.

5. Section 17(b) of the Act provides that the Commission shall exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act.

6. Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicants submit that the request for relief satisfies the standards of sections 17(b) and 6(c) of the Act. Applicants believe that the terms of the Proposed Transactions are fair and reasonable and would not involve overreaching because shares of the Central Funds will be sold and redeemed at their net asset values. In addition, the Participating Funds will retain their ability to invest their cash balances directly in money market instruments if they believe that they can obtain a higher rate of return or for any other reason. Applicants assert that any Central Fund may discontinue selling its shares to any of the Participating Funds if the board of trustees of the Central Fund determines that such sales would adversely affect the Central Fund's portfolio management and operations. Applicants also state that the investment by the Participating Funds in the Central Funds will be effected in accordance with the investment restrictions of the Participating Funds and will be consistent with each Participating Fund's policies as set forth in its registration statement.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint

enterprise or joint arrangement in which the investment company participates. Applicants state that the Funds, by participating in the Proposed Transactions, and the Adviser, by effecting the Proposed Transactions, could be participants in a joint enterprise within the meaning of section 17(d)(1) of the Act and rule 17d–1 under the Act.

9. Rule 17d–1 under the Act permits the Commission to approve a joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants state that the Funds will participate in the Proposed Transactions on a basis not different from or less advantageous than that of any other participant and that the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The shares of the Central Funds sold to and redeemed by the Participating Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD's Conduct Rules).

2. The Adviser will waive or credit the amount of its advisory fee for each Participating Fund in an amount that offsets the amount of the advisory fees of the Central Fund incurred by the Participating Fund.

3. Each of the Participating Funds will invest Univested Cash in, and hold shares of, the Central Funds only to the extent that the Participating Fund's aggregate investment in the Central Funds does not exceed 25% of the Participating Fund's total assets. For purposes of this limitation, each Participating Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Central Funds will be in accordance with each Participating Fund's respective investment restricitons and will be consistent with each Participating Fund's policies as set forth in its prospectuses and statements of additional information.

5. Each Participating fund, Central Fund, and any future Fund that may rely on the requested order will be advised by the Adviser Control Group.

6. No Central Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33980 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40796; File No. SR–OPRA–98–04]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising Certain of its Subscriber Fees Relating to Information About Foreign Currency Options

December 15, 1998.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on December 7, 1998, the Options Price Reporting Authority (''OPRA''),[1] submitted to the Securities and Exchange Commission (''SEC'') or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment revises certain of the fees payable to OPRA by subscribers for access to OPRA's Foreign Currency Option (''FCO'') Service. OPRA has designated this proposal as concerned solely with establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(i) under the Exchange Act.[2] The Commission is publishing this notice to solicit comments from interested persons on the proposed amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise the fees payable to OPRA by subscribers for access to OPRA's FCO Service, which consists of market data and related information pertaining to foreign currency options.[3] Currently, the FCO subscriber fee is a tiered, device-based fee in the amount of $3.00 per device for single device subscribers, $2.50 per device for subscribers having from two to nine devices, $2.00 per device for subscribers having from 10 to 749 devices, and $1.50 per device for subscribers having 750 or more devices. OPRA is proposing to increase each of these fees by the amount of $0.25 per device, so that fees for each of the above four tiers will be $3.25, $2.75, $2.25, and $1.75, respectively. This proposal represents the first increase in the FCO subscriber fee since OPRA's separate FCO Service was introduced in 1996. OPRA estimates that this proposal will increase revenues derived from the FCO subscriber free by approximately 7.4%.

OPRA is proposing to increase its FCO subscriber fee in response to past and scheduled future increases in the costs of collecting, processing, consolidating and disseminating foreign currency options last sale and bid/ask information. This, in turn, reflects the continued enhancement and enlargement of systems and equipment necessary to provide the greater capacity and enhanced reliability and security of the OPRA system occasioned by the continuing expansion of the listed options business. Even though the FCO business itself has not expanded, OPRA's FCO service is required to bear a portion of the higher costs occasioned by these enhancements to the OPRA system, and therefore must collect additional revenues to cover these higher costs.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3),[4] because the amendment is concerned solely with changing fees charged on behalf of OPRA, the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require

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[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11A3–2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange (''AMEX''); the Chicago Board Options Exchange (''CBOE''); the New York Stock Exchange (''NYSE''); the Pacific Exchange (''PCX''); and the Philadelphia Stock Exchange (''PHLX'').

[2] 17 CFR 240.11Aa3–2(c)(3)(i).

[3] Proposed revisions to certain fees for access to information pertaining to equity and index options provided through OPRA's Basic Service are the subject of a separate filing. *See* Securities Exchange Act Release No. 40791 (December 15, 1998) File No. SR–OPRA–98–03.

[4] 17 CFR 240.11Aa3–2.

refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2),[5] if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC, 20549. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–98–04 and should be submitted by January 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33912 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 240.11Aa3–2(c)(2).

[6] 17 CFR 200.30–3(a)(29).

SECURITIES EXCHANGE COMMISSION

[Release No. 34–40730A; File No. SR–CHX–98–26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Stock Exchange, Inc. Relating to Listing Standards of Equity Linked Debt Securities

Correction

December 16, 1998.

In FR Document 98–32664, beginning on page 67958 for Wednesday, December 9, 1998, on page 67962 in the first sentence of the first paragraph in Column 2 was incorrectly stated. The sentence should read as follows:

''*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–CHX–98–26) is approved.''

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33913 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40799; File No. SR–NSCC–98–07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Expanding the Annuities Processing Service

December 16, 1998.

On June 24, 1998, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–NSCC–98–07) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on October 19, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On September 19, 1997, the Commission approved NSCC's rule filing establishing APS.[3] APS provides a centralized communication link that connects participating insurance carriers with their multiple distribution channels, including broker-dealers, banks, and the broker-dealers' or banks' affiliated insurance agencies where appropriate (collectively, ''distributors''). Phase one of APS provides NSCC's participants with the ability to send and receive daily information regarding annuity contract positions, the value of each contract's underlying assets, and settlement of commission monies.[4]

The proposed rule change implements phase two of APS. Phase two provides distributors with the ability to transmit to insurance carriers information concerning annuity applications and subsequent premium payments and to settle initial and subsequent premiums through NSCC's money settlement process. Distributors will submit application information to NSCC, and NSCC will forward the application information to the insurance carrier designated as recipient by the distributor.

The subsequent premium component allows distributors to transmit to insurance carriers information related to subsequent premium payments made by annuity contract owners. Distributors will submit subsequent premium information to NSCC, and NSCC will forward the subsequent premium information to the insurance carrier designated as recipient by the distributor.

The proposed rule change provides that a distributor that has submitted application information or subsequent premium information to NSCC may also include data with respect to the annuity contract owner's initial premium payment or subsequent premium payment. If the information regarding the initial or subsequent premium payment is included with the application information or subsequent premium information, distributors and carriers will settle these payments through NSCC's money settlement system.

Distributors initiate initial and subsequent premium payment settlement by submitting instructions to NSCC. All initial and subsequent premium payments submitted on a business day prior to that day's cutoff time (2:00 pm Eastern time) will settle on that day. Payments submitted on a business day after the cutoff time will settle on the next business day. Distributors have the ability to cancel a

[23] 15 U.S.C. 78s(b)(2).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40540 (October 9, 1998), 63 FR 55910.

[3] Securities Exchange Act Release No. 39096 (September 19, 1997), 62 FR 50416 [order approving the establishment of APS and the implementation of phase one of APS].

[4] *Id.*

previously submitted transaction on a business day as long as the cancel instruction is initiated prior to 2:00 pm Eastern time.

If a distributor submits an instruction to NSCC to withdraw application information and an initial premium payment had been submitted with that application information, then NSCC will not settle the initial premium payment. A distributor does not have the ability to cancel a subsequent premium payment that has been included with previously submitted subsequent premium information.

Phase two will also enable insurance carriers to transmit to distributors information and details about transactions and events that have occurred with respect to existing annuity contracts. An example of a transaction that may occur with respect to an existing annuity contract is a contract owner initiated transfer of underlying annuity contract assets from one subaccount to another subaccount. An example of an event is a dividend declared by an underlying fund. Distributors often use such financial information for the monthly account statements they send to their customers.

The proposed rule change provides that if the application information submitted by a distributor to NSCC appears to contain the information required by NSCC but does not appear to contain the information required by the designated insurance carrier, NSCC will nevertheless transmit the application information to the designated insurance carrier but will not settle any initial premium payments submitted with such information. However, if the information contains four or more errors, NSCC will reject all of the submitted information and will not settle any initial premium payments submitted with such information.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[5] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission believes that NSCC's rule change meets this standard because the implementation of the second phase of APS should provide more centralized communications and settlement between insurance carriers and distributors and should provide for more efficient processing. Thus, the proposal promotes prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the forgoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–98–07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33981 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78q–1(b)(3)(F)(1988).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40797; File No. SR–NYSE–98–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Rule 80A

December 15, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on December 8, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE's Rule 80A. Below is the current text of Rule 80A which would be deleted under the proposed rule change and the proposed text of Rule 80A as it would read under the proposed rule change. Deletions are in brackets and additions are in italics.

[(a)(i) If, during any trading day, the price of the primary Standard and Poor's 500 Stock Price Index futures contract traded on the Chicago Mercantile Exchange (''S&P 500 futures'')* reaches a value 12 points below the S&P 500 future's closing value on the previous trading day (the ''trigger value''), for the next five minutes market orders involving program trading in each of the stocks underlying the S&P 500 futures entered into the Exchange's automated order-routing facilities shall be routed to a separate file for each such stock. Buy and sell orders for each stock will be paired in the file to determine the extent of the order imbalance, if any.

(ii) Five minutes after the price of the S&P 500 futures reaches the trigger value, the orders in the program trading file for each stock, and the order imbalance, if any, shall be reported to the specialist in the stock and the orders shall be eligible for execution; *provided, however*, that trading in a stock on the Exchange shall halt if there is not sufficient trading interest on the Exchange to allow for an orderly execution of a transaction in the stock.

(b) Whenever the price of the S&P 500 futures reaches the trigger value, no member or member organization shall enter any stop order or stop limit order for the remainder of the trading day except that a member or member organization may enter a stop order or a stop limit order of 2,099 shares or less for the account of an individual investor pursuant to instructions received directly from the individual investor.

(c) On any day when the Dow Jones Industrial Average** has advanced by 50 points or more from its closing value on the previous trading day, all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index must be entered with the instruction ''buy minus.'' If, on that day, the Dow Jones Industrial Average subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this requirement shall not apply. This principle shall govern the imposition and removal of the buy minus requirement as to all subsequent movements in the Dow Jones Industrial Average on that day. On any day when the Dow Jones Industrial Average has declined by 50 points or more from its closing value on the previous day, all index arbitrage orders to sell must be entered with the instruction ''sell plus.'' If, on that day, the Dow Jones Industrial Average subsequently reaches a value that is 25 points or less below the closing value on the previous trading day, this requirement shall not apply. This principle shall govern the imposition and removal of the sell plus requirement as to all subsequent movements in the Dow Jones Industrial

Average on that day. All orders containing the instruction buy minus or sell plus shall be executed as provided in Rule 13.

