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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV99–993–1 FR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the current assessment rate from $2.16 to $3.28 per ton of salable dried prunes for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 1998–99 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The increased assessment rate is needed because the assessable tonnage is expected to be 99,750 salable tons, or 38 percent less than the Committee's initial estimate for 1998–99. Increasing the assessment rate to $3.28 per ton of salable dried prunes will allow the Committee to meet its 1998–99 expenses and to operate for the first three months of the 1999–2000 crop year before monies become available from that year's assessments. The higher assessment rate applies to the entire 1998–99 crop year, which began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: January 26, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone (559) 487–5901; Fax (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632, or E-mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 1998–99 and subsequent crop years from $2.16 per ton to $3.28 per ton of salable dried prunes.

The California dried prune marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–99 and subsequent crop years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on December 1, 1998, and unanimously recommended reducing its 1998–99 budget from $348,840 to $327,180 and increasing the current assessment rate from $2.16 to $3.28 per ton of salable dried prunes. The assessment rate of $2.16 per ton was approved by the Department in a final rule published in the **Federal Register** on October 2, 1998 (63 FR

52959). The $1.22 per ton increase in the assessment rate to $3.28 per ton will allow the Committee to meet its 1998–99 expenses and to operate for the first three months of the 1999–2000 crop year before monies become available from next year's assessments. The California Agricultural Statistical Service originally estimated a 170,000 ton crop (161,500 salable tons) for the 1998–99 crop year. Due to unusually cool and wet weather conditions caused by the El Niño this season, the 1998–99 crop harvest is about four weeks late, of poor quality, and approximately 50 percent less than normal size. The Committee now expects the salable prune tonnage to be 99,750 salable tons, or 38 percent less than the Committee's initial estimate for 1998–99.

The following table compares major budget expenditures recommended by the Committee on June 25, 1998, and major budget expenditures in the revised budget recommended on December 1, 1998:

Budget expense categories	($1,000)	
	6/25/98	12/1/98
Salaries, Wages and Benefits	191.5	189.7
Research and Development	30	0
Office Rent	23	23
Travel	21	18.5
Acreage Survey	21	0
Reserve (Contingencies)	9.14	50.93
Equipment Rental	9	9
Data Processing	8	3.85
Stationery and Printing	5.5	5
Office Supplies	5	5
Postage and Messenger	5	5

The assessment rate recommended by the Committee was derived by dividing the reduced expenses by its reduced estimate of salable California dried prunes. Production of dried prunes for the year is estimated at 99,750 salable tons which should provide $327,180 in assessment income. Interest income also will be available to cover anticipated expenses. The Committee is authorized to use excess assessment funds from the 1997–98 crop year (currently estimated at $58,088) for up to five months beyond the end of the crop year to meet 1998–99 crop year expenses. At the end of the five months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)). Income derived from handler assessments, along with interest income, will be adequate to cover budgeted expenses.

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

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 1,250 producers of dried prunes in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated prune industry profile shows that 8 of the 20 handlers (40 percent) shipped over $5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Twelve of the 20 handlers (60 percent) shipped under $5,000,000 of dried prunes and could be considered small handlers. An estimated 90 producers, or about 7 percent of the 1,250 total producers, are considered large growers with annual income over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent crop years from $2.16 per ton to $3.28 per ton of salable dried prunes. The Committee unanimously recommended 1998–99 expenditures of $327,180 and an assessment rate of $3.28 per ton of salable dried prunes. The assessment rate of $3.28 is $1.22 higher than the current 1998–99 rate (63 FR 52959, October 2, 1998). The quantity of assessable dried prunes for the 1998–99 crop year is now estimated at 99,750 salable tons. Thus, the $3.28 rate should provide $327,180 in assessment income and be adequate to meet this year's expenses. Interest income will also be available to cover