(d) On any day when the Dow Jones Industrial Average has advanced by 50 points or more from its closing value on the previous trading day, no transaction to buy a basket of stocks may be effected at a price which is equal to or greater than the aggregate Tier 1 offer (as defined in Rule 803(e)) or the cash equivalent. If, on that day, the Dow Jones Industrial Average subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this restriction regarding the purchase of a basket of stocks shall not apply. This principle shall govern the imposition and removal of the restriction regarding the purchase of a basket of stocks as to all subsequent movements in the Dow Jones Industrial Average on that day. On any day when the Dow Jones Industrial Average has declined by 50 points or more from its closing value on the previous trading day, no transaction to sell a basket of stocks may be affected at a price which is equal to or less than the aggregate Tier 1 bid (as defined in Rule 803(e)) or the cash equivalent. If, on that day, the Dow Jones Industrial Average subsequently reaches a value that is 25 points or less below the closing value on the previous trading day, this restriction regarding the sale of a basket of stocks shall not apply. This principle shall govern the imposition and removal of the restriction regarding the sale of a basket of stocks as to all subsequent movements in the Dow Jones Industrial Average on that day. For purposes of this paragraph (d), the term ''basket'' shall have the definition contained in Rule 800(b)(iii).

(e) For the purposes of this Rule 80A,

(i) ''program trading'' means either (A) index arbitrage or (B) any trading strategy involving the related purchase or sale of a ''basket'' or group of 15 or more stocks having a total market value of $1 million or more. Program trading includes the purchases or sales of stocks that are part of a coordinated trading strategy, even if the purchases or sales are neither entered or executed contemporaneously, nor part of a trading strategy involving options or futures contracts on an index stock group, or options on any such futures contracts, or otherwise relating to a stock market index;

(ii) ''index arbitrage'' means an arbitrage trading strategy involving the purchase or sale of a ''basket'' or group of stocks in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups, or options on any such futures contracts (collectively, ''derivative index products'') in an attempt to profit by the price difference between the ''basket'' or group of stocks and the derivative index products. While the purchase or sale of the stocks must be in conjunction with the purchase or sale of derivative index products, the transactions need not be executed contemporaneously to be considered index arbitrage; and

(iii) ''account of an individual investor'' means an account covered by Section 11(a)(1)(E) of the Securities Exchange Act of 1934.

(f) The provisions of paragraphs (a) and (b) of Rule 80A shall not apply during the last 35 minutes of a trading day.

(g) The provisions of paragraphs (c) and (d) of Rule 80A shall not apply to index arbitrage ''market-at-the-close'' orders in liquidation of previously established stock positions against derivative index products entered on the last business day prior to the expiration or settlement of such derivative index products. Such orders shall be entered pursuant to such procedures as the Exchange may from time to time prescribe.

Supplementary Material

.10 When determining the priority of bids and offers pursuant to Rule 72, the orders in the program trading file reported to the specialist pursuant to paragraph (c) shall be considered as entered on the Exchange at the time the orders are reported to the specialist.

.20 The reopening of trading following a trading halt shall be conducted pursuant to procedures adopted by the Exchange and communicated by notice to its members and member organizations.

.30 Nothing in this Rule 80A shall be construed to limit the ability of the Exchange to otherwise halt or suspend the trading in any stock or stocks pursuant to any other Exchange rule or policy.

* ''Standard & Poor's 500 Stock Price Index'' and ''S&P 500'' are service marks of Standard & Poor's Corporation.

** ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.]

(a) All index arbitrage orders to sell any component stock of the S&P 500 Stock Price Index℠ must be entered with the instruction ''sell plus'' on any trading day when the Dow Jones Industrial Average℠** (''DJIA'') declines below its closing value on the previous trading day by at least the ''two-percent value'' as calculated below. This index arbitrage order entry requirement shall remain in effect for the remainder of the trading day. However, the index arbitrage order entry requirement pursuant to this paragraph (a) shall be removed if the DJIA subsequently reaches a value below its closing value on the previous trading day that is a decline equal to the ''one-percent value'' or less as calculated below.*

(b) All index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index must be entered with the instruction ''buy minus'' on any trading day when the DJIA advances above its closing value on the previous trading day by at least the ''two-percent value'' as calculated below. This index arbitrage order entry requirement shall remain in effect for the remainder of the trading day. However, the index arbitrage order entry requirement pursuant to this paragraph (b) shall be removed if the DJIA subsequently reaches a value above its closing value on the previous trading day that is an advance equal to the ''one-percent value'' or less as calculated below.

(c) The principles in paragraphs (a) and (b) shall govern the imposition and removal of the index arbitrage order entry requirements as to all subsequent movements in the DJIA on that day.

Supplementary Material:

.10 The ''two-percent value'' shall be calculated at the beginning of each calendar quarter and shall be two-percent (2.0%), rounded down to the nearest ten points, of the average closing value of the DJIA for the last month of the previous quarter. The ''one-percent value'' shall be one-half, rounded down to the nearest ten points, of the ''two-percent value''.

.20 The index arbitrage order entry restrictions shall not apply to index arbitrage market-at-the-close orders in liquidation of previously established stock positions against derivative index products entered on the last business day prior to the expiration or settlement of such derivative index products. Such orders shall be entered pursuant to each procedures as the Exchange may from time to time prescribe.

.30 All orders containing the instruction ''buy minus'' or ''sell plus'' shall be executed as provided in Rule 13.

.40 Definitions. (a) For purposes of this Rule 80A, ''index arbitrage'' means a trading strategy in which pricing is based on discrepancies between a ''basket'' or group of stocks and the derivative index product (i.e., a basis trade) involving the purchase or sale of a ''basket'' or group of stocks in conjunction with the purchase or sale,

or intended purchase or sale, of one or more derivative index products in an attempt to profit by the price difference between the ''basket'' or group of stocks and the derivative index products. While the purchase or sale of the stocks must be in conjunction with the purchase or sale of derivative index products, the transactions need not be executed contemporaneously to be considered index arbitrage. The term''derivative index products'' refers to cash-settled options or futures contracts on index stock groups, and options on any such futures contracts.

(b) ''Program trading'' means either (A) index arbitrage or (B) any trading strategy involving the related purchase or sale of a ''basket'' or group of 15 or more stocks having a total market value of $1 million or more. Program trading includes the purchases or sales of stocks that are part of a coordinated trading strategy, even if the purchases or sales are neither entered or executed contemporaneously, nor part of a trading strategy involving options or futures contracts on an index stock group, or options on any such futures contracts, or otherwise relating to a stock market index.

(c) ''Account of an individual investor'' means an account covered by Section 11(a)(1)(E) of the Securities Exchange Act of 1934.

**''Standard & Poor's 500 Stock Price Index'' is a service market of Standard & Poor's Corporation*

***''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Current Rule. Rule 80A provides, among other things, for limitations on index arbitrage trading in any component stock of the S&P 500 Stock Price Index whenever the Dow Jones Industrial Average [1] (''DJIA'') is up or down 50 points from its previous close. If the market advances by 50 points or more, all index arbitrage orders to buy must be stabilizing (buy minus); similarly, if the market declines, all index arbitrage orders to sell must be stabilizing (sell plus). The stabilizing requirements are removed if the DJIA moves back to or within 25 points of the previous day's close. In addition, ''sidecar'' provisions, as discussed below, which temporarily divert program trading orders and impose limitations on the entry of stop orders, go into effect when the primary S&P 500 futures contract declines by 12 points from its previous close.

Proposed Amendments. The stock market has risen dramatically over the years since the 50-point ''collar,'' as discussed below, of Rule 80A was adopted in 1990.[2] The Exchange is proposing to amend the Rule to base the collars on a percentage of the average closing value of the DJIA. In addition, the Exchange is proposing to eliminate the ''sidecar'' provisions of Rule 80A in their entirety. The Exchange is also proposing to delete the provisions, contained in paragraph (d), relating to purchases and sales of a ''basket'' (as that term is defined in Rule 800(b)(iii)), as the ''basket'' product is no longer traded on the Exchange. The definition of index arbitrage contained in the rule is also proposed to be modified, as discussed below.

Collars. The proposed collars are to be calculated quarterly based on the average closing value of the DJIA for the last month of the previous calendar quarter. This methodology is similar to that used for the calculation of the circuit breakers in the recent amendments to Rule 80B. The collars would be imposed when the DJIA declines or advances from the prior day's close by an amount equal to two percent, rounded down to the nearest ten points, of the average closing value. The collars would be removed when the DJIA comes back or retreats to a value which represents a decline or advance from the prior day's close by an amount equal to one half of the ''two-percent value,'' rounded down to the nearest ten points.

Under the proposed rule change, when the collar is imposed based upon a *decline* in the DJIA, all index arbitrage orders to sell any component stock of the S&P 500 must be marked ''sell plus'' for the remainder of the day. If the DJIA *advances* by the ''collar value'', all index arbitrage orders to buy any component stock of the S&P 500 must be marked ''buy minus'' for the remainder of the trading day.

For example, if the average closing value of the DJIA for the last month of the previous quarter is 8915, the ''two-percent value'' will be 170, and one half the ''two-percent value'' will be 80 (85 rounded down to the nearest ten points). Thus, the stabilizing requirement would be imposed when the DJIA is down or up 170 points or more and removed when the DJIA is down or up 80 points or less from the previous close. The index arbitrage order entry restrictions would be re-imposed each time the DJIA advances or declines from the prior day's close by the amount calculated pursuant to the rule.

Sidecar. The sidecar provisions, contained in paragraphs (a) and (b) of the current rule, are triggered by a 12-point decline from the previous close in the primary S&P 500 futures contract. The sidecar diverts program trading orders to a separate file for five minutes and also bans the entry of stop orders or stop limit orders for the rest of the day (except when such orders are 2099 shares or less and are for the account of an individual investor). The Exchange is proposing to delete the sidecar provisions in their entirety.

The Exchange represents that experience has shown that program trading orders have not been entered in significant numbers while sidecar is in effect and thus this additional restriction is not necessary. The Exchange believes that the collars contained in Rule 80A, along with the Exchange's trading halt policy and the circuit breakers contained in Rule 80B, obviate the need for a sidecar.

Definitions. The revised version of Rule 80A would retain the definitions of program trading and individual investor contained in the current rule, but would move them into the supplementary material. The definition of index arbitrage is being amended to codify the Exchange's 1992 interpretation [3] that includes ''basis trading'' [4] as index arbitrage. The Exchange represents that the Rule language is being made explicit

[1] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

[2] The DJIA was at 2905 when the 50-point collar first went into effect on July 31, 1990. The DJIA closed at 8915 on November 5, 1998, the day the Board adopted this amendment.

[3] *See* NYSE Information Memo No. 92–23, dated August 28, 1992.

[4] The NYSE considers basis trading to be a trading strategy of making orders to purchase or sell a basket of stocks in conjunction with the purchase or sale, or intended purchase or sale, or derivative index products, in order to take advantage of pricing discrepancies between the basket and the derivative index product. *See* NYSE Information Memo No. 92–23, dated August 28, 1992.

because certain traders may not have considered some strategies that are effected to capture differences between the cash and futures market, such as liquidating or establishing exchanges for physicals,[5] to be index arbitrage.

Conclusion. The Exchange believes that the proposed amendments to Rule 80A will allow the collars to move with the market in a similar fashion to the triggers in Rule 80B. Thus, trading curbs would remain at an appropriate level as the market changes, *i.e.,* closer to the 1.7% move that the 50 point collar represented when implemented in 1990 as opposed to 0.56% currently.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Act in general and furthers the objectives of Section 6(b)(5)[7] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[5] In the context of program trading, the term ''exchange-for-physicals'' or ''EFP'' refers to a practice whereby an entity, such as a broker-dealer or an institution, uses an off-exchange transaction to acquire or liquidate a hedged position in a stock basket and stock index futures or options. For example, an institution wishing to liquidate a large long-stock/short-futures hedged position might negotiate with a broker-dealer to conduct an EFP outside of regular U.S. trading hours in London. In the EFP, the institution would sell the stock basket to the broker-dealer and the broker-dealer would sell the equivalent amount of stock index futures to the institution. The difference in the prices for the stock and futures trades is the negotiated price for the transaction, and is usually denominated in hundredths of a percentage point (''basis points'') of the value of the portfolio. Once the EFP is completed, the broker-dealer has acquired the long-stock/short-futures hedged position. The broker-dealer may subsequently ''unwind'' this position through trades on U.S. exchanges when profitable arbitrage spreads arise. In the example cited above, if futures are trading at a ''discount'' to underlying stocks, the broker-dealer could use program orders to sell the higher priced stocks on the NYSE while buying the lower priced futures. Such a transaction would be the functional equivalent of index arbitrage for purposes of NYSE Rule 80A(c).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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 Room in 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–NYSE–98–45 and should be submitted by January 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

[8] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40800; File No. SR–OCC–98–11]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding the Calculation of the Short Option Adjustment

December 16, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 10, 1998, The Options Clearing Corp. (''OCC'') 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 OCC. 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

Under the proposed rule change, OCC will amend the short option adjustment contained in OCC's Theoretical Intermarket Margin System (''TIMS'') to enable OCC to use a ''sliding scale'' to calculate short option adjustment amounts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

Under the proposed rule change, OCC will amend Rules 601 and 602 to

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

provide OCC with more flexibility in calculating the amount of the short option adjustment.[3]

OCC requires its clearing members to adjust their margin deposits with OCC in the morning of every business day based on OCC's overnight calculations. OCC imposes a margin requirement on short positions in each clearing member account and gives margin credit for unsegregated long positions.[4] Under TIMS, the margin for positions in a class group is based on premium levels at the close of trading on the preceding day and is then increased or decreased by the additional margin amount for that class group.[5]

TIMS calculates additional margin amounts using options price theory. TIMS first calculates the theoretical liquidating value for the positions in each class group assuming either an increase or decrease in the market value of the underlying asset in an amount equal to the applicable margin interval. The margin interval is the maximum one day price movement that OCC wants to protect against in the price of the underlying asset.[6] Margin intervals are determined separately for each underlying interest to reflect the volatility in the price of the underlying interest.

TIMS then selects the theoretical liquidating value that represents the greatest decrease (where the actual liquidating value is positive) or increase (where the actual liquidating value is negative) in liquidating value compared with the actual liquidating value based on the premium levels at the close of trading on the preceding day. The difference between that theoretical liquidating value and the actual liquidating value is the additional margin amount for that class group unless the class group is subject to the short option adjustment.

For net short positions[7] in deep out of the money options, little or no change in value would be predicted given a change in value of the underlying interest equal to the applicable margin interval. As a result, TIMS would calculate additional margin amounts of zero or close to zero for deep out of the money options. However, volatile markets could cause such positions to become near to or in the money and thereby could create increased risk to OCC. OCC protects against such risk by incorporating into the additional margin calculation a margin cushion known as the short option adjustment.[8]

Currently, the short option adjustment requires a minimum additional margin amount equal to twenty-five percent of the applicable margin interval for all unpaired[9] net short positions in options series for which the ordinary calculation of the additional margin requirement would be less than twenty-five percent of the applicable margin interval. OCC believes that this methodology requires clearing members to deposit margin in excess of the risk presented by some unpaired net short positions in out of the money options.

OCC believes that this excess margin requirement can be attributed essentially to two causes. First, some short positions are so far out of the money that even an extreme market move would not cause them to prevent risk to OCC commensurate with a short option adjustment equivalent to twenty-five percent of the applicable margin interval. To illustrate, on October 27, 1997, the S&P 500 Index fell 6.9% to 876.98 from its closing value of 941.64 on October 24, 1997.[10] There was a series of SPX 11/97 put options with an exercise price of 700 open on that date. At the close of October 24, 1997, that series was 25.7% out of the money and had a closing premium of $25.00. At the close on October 27, 1997, that series was 20.2% out of the money and had a closing premium of $56.25. The increase in the closing premium from October 24 to October 27 was $31.25. In the absence of the short option adjustment, TIMS would have required additional margin of $23.25. With the short option adjustment, TIMS required additional margin of $875.00 (equal to the margin interval, which was 35 points, times the index multiplier of 100, times 25%). Even in this extreme market move the short option adjustment required far more collateral than OCC needed to hedge the risk presented to it by unpaired short positions in this series.

Second, out of the money short call positions present less risk to OCC than short put positions that are equally out of the money. This is essentially because a market that moves sharply down (presenting risk to OCC from short put positions) is generally associated with an increase in option implied volatility whereas a market that moves sharply up (presenting risk to OCC from short call positions) is generally associated with a decrease in option implied volatility. Other things being equal, an upward move in the market of a given size creates less risk for OCC from short call positions than a downward move in the market of the same size from short put positions. Therefore, because TIMS employs a twenty-five percent short option adjustment for both puts and calls, it tends to require excessive additional margin particularly with respect to short call positions.

To address these situations, the proposed rule change will establish a sliding scale short option adjustment methodology. Using the sliding scale, the short option adjustment percentage will be applied to a particular series according to the extent to which the series is out of the money. In addition, OCC will use different sliding scales for put options and for call options.

OCC believes that the margin required by these sliding scales should be sufficient to protect it against the risks

[3] OCC Rule 601 describes TIMS as it applies to equity options (''equity TIMS'') and OCC Rule 602 describes TIMS as it applies to non-equity options (''non-equity TIMS'').

[4] A long position is unsegregated for OCC's purposes if OCC has a lien on the position (*i.e.*, has recourse to the value of the position in the event that the clearing member does not perform an obligation to OCC). Long positions in firm accounts and market-maker accounts are unsegregated. Long positions in the clearing member's customers' account are unsegregated only if the clearing member submits instructions to that effect in accordance with Rule 611.

[5] For purposes of equity TIMS, a class group consists of all put and call options, all BOUNDS, and all stock loan and borrow positions relating to the same underlying security. For purposes of non-equity TIMS, a class group consists of all put and call options, certain market baskets, and commodity options and futures (that are subject to margin at OCC because of a cross-margining program with a commodity clearing organization) that relate to the same underlying asset. A NEO TIMS class group may also contain stock loan baskets and stock borrow baskets.

[6] Some combinations of positions can present a greater net theoretical liquidating value at an intermediate value than at either of the endpoint values. As a result, TIMS also calculates the theoretical liquidating value for the positions in each class group assuming intermediate market values of the underlying asset.

[7] A net position in an option series in an account is the position resulting from offsetting the gross unsegregated long position in that series against the gross short position in that series. After netting, an account will reflect a net short position or a net long position for each series of options held in the account.

[8] The short option adjustment is described in Rule 601(c)(1)(C)(1) for equity options and Rule 602 (c)(1)(ii)(C)(1) for non-equity options. OCC recently amended Interpretation .06 to Rule 602 so that net short non-equity option positions can be paired off against net long non-equity positions whose underlying interests exhibit price correlation of at least seventy percent. Securities Exchange Act Release No. 40515 (September 30, 1988), 63 FR 53970.

[9] The term unpaired is defined in Interpretation .04 to Rule 601 for equity options and Interpretation .06 to Rule 602 for non-equity options.

[10] This market decline of 64.66 points was the 14th largest one day percentage decline in the period from January 1930 through June 1998, and it constituted a more extreme daily move than 99.9% of the daily moves during this period. The decline on October 27, 1997, actually represents a more rigorous test of the short option adjustment methodology than the market move on October 19, 1987. There are several reasons for this, such as the option implied volatility was so high on October 19, 1987, and the theoretical additional margin levels calculated by TIMS generally exceeded the alternative short option adjustment calculations.

presented by out of the money short positions even in extreme market conditions. For example, in the illustration described above, the sliding scale short option adjustment would still have required additional margin of $350.00 (equal to the margin interval of 35 points, times the index multiplier of 100, times 10%, the applicable percentage for a short put 25.7% out of the market) which is well in excess of the risk presented to OCC by the short puts in the SPX 11/97 700 series.

Under the proposed rule change, OCC will modify Rules 601 and 602 to provide that the short option adjustment to be applied to any unpaired short position will be determined using a percentage that OCC deems to be appropriate. A specific short option adjustment percentage will not be included in the rules.[11]

OCC believes that this information provides appropriate flexibility to make adjustments to the sliding scales from time to time as OCC determines is warranted. OCC further believes that the proposed rule change is consistent with the approach taken in Rule 60(c)(1)(C)(1) and Rule 602(c)(1)(ii)(C)(1) which both permit OCC to use such formulas, assumptions, and data as it deems appropriate for purposes of calculating additional margin.

OCC believes that the proposed rule change is consistent with Section 17A of the Act[12] and the rules and regulations thereunder because it furthers the public interest by reducing the overcollateralization of certain short positions in deep out of the money options. In addition, OCC believes that the proposed rule change should remove an impediment to market liquidity while still providing OCC with appropriate protection to the risks presented by short out of the money option positions.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

[11] A schedule of the sliding scales that OCC intends to use initially is attached as Exhibit A to its filing, which is available for inspection at the Commission's Public Reference Room and through OCC. OCC will always specify a minimum short option adjustment percentage. OCC will inform its members of the initial schedule of the sliding scales through an Important Notice and will notify its members of any changes to the schedule.

[12] 15 U.S.C. 78q–1.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 OCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, 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 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 coping at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–11 and should be submitted by January 12, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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[13] 17 CFR 200–30(a) (12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40798; File No. SR–Phlx-98–45]

Self-Regulatory Organizations: Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Proposing To Adopt New Rule 949 Respecting Purchase, Sale, Transfer, and Posting of Membership Transactions

December 16, 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 November 5, 1998, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 15, 1998, the Exchange submitted an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Rule 949 respecting the purchase, sale, transfer and posting of membership transactions. The proposed rule change codifies procedures for conducting the market for Exchange memberships and provides that private transactions may only be undertaken under certain specified circumstances. Below is the text of the proposed rule change. Additions are italicized.

Rule 949 Purchase, Sale, Transfer and Posting of Membership Transactions

A. Public Sales and Membership Market Procedures. A membership may be purchased by an approved applicant, an existing member organization or an approved lessor through the Office of the Secretary of the Exchange in accordance with Exchange procedures. A bid stating the price to be paid shall be submitted in writing to the Office of the Secretary by an approved applicant, member organization or approved

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Letter from Murray L. Ross, Vice President and Secretary, Exchange, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, SEC, dated December 14, 1998 (''Amendment No. 1). Amendment No. 1 corrected grammatical errors in the proposed rule language.

lessor. Any bid shall be in increments of five hundred dollars ($500). The Office of the Secretary shall file all bids according to the highest price and the earliest submission date. The highest bid with the earliest submission date shall be posted and published in the Secretary's Bulletin of the Exchange.

All bids remain in effect for six months unless written revocation thereof is received by the Office of the Secretary. When a bid filed in accordance with the provisions of this rule is matched with an offer filed in accordance with the provisions of this rule neither can be changed or withdrawn. Not later than the fourteenth day following the matching of the bid and offer, the purchaser shall deliver a certified or cashier's check to the Office of the Secretary, made payable to the Exchange, covering the purchase price of the membership.

B. A membership may be sold by the owner through the market conducted by the Office of the Secretary in accordance with Exchange procedures. A written offer for sale stating the acceptable price shall be submitted to the Office of the Secretary. The Office of the Secretary shall file all such offers according to the lowest price and earliest submission date. The lowest offer with the earliest submission date shall be posted by the Office of the Secretary and published in the Secretary's Bulletin of the Exchange. All offers shall remain in effect for six months unless written revocation thereof is received by the Office of the Secretary. Any offer shall be in increments of five hundred dollars ($500). When an offer filed in accordance with the provisions of this rule is matched with a bid filed in accordance with the provisions of this rule neither can be changed or withdrawn.

C. Confirmation of Sale by the Exchange. The sale of an Exchange membership shall be deemed negotiated and contracted at the time the filed bid and offer are matched in price and confirmed by the Office of the Secretary of the Exchange and shall be considered consummated upon the payment by the purchaser of the purchase price of the membership and associated initiation and transfer fees as well as other charges including pro-rated dues. In the event that the Exchange has not received payment of the sums due on the purchase of the membership within fourteen days after the contracted notice of arranged sale is given by the Office of the Secretary of the Exchange, the arranged sale shall be automatically canceled and the purchaser and seller restored thereby to their respective status existing before the arranged sale. Neither the purchaser nor seller shall have, assert or maintain any rights, privileges or claims of any nature whatsoever against each other or against the Exchange, its members, member organizations, officers and employees, arising or resulting directly or indirectly from or by such cancellation.

D. Private Sales and Transfers. All Ex-Exchange privately negotiated sales and requests for transfer shall be posted and published in the Secretary's Bulletin of the Exchange. Any or all privately negotiated sales or requests for transfer must conform to one of the following provisions:

(1) The owner of a membership (whether or not such membership is registered for a member organization) is transferring such membership to a spouse, brother, sister, parent, child, grandchild or grandparent, provided the transferee is approved for membership or qualifies as an approved lessor:

(2) The owner of a membership is transferring such membership to a member organization which has succeeded, through statutory merger, exchange of stock or acquisition of assets to the business of the transferor:

(3) The owner of a membership is transferring such membership to a member organization in which the transferor will maintain a substantial interest, that is, an interest at least equal in value to the cost or market price of the membership, whichever is lower:

(4) The owner of a membership is transferring such membership to an individual or organization which is a partner, shareholder or member of the transferor as part or all of a liquidation, or distribution of the transferor,; or

(5) The owner of a membership is transferring such membership to a member, member organization or approved lessor as a privately arranged sale for monetary consideration that is not less than the posted bid nor greater than the posted offer filed with the Office of the Secretary of the Exchange.

Nothwitstanding the foregoing, a transfer which conforms to one of the enumerated subparagraphs D 1 through 5 shall not become effective unless the transferor deposits with the Office of the Secretary an amount equal to the last sale of a membership, pursuant to paragraphs A, B and C of this rule, of the same rights and privileges as the membership being transferred. Said deposit shall be applied as through it were proceeds of a sale of a membership or its transfer for the purposes of By-Law Article XV. All other private sales shall be void.

E. Obligations of Terminating Members. Every member who sells or transfers their membership pursuant to the provisions of these Rules must be current in all filings and payments of dues, fees and charges relating to that membership, including filing fees and charges required by the Securities and Exchange Commission and the Securities Investor Protection Corporation. If a member fails to make all such filings, or to pay all such dues, fees and changes, the Office of the Secretary of the Exchange may, notwithstanding other applicable provisions of these Rules, withhold distribution of the proceeds of the sale of said membership, or delay the effectiveness of the membership of the transferee, until such time as the failures have been remedied.

F. Non-Responsibility of the Exchange. The Exchange and its officers, members and employees shall be subject to no liability in connection with any bid or offer of a membership, whether or not filed formally with the Exchange as provided herein, unless such liability results form negligence of the Exchange.

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. 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for the Proposed Rule Change

1. Purpose.

The proposed rule codified procedures for conducting the market for Exchange memberships and provides that private transactions may only be undertaken under certain specified circumstances. The Exchange believes the proposed rule change will provide equity and openness to all who seek to purchase or sell a membership. The proposed rule provides that transactions must be posted, published and be for monetary consideration between the posted bid and offer between unrelated parties. The proposed rule change also permits sales between related entities, but requires publication in the Secretary's Bulletin. Therefore, both members and nonmembers will have access to information regarding all

transfers of memberships. Additionally, the Exhcnage will be protected by requiring that the proceeds of all sales will be available to the Exchange to satisfy any outstanding charges owed by the member.

The proposed rule provides that bids and offers must be made in writing, and submitted to the Office of the Secretary by an approved applicant, member organization, or approved lessor. Bids and offers may only be filed in $500 increments. Additionally, the proposed rule codifies exiting Exchange practice of requiring payment for a membership by certified or cashier's check payable to the Exchange. Furthermore, the rule specifies that sale of a membership shall be deemed negotiated and contracted when the filed bid and offer are matched in price and confirmed by the Office of the Secretary, and consummated upon receipt of payment from the purchaser for the purchase price and other associated membership initiation, transfer and prorated dues and other fees.

Section D of the proposed rule sets forth the procedures to be followed in privately negotiated sales and requests for transfer. This section provides for posting of a deposit to the Exchange to cover potential claims that could be asserted pursuant to By-Law Article XV.[4] Only those transactions that conform to Section D would be processed for transfer and all other private sales would be void.

The following outlines the provisions of the proposed new rule. Section A provides the procedures for making an offer to purchase a membership. Section B provides the procedure for an offer to sell a membership. Section C contains the guidelines for determining the time when membership sales are deemed negotiated and contracted and when membership sales are consummated. Section D contains five situations that are exempt from the procedures laid out in Sections A and B. Subsection 1 contains sales to certain named categories of family members. Subsection 2 concerns transfers to a firm which is the member's successor in interest. Subsection 4 concerns transfer involved in a dissolution of a members entity. Subsection 5 concerns other private transfers that occur within the bid and offer of the public market for memberships. Section E proscribes that all members selling a membership must be current on all dues, fees and other membership charges before the sale will be consummated. Section F limits the liability of the Exchange to its own negligence in matters pertaining to membership transactions.

In summary, only these transactions that confirm to specified provisions of the proposed rule would be processed for transfer. All other private sales would be void. The proposed rule is substantially similar to and modeled after the provisions of the Pacific Exchange, Inc. Rules 1.21 and 1.22 and the Chicago Board Options Exchange, Inc. Rule 3.14(c). The proposed rule results from discussions with concerned members and Exchange staff in an effort to codify the best practices of other exchanges respecting procedures for conducting the market in memberships and confirming existing Exchange practices to the provisions of a new rule.

2. Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act in general,[5] and in particular with Section 6(b)(5)[6] because it is designed to promote just and equitable principles of trade and protects investors and the public interest by providing codified procedures for conducting the market in Exchange memberships by the Office of the Secretary of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed

Rule Change Received From Members, Participants or Others

Written comments were not received in response to Circular 98–109 which notified the membership of the intent of the Board of Governors to propose a new rule concerning these matters.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

A. by order approve such proposed rule change, or,

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, 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, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of PHLX. All submissions should refer to File No. SR–Phlx–98–45 and should be submitted by January 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33982 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40802; File No. SR–Phlx–98–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Increasing Maximum OTX AUTO–X Order Size Eligibility

December 17, 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 October 6, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items

[4] By-Law Article XV sets forth procedures for transferring memberships. Section 15–3 provides that proceeds are to distributed according to a provided seniority list.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1080 to increase the maximum order size for eligibility for public customer market and marketable limit orders for OTC Prime Index (''OTX'')[3] options contracts to be executed on AUTO–X, the automatic execution feature of the Phlx's Automated Options Market (''AUTOM'') system. Currently, public customer orders of up to 50 contracts are eligible for execution via AUTO–X. The Phlx is proposing to increase the maximum order size to 100 contracts.

Proposed new language is italicized; proposed deletions are bracketed.

Rule 1080(a) No Change

(b) No change.

(c) AUTO–X.—AUTO–X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO–X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO–X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO–X is not engaged.

The Options Committee may for any period restrict the use of AUTO–X on the Exchange in any option or series. Currently, orders up to 50 contracts, subject to the approval of the Options Committee, are eligible for AUTO–X. *With respect to OTC Prime Index (''OTX'') options, orders of up to 100 contracts are eligible for AUTO–X.*

The Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO–X to the extent necessary to match the size of orders in the same options eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934.

(d) No Change
(e) No Change
(f) No Change
(g) No Change
(h) No Change
. . Commentary . . No Change

II. Self-Regulatory Organization's Statements of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx 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 Phlx 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

The purpose of the proposed rule change is to increase the maximum OTX AUTO–X option order size from 50 to 100 contracts. AUTO–X is the automatic execution feature of AUTOM, the Phlx's electronic order routing, delivery, and reporting system for options, Orders are routed from member firms directly to the appropriate specialist on the Phlx's trading floor. Certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. These AUTO–X orders are automatically executed at the disseminated quotation price on the Exchange and reported to the originating firm. Those orders not eligible for AUTO–X are manually handled by the specialist. Currently, up to 50 contracts, subject to the approval of the Options Committee, are eligible for AUTO–X.[4]

The Exchange notes that this limited expansion of AUTO–X order size should not impose significant burdens on the operation and capacity of the AUTOM system; rather, AUTOM's effectiveness may be enhanced by the instant proposal by increasing the number of orders eligible for automatic execution, thereby reducing the need for manual processing.

The proposed rule change is consistent with Section 6(b)[5] of the Act in general, and in particular, with Section 6(b)(5),[6] in that it is designed to promote just and equitable principles of trade, as well as to protect investors and the public interest by extending the benefits of automatic execution via AUTO–X to customers with OTX option orders for up to 100 contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal

[3] The OTC Prime Index is composed of the fifteen stocks which had the largest trading volume on the Nasdaq during the preceding year. *See* Securities Exchange Act Release No. 40058 (June 2, 1998), 63 FR 31543 (June 9, 1998).

[4] *See* Securities Exchange Act Release No. 38792 (June 30, 1997), 62 FR 36602 (July 8, 1997) (SR–Phlx–97–24).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

office of the Phlx. All submissions should refer to File No. SR–Phlx–98–42 and should be submitted by January 13, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–33983 Filed 12–22–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3145]

State of Texas; Amendment #4

In accordance with information received from the Federal Emergency Management Agency dated December 7 and 8, 1998, the above-numbered Declaration is hereby amended to include Grimes, Polk, and Trinity Counties in the State of Texas as a disaster area due to damages caused by severe storms, flooding, and tornadoes. This declaration is further amended to establish the incident period for this disaster as beginning on October 17 and continuing through November 15, 1998, and to extend the deadline for filing applications for physical damage to January 21, 1999 in the following counties: Grimes, Harris, Liberty, Montgomery, Polk, San Jacinto, Trinity, and Victoria.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Angelina, Houston, Madison, and Tyler in the State of Texas may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage for all other counties is December 19, 1998, and for economic injury the termination date is July 21, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 14, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–33877 Filed 12–22–98; 8:45 am]

BILLING CODE 8025–01–M

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA–1998–4628.

Applicant: Central Kansas Railway, L.L.C., Mr. L. R. Mitchell, Superintendent, 1825 West Harry Street, Wichita, Kansas 67213.

The Central Kansas Railway, L.L.C. seeks approval of the proposed discontinuance and removal of the automatic interlocking signal system, on the single main track, Hoisington Subdivision, at Scott City, Kansas, milepost 681.8, associated with the installation of two connecting tracks, one north and one south of the Hoisington main track, which will enable eastward or westward train movements from the crossing at grade.

The reasons given for the proposed changes is that the pole line affecting the interlocking was severely damaged during an ice storm in March 1998, and only one train movement is operated over the interlocking daily.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on December 15, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–33899 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–1998–4630

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S Assets, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410.

The Consolidated Rail Corporation seeks approval of the proposed discontinuance and removal of ''CP Wall'' Interlocking, milepost 87.4, near Lebanon, Pennsylvania, on the Harrisburg Line and Cornwall Industrial Track, Philadelphia Division, consisting of the discontinuance and removal of all controlled signals, conversion of remaining switches to hand operation, and installation of electric locks for the switches on tracks No. 1 and No. 2.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately

present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on December 15, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–33901 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief from the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA–1998–4625.

Applicant: CSX Transportation, Incorporated, Mr. Franklin E. Pursley, Vice President Operations Support, Safety Integration Officer, 500 Water Street, SC J250, Jacksonville, Florida 32202.

CSX Transportation, Incorporated (CSXT) seeks permanent relief from the requirements of Section 236.502, Section 236.553, and Section 236.563 of the Rules, Standards, and Instructions (49 CFR), to the extent that CSXT be permitted to operate Conrail and new CSXT locomotives equipped with the LSL, braking profile, automatic train control (ATC) system, on the RF&P Subdivision.

Applicant's justification for relief: To expeditiously and effectively utilize the approximately 300 acquired Conrail locomotives equipped with the LSL, braking profile, ATC system; to avoid unnecessary costs; and to achieve operational benefits offered by the LSL, braking profile system.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW, Mail Stop 25, Washington, DC 20590 within 30 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on December 15, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–33898 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval or Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1998–4629

Applicants: Springfield Terminal Railway Company and Maine Central Railway Company, Mr. J. F. West, Chief Engineer, Communications & Signals, Iron Horse Park, North Billerica, Massachusetts 01862.

The Springfield Terminal Railway Company and Maine Central Railway Company jointly seek approval of the proposed temporary discontinuance and removal of the automatic block signal system, on the single main track, between Lewiston, Maine, milepost 158.2 and Auburn, Maine, milepost 165.9, until July 1999, and govern train movements by NORAC Rule 160, Form D, or DCS.

The reason given for the proposed changes is that the signal pole line in the application area suffered catastrophic damage during the preceding winter ice storm and is not readily repairable. Design work is presently ongoing to replace the pole line with an in-track signal system associated with the installation of new highway rail grade crossing predictor/motion sensors within the application area.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on December 15, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–33900 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application

numbers with the suffix ''M'' denote a modification request. These applications have been separated form the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before January 7, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Docket No.	Applicant	Modification of exemption
7708–M		Pacific Scientific (HTL/KIN-Tech Division Duarte, CA (See Footnote [1])	7708
9162–M	Sun Line Company Tulsa, OK	(See Footnote [2])	9162
10929–M		Consolidated Rail Corporation Philadelphia, PA (See Footnote [3])	10929
11624–M		Safety-Kleen Corporation Columbia, SC (See Footnote [4])	11624
12022–M	RSPA–1998–3308	Taylor-Wharton Harrisburg, PA (See Footnote [5])	12022
12178–M		STC Technologies, Inc. Bethlehem, PA (See Footnote [6])	12178

([1]) To modify the exemption to for a design change and an increase in service pressure to 6300 psig of a non-specification high-pressure cylinder for shipment of a Division 2.2 material.

([2]) To modify the exemption to increase the capacity of a trailer equipped with a mechanical displacement meter prover to 153.50 gallons for the transportation of Class 3 or Division 2.1 materials.

([3]) To modify the exemption to provide for venting of asphalt cars and the addition of commodities.

([4]) To modify the exemption to provide for rail as an additional mode of transportation for the transportation of household hazardous wastes, Class 3, in quantities greater than those presently authorized.

([5]) To modify the exemption to provide for alternative testing criteria of 3AA cylinders for use in transporting Division 2.1, 2.2 and 2.3 hazardous materials.

([6]) To reissue the exemption originally issued on an emergency basis to use a non-DOT specification container for liquefied gas, flammable, n.o.s.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 16, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 98–33896 Filed 12–22–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 22, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 16, 1998.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
12180–N	RSPA–1998–4903	Westvaco, Richmond, VA	49 CFR 174.67(i) & (j)	To authorize rail cars to remain attached to connectors without the physical presence of an unloader. (mode 2).
12181–N	RSPA–1998–4883	Aristch, Pittsburgh, PA	49 CFR 174.67(i) & (j)	To authorize rail cars to remain attached to connectors without the physical presence of an unloader. (mode 2).
12183–N	RSPA–1998–4885	Connecticut Yankee Atomic Power Co., East Hampton, CT.	49 CFR 173.403, 173.427(b)(1), 173.427(f).	To authorize the transportation in commerce of plant steam generator subassemblies as surface contaminated objects that exceed the authorized quantity limitations. (modes 1, 3).

Application No.	Docket No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
12184–N	RSPA–1998–4886	Weldship Corporation, Bethlehem, PA.	49 CFR 173.302(c)92)(3)(4), 173.34(e)(1), (3), (4), & (6).	To authorize the acoustic emission retesting and internal inspection of DOT 3A and DOT 3AA tubes in lieu of hydrostatic test. (modes 1, 3).
12185–N	RSPA–1998–4888	Dyno Nobel Inc., Salt Lake City, UT.	49 CFR 171.14, 172.62, 173.56.	To authorize the one-time shipment in commerce of waste explosives that have not been approved and/or are in unapproved packaging. (mode 1)
12186–N	RSPA–1998–4891	Martinair Holland V.A., Amsterdam.	49 CFR 172.101, Col. (9B), 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of Division 1.1 explosives that are forbidden for shipment by or in quantities greater than those prescribed for shipment by air. (mode 4).
12187–N	RSPA–1998–4887	Sexton Can Co., Inc., Cambridge, MA.	49 CFR 173.304(a), 175.3, 178.65.	To authorize the manufacture, marking and sale of non-DOT specification cylinders for use in transporting certain Division 2.2 material. (modes 1, 2, 3, 4).
12190–N	RSPA–1998–4876	Indiana Michigan Power Co., Buchanan, MI.	49 CFR 173.403	To authorize the transportation in commerce of steam generators which contain small quantities of Class 7 radioactive material. (modes 1, 2).
12191–N	RSPA–1998–4875	Van Hool N.V., Belgium ...	49 CFR 178.170–5	To authorize the manufacture, marking and sale of non-DOT specification steel portable tanks conforming to DOT Specification IM101 for use in transporting various classes of hazardous materials presently authorized to be transported in IM101. (modes 1, 2, 3).
12194–N	RSPA–1998–4889	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 172.102, SP, T34 Code.	To authorize the transportation in commerce of dimethylamine solutions over 40% and up to 65% in IM 101 tanks that exceed the quantity limitations as presently authorized. (modes 1, 2, 3).

[FR Doc. 98–33897 Filed 12–22–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Inspector General for Tax Administration

Privacy Act of 1974: Computer Matching Program

AGENCY: Inspector General for Tax Administration, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of a Treasury Inspector General for Tax Administration (TIGTA) program of computer matches in the Internal Revenue Service.

EFFECTIVE DATE: January 22, 1999.

ADDRESSES: Comments or inquiries may be mailed to the Treasury Inspector General for Tax Administration, 1111 Constitution Avenue, NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Director, Centralized Case Development Center, Treasury Inspector General for Tax Administration, (513) 684–2559.

SUPPLEMENTARY INFORMATION: The Internal Revenue Restructuring and Reform Act of 1998 (Pub. L. 105–206, section 1103, 112 Stat. 730 (July 22, 1998)) transfers the powers of the Office of Chief Inspector to the Treasury Inspector General for Tax Administration. The Office of Chief Inspector (IRS Inspection Service) maintained three Computer Matching Agreements. One consolidated agreement will replace the three existing agreements maintained by the Office of Chief Inspector.

Internal Revenue Service management is responsible for discouraging the perpetration of irregular or illegal acts and limiting any exposure if an integrity breach occurs. The Office of Treasury Inspector General for Tax Administration will assist IRS management in achieving this objective by enhancing its conventional audit and investigative activities with a program of computer matches.

One IRS organizational strategy is to ensure public confidence in the integrity of the IRS by a dedication to the highest ethical standards. One of the ways the Treasury Inspector General for Tax Administration's Office intends to support this objective is by providing IRS management an assessment of the organization's ethical environment through a comprehensive Integrity Program, which includes detecting and deterring unauthorized access to taxpayer records.

Computer matching is the most feasible method of performing comprehensive analysis of employee, taxpayer, and tax administration data because of the large number of employees, the geographical dispersion of IRS offices, and the tremendous volume of computerized data that is available for analysis.

NAME OF SOURCE AGENCY: Internal Revenue Service.

NAME OF RECIPIENT AGENCY: Treasury Inspector General for Tax Administration.

BEGINNING AND COMPLETION DATES: This program of computer matches is expected to commence on January 18, 1999 but not earlier than the fortieth day after copies of the Computer Matching Agreement are provided to the Congress unless comments dictate otherwise. The program of computer matches is expected to conclude on July 31, 2000, or at the end of the eighteenth month after the beginning date.

PURPOSE: This program is designed to deter and detect fraud, waste, and abuse in Internal Revenue Service programs and operations by identifying employees who have violated or are violating laws, rules, or regulations related to their employment and to search for indicators of fraud sufficient to warrant investigation. Specifically, this program of matches supports the Treasury Inspector General for Tax Administration's efforts to detect unauthorized access to taxpayer records.

AUTHORITY: 5 U.S.C. 301, 26 U.S.C. 7213, 7214, 7608, 7801, 7802, 7803, 18 U.S.C. 1030; and Reorganization Plan No. 1 of 1952, pursuant to section 7804(a) of the Internal Revenue Code of 1986. The Computer Security Act of 1987 (Pub. L. 100–235). The Federal Manager's Financial Integrity Act (FMFIA) (PL 97–255). Executive Order 12674 of April 12, 1989, entitled, ''Principles of Ethical Conduct for Government Officers and Employees.'' OMB Circular A–130, ''Management of Federal Information Resources,'' and OMB Circular A–123, ''Management Accountability and Control.''

CATEGORIES OF INDIVIDUALS COVERED: Current and former employees of the Internal Revenue Service.

CATEGORIES OF RECORDS COVERED: Included in this program of computer matches are 26 Treasury or Internal Revenue Service systems. Systems not previously included in a Computer Matching Agreement of the Office of Chief Inspector include: FinCEN Database [Treasury DO.200], Suspicious Activity Reporting System [Treasury DO.212], Bank Secrecy Act Reporting System [Treasury DO.213], Unified System for Time and Appeals Records [Treasury/IRS 44.003], and Treasury Integrated Financial Management and Revenue System [Treasury DO.210] which replaces Travel Expense Records [Treasury/IRS 32.001].

Records contained in the 26 systems include:

Information related to employee identification and personnel information: Treasury Integrated Management Information System (TIMIS) [Treasury/DO .002], General Personnel and Payroll Records [Treasury/IRS 36.003], Individual Return Master File (IRMF) [Treasury/IRS 22.061], Treasury Integrated Financial Management and Revenue System [Treasury DO.210].

Information related to computer inquiries and IRS information systems: Integrated Data Retrieval System (IDRS) security files [Treasury/IRS 34.018] Individual Returns Files, Adjustments and Miscellaneous Documents Files [Treasury/IRS 22.034].

Information relating to taxpayers, tax returns, and tax return information: Individual Master File (IMF) [Treasury/IRS 24.030], Business Master File (BMF) [Treasury/IRS 24.046], Debtor Master File [Treasury/IRS 24.070].

Information not uniquely pertaining to an Internal Revenue Service employee but that could possibly establish a relationship between an employee and a fraudulent activity: Suspicious Activity Reporting System [Treasury DO.212], Bank Secrecy Act Reports System [Treasury DO.213], Lien Files (Open and Closed) [Treasury/IRS 26.009], Acquired Property Records [Treasury/IRS 26.001], Record 21, Record of Seizure and Sale of Real Property [Treasury/IRS 26.014].

Dated: December 16, 1998.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

[FR Doc. 98–33906 Filed 12–22–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0027]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement for a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for accrued benefits withheld during a veteran's hospitalization or domiciliary care.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 23, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0027'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Accrued Benefits by Veteran's Surviving Spouse, Child, or Dependent Parent, VA Form 21–551.

OMB Control Number: 2900–0027.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to apply for accrued benefits withheld during a veteran's hospitalization or domiciliary care. The information is used by VBA to determine a claimant's entitlement to such benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 100.

Dated: November 12, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 98–33955 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0324]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to process an application for insurance or to reinstate the insured's eligibility.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 23, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0324'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Physical Examination Reports.

Form Numbers:

a. Supplemental Physical Examination Report (Gall Bladder or Gastrointestinal), VA Form 29–8137.

b. Supplemental Physical Examination Report (Neurological—Psychological), VA Form 29–8142.

c. Supplemental Physical Examination Report, VA Form 29–8146.

d. Supplemental Physical Examination Report Three Day Urinalyses Series), VA Form 29–8148.

e. Supplemental Physical Examination Report (Tumor or Cyst), VA Form 29–8152.

f. Supplemental Physical Examination Report (Arthritis or Rheumatism), VA Form 29–8155.

g. Attending Physician's Statement, VA Form 29–8158.

h. Supplemental Physical Examination Report (Diabetes—Physicians Report), VA Form 29–8160.

OMB Control Number: 2900–0324.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The forms are used by VBA to obtain complete information as to the physical and/or mental condition of a veteran who has submitted an application for Government Life Insurance or reinstatement of eligibility. The information is used to process the insured's request.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,080 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 1,440.

Dated: November 12, 1998.

By direction of the Secretary:

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 98–33956 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0390]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement for a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for REPS (Restored Entitlement Program for Survivors) benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0390'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application of Surviving Spouse or Child for REPS Benefits (Restored Entitlement Program for Survivors), VA Form 21–8924.

OMB Control Number: 2900–0390.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: VA administers the REPS program. The program pays VA benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981. VA Form 21–8924 is used by survivors of deceased veterans to claim REPS benefits. The information is used by VBA to determine if the applicant meets REPS eligibility criteria.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 7,500.

Dated: November 12, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 98–33957 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0519]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine pay rates for nurses at VA facilities.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (191A1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0519'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Locality Pay System Survey (DVA Nurse Pay Act of 1990), VA Form 10–0132.

OMB Control Number: 2900–0519.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The collection of this information is necessary to comply with the provisions of Public Law 101–366, Department of Veterans Affairs (VA) Nurse Pay Act of 1990, which specifically provides for a locality pay system for certain health care personnel within VA. The law requires that where available, information from the Bureau of Labor Statistics (BLS) will be used in determining the beginning rates of pay. At this time, the BLS surveys do not capture beginning rates of pay or the job description used in the survey comparable to VA positions. Until the BLS can supply this data, VHA remains responsible for collecting the information to implement and adjust rates for registered nurses, nurse anesthetists, and other health care personnel.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Estimated Total Annual Burden: 2,531 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,375.

Dated: November 12, 1998.

By direction of the Secretary:

Barbara H. Epps,

Management Analyst Information Management Service.

[FR Doc. 98–33958 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0556]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to record a patient's specific instructions about health care decisions in the event the patient no longer has decision-making capacity.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (191A1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0556'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: VA Directive: Living Will and Durable Power of Attorney for Health Care, VA Form 10–0137.

OMB Control Number: 2900–0556.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The purpose of collecting the information is to record a patient's specific instructions about health care decisions in the event the patient no longer has decision-making capacity. The information will be used by health care professionals to make treatment decisions for the patient.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 101,250 hours.

Estimated Average Burden Per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 243,000.

Dated: November 12, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 98–33959 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0052]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information from a claimant prior to undergoing a VA examination and to record the findings of the examining physician.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0052'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Medical Examination for Disability Evaluation, VA Form 21–2545.

OMB Control Number: 2900–0052.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is from a claimant prior to undergoing a VA examination and also findings of the examining physician.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 180,000.

Dated: December 2, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33967 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0057]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement for a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to confirm the school attendance of a child for whom VA compensation or pension benefits are being received.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer

to ''OMB Control No. 2900–0057'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: School Attendance Report, VA Form 21–674b.

OMB Control Number: 2900–0057.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to confirm the school attendance of a child for whom VA compensation or pension benefits are being received. The information is used by VBA to determine continued entitlement to benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,292 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One time for most beneficiaries.

Estimated Number of Respondents: 39,500.

Dated: November 12, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 98–33968 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information used to provide self-certified statements in support of various types of claims processed by the agency.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0075'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used by claimants to provide self-certified statements in support of various types of claims processed by the agency.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 752,000.

Dated: December 2, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33969 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0115]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine if marital relationship is established and benefits are payable in

cases when common law marriage is claimed.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to ''OMB Control No. 2900–0115'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supporting Statement Regarding Marriage, VA Form 21–4171.

OMB Control Number: 2900–0115.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to determine if a marital relationship has been established and benefits are payable based on a claim of common law marriage.

Affected Public: Individuals or households.

Estimated Annual Burden: 800 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 2,400.

Dated: December 2, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33970 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0116]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information provided to VA from penal institutions about incarcerated VA beneficiaries.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0116'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501 '' 3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice to Department of Veterans Affairs of Veteran or Beneficiary Incarcerated in Penal Institution, VA Form 21–4193.

OMB Control Number: 2900–0116.

Type of Review: Extension of a currently approved collection.

Abstract: This notice solicits comments for information provided to VA from penal institutions about incarcerated VA beneficiaries.

Affected Public: Individuals or households; Federal and State, Local or Tribal Government.

Estimated Annual Burden: 416 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 1,664.

Dated: December 2, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33971 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information

provided by veterans receiving military pay for Reserve and National Guard participation to waive either VA benefits or military pay and allowances.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0463'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501 '' 3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, VA Form 21–8951.

OMB Control Number: 2900–0463.

Type of Review: Revision of a currently approved collection.

Abstract: The data collected is information provided by veterans receiving military pay for Reserve and National Guard participation to waive either VA benefits or military pay and allowances .

Affected Public: Individuals or households.

Estimated Annual Burden: 4,833 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 29,000.

Dated: December 2. 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33972 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0545]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for collection of information needed to report expenses incident to a monetary recovery for injury or death which may be excluded from countable income.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0545'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Medical, Legal, and Other Expenses Incident to Recovery for Injury or Death, VA Form 21–8416b.

OMB Control Number: 2900–0545.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The data collected is used to report expenses incident to recovery of benefits for injury or death.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 10,000.

Dated: December 2, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33973 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0168]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and

its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0168.''

SUPPLEMENTARY INFORMATION:

Title: Request for Estate Information, VA Form Letter 21–439.

OMB Control Number: 2900–0168.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used in VBA's Fiduciary and Field Examination Program, which is responsible for carrying out a Congressional mandate that VA maintain supervision of the distribution and use of VA benefits paid to a fiduciary on behalf of a beneficiary who is incompetent, a minor, or under legal disability. Title 38, U.S.C., Section 5503(b)(1)(A), requires discontinuance of benefits when an estate reaches a specific limit and other conditions exist. The information collected is used to determine whether an estate exceeds the limit and discontinuance is warranted.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49158.

Affected Public: Individuals or households—Business or other for-profit—Not-for-profit institutions.

Estimated Annual Burden: 2,300 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Once Annually.

Estimated Number of Respondents: 13,800.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0168'' in any correspondence.

Dated: November 18, 1998.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33953 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0500]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0500.''

SUPPLEMENTARY INFORMATION:

Title: Status of Dependents Questionnaire, VA Form 21–0538

OMB Control Number: 2900–0500.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to request certification of the status of dependents for whom additional compensation is being paid. Without the information, continued entitlement to the benefits for dependents could not be determined.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49159.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,083 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 84,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0500'' in any correspondence.

Dated: November 18, 1998.

By direction of the Secretary:

Donald L. Neilson,

Director Information Management Service.

[FR Doc. 98–33954 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0036]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0036.''

SUPPLEMENTARY INFORMATION:

Title: Statement of Disappearance, VA Form 21–1775.

OMB Control Number: 2900–0036.

Type of Review: Extension of a currently approved collection.

Abstract: Title 38, U.S.C., Section 108, requires a formal presumption of death when a veteran has been missing for seven years. VA Form 21–1775 is used to gather the necessary information to determine if a decision of presumptive

death can be made for benefit payment purposes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49156.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,500 hours.

Estimated Average Burden Per Respondent: 2 hours and 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0036'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33960 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0038]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0038.''

SUPPLEMENTARY INFORMATION:

Title: Information From Remarried Widow(er), VA Form 21–4103.

OMB Control Number: 2900–0038.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to determine if a child's income and net worth are within the limits imposed by law. This information is necessary to determine a child's pension eligibility and benefit rates once a surviving spouse remarries.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49156.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 9,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0038'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33961 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0095]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0095.''

SUPPLEMENTARY INFORMATION:

Title: Pension Claim Questionnaire for Farm Income, VA Form 21–4165.

OMB Control Number: 2900–0095.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: A claimant's eligibility for VA pension benefits is determined, in part, by countable income. VA Form 21–4165 is used to develop the necessary income and asset information peculiar to farm operations. The information is used by VA to determine whether the claimant is eligible for VA benefits. If eligibility exists, the information is used to determine the proper rate of benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 24, 1998 at page 51119.

Affected Public: Individuals or households—Farms.

Estimated Annual Burden: 12,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 25,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0095'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33962 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0129]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0129.''

SUPPLEMENTARY INFORMATION:

Title and Form Number: Insurance, Life Insurance, VA Form Letter 29–30a.

OMB Control Number: 2900–0129.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form letter is used by VA to determine the insurer's eligibility to obtain disability insurance benefits. The information on the form is required by 38 U.S.C., Sections 1912, 1915, 1942 and 1948.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 21, 1998 at page 19786.

Affected Public: Individuals or households.

Estimated Annual Burden: 548 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,570.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0129'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33963 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0255]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0255.''

SUPPLEMENTARY INFORMATION:

Title: Application for Dependency and Indemnity Compensation or Death Pension (Including Accrued Benefits and Death Compensation Where Applicable) From the Department of Veterans Affairs, VA Form 21–4182.

OMB Control Number: 2900–0255.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: The form is used to determine the applicant's eligibility for accrued, dependency and indemnity compensation, death compensation and/or death pension benefits when applying for Social Security benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 24, 1998 at page 51120.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 14,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0255'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33964 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0469]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0469.''

SUPPLEMENTARY INFORMATION:

Title and Form Numbers: Certificate Showing Residence and Heirs of Deceased Veterans or Beneficiary, VA Form 29–541.

OMB Control Number: 2900–0469.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish entitlement to Government Life Insurance proceeds in estate cases when formal administration of the estate is not required. The information is used by VBA to determine entitlement to Government Life Insurance proceeds.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 11, 1998 at page 48787.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,039 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,078.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0469'' in any correspondence.

Dated: November 18, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33965 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0510]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0510.''

SUPPLEMENTARY INFORMATION:

Title: Application for Exclusion of Children's Income, VA Form 21–0571.

OMB Control Number: 2900–0510.

Type of Review: Reinstatement, without change, for a previously approved collection for which approval has expired.

Abstract: A veteran's or surviving spouse's rate of Improved Pension is determined by family income. Normally, income of children who are members of the household is included in this determination. However, children's income may be excluded if it is unavailable or if consideration of that income would cause hardship. The information collected is used by VA to determine whether children's income can be excluded from consideration in determining a parent's eligibility for nonservice-connected pension.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on September 24, 1998 at page 51121.

Affected Public: Individuals or households.

Estimated Annual Burden: 18,750 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 25,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0510'' in any correspondence.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98–33966 Filed 12–22–98; 8:45 am]

BILLING CODE 8320–01–U

federal register

Wednesday
December 23, 1998

Part II

Department of Labor

Office of Workers' Compensation Programs

20 CFR Part 10

Claims for Compensation Under the Federal Employees' Compensation Act; Compensation for Disability and Death of Noncitizen Federal Employees Outside the United States; Final Rule

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1215–AB07

Claims for Compensation Under the Federal Employees' Compensation Act; Compensation for Disability and Death of Noncitizen Federal Employees Outside the United States

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final regulations, which were published Wednesday, November 25, 1998 (63 FR 65284). The regulations address the administration of the Federal Employees' Compensation Act (FECA).

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S–3229, 200 Constitution Avenue N.W., Washington, D.C. 20210; Telephone (202) 693–0040.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections represent a complete revision of the regulations governing claims under the FECA, which provides benefits to all civilian Federal employees and certain other groups of employees and individuals who are injured or killed while performing their jobs.

Need for Correction

As published, the final regulations contain the following errors:

§§ 10.7, 10.102, 10.112, and 10.331. The program has discontinued use of Forms CA–8 and CA–20a. In their stead, additional Forms CA–7 and CA–20 are to be filed. These sections are corrected to reflect this change.

§ 10.215. Through oversight, the reference to the number of days within which use of continuation of pay must begin is stated incorrectly.

§ 10.216. Tours of duty no longer include a category for on-call employees. The reference to such employees is therefore removed from this section.

Correction of Publication

Accordingly, the publication on November 25, 1998 of the final regulations, which were the subject of FR Doc. 98–31190, is corrected as follows:

§ 10.7 [Corrected]

1. On page 65311, in the second column, the chart in paragraph (a) is corrected by removing item (10), CA–8, and item (14), CA–20a, and renumbering current items (11) through (13) as (10) through (12).

§ 10.102 [Corrected]

2. On page 65313, in the first column, paragraph (b) is corrected to read: ''Additional Forms CA–7 are used to claim compensation for additional periods of disability after the first Form CA–7 is submitted to OWCP.'' In paragraphs (b)(1), (b)(2), and (b)(3), each iteration of ''CA–8'' is corrected to read ''CA–7''. In paragraph (b)(3), ''CA–20a'' is corrected to read ''CA–20''.

§ 10.112 [Corrected]

3. On page 65314, in the first column, paragraph (a) is corrected by replacing ''Form CA–8'' with ''another Form CA–7''. In paragraph (b), both iterations of ''CA–8'' are corrected to read ''CA–7''.

§ 10.215 [Corrected]

4. On page 65316, in the second column, paragraph (b) is corrected by replacing ''30'' with ''45''.

§ 10.216 [Corrected]

5. On page 65316, in the third column, paragraph (b)(3) is corrected by replacing the phrase ''For intermittent, seasonal and on-call workers,'' with, ''For intermittent and seasonal workers,''

§ 10.331 [Corrected]

6. On page 65319, in the third column, the first sentence of paragraph (a) is corrected to read: Form CA–16 may be used for the initial medical report, while ''Form CA–20 may be used for the initial report and for subsequent reports, including where continued compensation is claimed.''

Signed at Washington, D.C., this 17th day of December, 1998.

Bernard E. Anderson,

Assistant Secretary for Employment Standards Administration.

T. Michael Kerr,

Deputy Assistant Secretary for Workers' Compensation.

[FR Doc. 98–33873 Filed 12–22–98; 8:45 am]

BILLING CODE 4510–27–P

federal register

Wednesday
December 23, 1998

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 285

Offset of Federal Benefit Payments to Collect Past-due, Legally Enforceable Nontax Debt; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA74 and RIN 1510–AA64

Offset of Federal Benefit Payments to Collect Past-due, Legally Enforceable Nontax Debt

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Debt Collection Improvement Act of 1996 requires the Federal Government to withhold or reduce certain Federal payments for the purpose of collecting delinquent nontax debts owed to the United States by the payee. This process is known as ''administrative offset'' or ''offset.'' This final rule governs the offset of Federal benefit payments issued under the Social Security Act (other than Supplemental Security Income), part B of the Black Lung Benefits Act, and any law administered by the Railroad Retirement Board (other than tier 2 benefit payments). A notice of proposed rulemaking was published in the **Federal Register** on August 21, 1998, by cross-reference to an interim rule published in the **Federal Register** on the same day. This final rule adopts the interim rule without change.

DATES: This rule is effective January 22, 1999.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, at (202) 874–6660; Martin Mills, Treasury Offset Program, at (202) 874–8700; Ellen Neubauer or Ronda Kent, Senior Attorneys, at (202) 874–6680. A copy of this final rule is being made available for downloading from the Financial Management Service web site at the following address: http://www.fms.treas.gov/debt.

SUPPLEMENTARY INFORMATION:

Background

The Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321–358 (April 26, 1996), requires the Federal Government to withhold or reduce certain Federal payments for the purpose of collecting delinquent nontax debts owed to the United States by the payee. This process is known as ''administrative offset'' or ''offset.'' On August 21, 1998, the Financial Management Service (FMS) published in the **Federal Register**, 63 FR 44991, a notice of proposed rulemaking (NPRM) concerning the offset of Federal benefit payments issued under the Social Security Act (other than Supplemental Security Income), part B of the Black Lung Benefits Act, and any law administered by the Railroad Retirement Board (other than tier 2 benefit payments). An interim rule with request for comments, published in the **Federal Register** on the same day, 63 FR 44986, served as the text for the NPRM. The closing date for the submission of comments regarding the proposed and interim rules was September 21, 1998.

Comments on the Proposed and Interim Rules

FMS did not receive any comments on the proposed rule by the close of the comment period. Likewise, FMS did not receive any comments on the interim rule which served as the text for the proposed rule. Therefore, the interim rule is adopted, without change, as a final rule.

Regulatory Analysis

This final rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that this rule only impacts individuals who owe delinquent debt to the United States and receive the benefit payments discussed above. Therefore a regulatory flexibility analysis is not required.

Adoption as Final Rule

Accordingly, the interim rule adding § 285.4 to 31 CFR part 285, subpart A, which was published at 63 FR 44986 on August 21, 1998, is adopted as a final rule without change.

Dated: December 16, 1998.

Richard L. Gregg,

Commissioner.

[FR Doc. 98–33874 Filed 12–22–98; 8:45 am]

BILLING CODE 4810–35–P

federal register

Wednesday
December 23, 1998

Part IV

Department of Education

34 CFR Chapter VI

Office of Postsecondary Education; Higher Education Act of 1965; Notice of Intent To Establish Negotiated Rulemaking Committees; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Chapter VI

Higher Education Act of 1965; Notice of Intent To Establish Negotiated Rulemaking Committees

AGENCY: Department of Education.

ACTION: Notice of negotiated rulemaking.

SUMMARY: The Secretary of Education (Secretary) announces his intention to establish four negotiated rulemaking committees to draft proposed rules to implement Title IV of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998. The Secretary further announces the organizations or groups believed to represent the interests that should participate in the negotiated rulemaking process. The Secretary intends to select participants for the negotiated rulemaking process from nominees of these organizations or groups. The Secretary requests nominations for additional participants from anyone who believes that the organizations or groups listed do not adequately represent the statutory list of interests.

DATES: The deadline for receiving nominations for additional members on any of the four committees is January 6, 1999. The dates for the negotiation sessions for each committee are announced in the supplementary information section of the document.

ADDRESSES: Please send your nominations to Brian Kerrigan, U.S. Department of Education, 400 Maryland Avenue, SW, ROB–3, Washington D.C. 20202–5257, or fax them to Brian Kerrigan at (202) 205–0786. You may also e-mail your nominations to: hea98negotiated__rulemaking@ed.gov

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, U.S. Department of Education, 400 Maryland Avenue, SW, ROB–3, Washington, DC 20202–5257. Telephone: (202) 708–5217. If you use a telecommunications device for the deaf (TDD) you 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: The Department anticipates having four negotiating committees. The Department lists each committee below and the issues each committee is likely to address. This list of issues is tentative. Issues may be added as the process continues, and some issues listed may not need regulations at all. Citations refer to sections of the Higher Education Amendments of 1998 (Pub. L. 105–244, enacted Oct. 7, 1998).

Committee I: Lender and Guaranty Agency Issues

Lender Issues

Lender Default Claim Requirements—Section 417(c)(2)(A)
Prohibited Inducements—Section 429(b)
Small Volume Lenders—Section 417(b)(7)
Tax-exempt Funding and Special Allowance Payments—Section 433(d)

Guaranty Agency Issues

Fees and Payments Issues:
- Account Maintenance Fee—Section 454
- Default Aversion Fee—Section 417(h)
- Loan Processing and Issuance Fee—Section 417(e)
- Reduction of Reinsurance Payments—Section 417(c)(7)
- Secretary's Equitable Share—Section 417(c)(5)

Reserves and Funds Issues:
- Recall of Reserves—Section 412(4)
- Federal Fund—Section 413(a)
- Operating Fund—Section 413(b)
- Required Minimum Reserve—Section 417(c)(7)(A)

Other Issues:
- Assignment of Loans—Section 417(c)(6)
- Blanket Guaranty—Section 418
- Lender of Last Resort—Section 417(g)
- Opportunity for Hearing—Section 417(c)(7)(E)
- Prohibited Inducements—Section 417(b)(9)(B)
- Reinsurance Requests—Section 417(c)(2)(B)
- Responding to Electronic Inquiries—Section 412(2)
- State Court Judgments—Section 484
- Unsolicited Applications—Section 417(b)(9)(A)
- Voluntary Flexible Agreements—Section 418
- Wage Garnishment Requirement—Section 490A

Committee II: Loan Issues (FFEL, Direct Loan, and Perkins Loan Programs)

Cohort Default Rate Issues:
- Improper Loan Servicing—Section 429
- Mitigating Circumstances—Section 429(a)(3)
- Participation Rate—Section 429(a)(3)
- Special Exemption Institutions—Section 429(a)(3)
- Unsuccessful Appeals—Section 429(a)(1)(A)

Certification, Origination, and Disbursement Issues;
- Certification Requirements—Section 417(a)(1)
- Disbursement by Schools—Section 422
- Disclosure Requirements—Sections 428(a) and (b)
- Loan Limits—Sections 417(b), 423(b), and 423(c)

Repayment Issues:
- Capitalization—Section 423(c)
- Deferments—Section 417(b)
- Forbearance—Sections 417(b) and 423(e)
- Grace Periods—Section 417(b)
- Repayment Plans—Section 417(b)

Discharge and Forgiveness Issues:
- Child Care Provider Forgiveness Program—Section 425
- Disabled Veterans—Section 490F
- Discharge for Failure to Pay Refunds—Section 431
- Teaching Service Forgiveness—Sections 424 and 456

Other Issues:
- Consolidation—Sections 420(a) and (c)
- Definition of Default—Section 429(c)
- Interest Rates—Sections 416 and 420
- Master Promissory Note—Section 427(c)
- Origination Fees—Section 433(d)
- PLUS Eligibility—Section 419

Federal Perkins Loan Program Issues:
- Closed School Discharge—Section 464(d)
- Cohort Default Rates—Sections 462(c) and (d)
- Credit Bureau Reporting—Section 463(b)
- Deferment and Cancellation Benefits—Sections 464(c)(3) and 465
- Expanded Lending Option—Section 463(a)(1)
- Incentive Repayment Program—Section 464(d)
- Loan Limits—Section 464(a)
- Rehabilitation Program—Section 464(d)

Committee III: Refunds, Program, and Student Eligibility Issues

Refunds/Return of Title IV Aid—Section 485

Student Eligibility Issues

Statement of Educational Purpose—Section 483(a)(1)
Freely Associated States—Sections 483(a)(2) and (c)
Home-Schooled Students—Section 483(b)
Telecommunications Courses—Section 483(d)
Verification of Income Data—Section 483(e)

Suspension of Eligibility for Drug-related Offenses—Section 483(f)
Treatment of Veterans and Americorps—Sections 417(a)(1)(C) and 479

Program Issues

Federal Pell Grant Program:
Eligibility of Teacher Certification Students—Section 401(e)
Loss of Eligibility for High Default Rates—Section 401(f)
SSIG/Leveraging Educational Assistance Partnership Program—Sections 407(a) and (b)
Special Leveraging Educational Assistance Partnership Program—Section 407(c)
National Early Intervention Partnership and Scholarship Program—Section 403
Academic Achievement Incentive Scholarship Program—Section 404
Campus-Based Programs—Common Provision
Reasonable Portion for Non-Traditional Students—Sections 406(b), 443(d), and 464(b)
Federal Supplemental Educational Opportunity Grant Program
Carry Forward/Carry Back—Section 406(d)
Special Summer Carry Back—Section 406(d)
Federal Work-Study Program:
Definition of Community Services—Section 441(b)
Employment in Internships, Practical, or Research Assistantships—Section 443(a)
Pay for Travel or Training—Section 443(b)
Increase to 7 Percent Community Service—Section 443(c)
Reading Tutoring or Family Literacy Project—Section 443(c)
Ninety Percent Federal Share—Section 443(e)
Credit to Student's Account—Section 444
Work Colleges—Section 445

Committee IV: Institutional Eligibility Issues

Accrediting Agency Issues—Section 492
Audit Requirements—Section 489
Branch Campuses—Section 493(h)
Change of Ownership—Section 489
Consumerism Issues:
Electronic Consumerism—Section 446(a)
Exit Counseling for Borrowers—Section 486(b)
Student Right-to-Know—Section 486(a)
Institutions That Offer Athletic Aid—Section 486(d)
Campus Crime—Section 486(e)
Equity in Athletics—Section 486(f)
Definitions of Eligible Institutions Issues: Section 101 (all issues)
Foreign Veterinary Schools
Percentage of Incarcerated Students 85/15 Rule
Eligibility and Certification Procedures—Section 493(a)
Evidence of Authority to Operate in a State—Section 491
Financial Guarantees from Owners/Failure to Pay Refunds—Section 493(c)
Financial Responsibility—Section 493(b)
Foreign Schools Audits and Certification—Section 493(e)
Responsibilities of States—Section 491
Quality Assurance Program—Section 490

Each negotiating committee will be balanced and representative of the significantly affected interests, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies. To the extent possible, the Secretary will select from the nominations individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets.

Structure of Committees

The ultimate goal of negotiated rulemaking is to reach a consensus through discussion and negotiation among interested and affected parties, including the Department of Education (Department). With this in mind, the Department will conduct these negotiations within a structure that is designed to meet this goal fairly and efficiently and that takes into account the large number and complex nature of the issues to be negotiated. The meetings will be open to the public.

The Department has identified the organizations listed below as effective representatives of the interests that are significantly affected by the subject matter of the negotiated rulemaking. The Department anticipates that these organizations will participate as members of one or more of the negotiated rulemaking committees, either alone or in combination with others. Organizations not listed that have expressed an interest in participating in the process are encouraged to work with the listed organizations to ensure that their views are known. The committees may also create subgroups on particular topics that would involve additional parties.

Accrediting Commission of Career Schools and Colleges of Technology
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of Cosmetology Schools
American Association of State Colleges and Universities
American Association of Universities
American Council on Education
Association of American Universities
Career College Association
Coalition of Higher Education Assistance Organizations
Consumer Bankers Association
Education Finance Council
Educational Loan Management Resources
Federation of Associations of Schools of Health Professions
Hispanic Association of Colleges and Universities
Legal Services Counsel (a coalition)
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of State Student Grant Aid Programs
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
National Association of Student Loan Administrators
National Council of Higher Education Loan Programs
National Direct Student Loans Coalition
Sallie Mae
State Higher Education Executive Officers Association
Student Loan Servicing Alliance
United Negro College Fund
United States Public Interest Research Group
United States Student Association

Schedule for Negotiations

There are expected to be a total of approximately five meetings of each committee, all of which will be held in the metropolitan Washington, DC area. The following is the schedule for negotiations for each of the four committees.

This schedule is subject to change.

COMMITTEE I

Session 1: January 19–20
Session 2: February 16–17
Session 3: March 22–24
Session 4: April 19–20
Session 5: May 17–19

COMMITTEE II

Session 1: January 21–22
Session 2: February 18–19

Session 3: March 24–26
Session 4: April 21–23
Session 5: May 19–21

COMMITTEE III

Session 1: February 1–3
Session 2: February 24–25
Session 3: April 6–8
Session 4: May 3–5
Session 5: May 24–26

COMMITTEE IV

Session 1: February 3–5
Session 2: February 26–27
Session 3: April 8–10
Session 4: May 5–7
Session 5: May 26–28

Invitation for Additional Nominations

If an individual, organization or group believes that there is a significantly affected interest that would not be represented by the proposed members and wishes to apply for membership or nominate an individual for membership, it may do so. Requests for membership should be sent to Brian Kerrigan at the address stated at the beginning of this notice, no later than January 6, 1999. A request must include:

1. A description of the significantly affected interest to be represented and the reason that the organizations listed in this notice do not adequately represent that interest;

2. The name of the individual, organization or group that is making the nomination;

3. The name of the nominee and the committee for which the nominee is proposed;

4. The present job of the nominee.

Please note that participation in the rulemaking process is not limited to members of the committee. Following the negotiated rulemaking process, the Department will publish proposed rules in the **Federal Register** for public comment. The target date of publication of proposed rules developed by the committees is July, 1999.

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Program Authority: 20 U.S.C. 1090a.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: December 21, 1998.

Richard W. Riley,

Secretary of Education.

[FR Doc. 98–34110 Filed 12–22–98; 8:45 am]

BILLING CODE 4000–01–M

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Federal Register

Vol. 63, No. 246

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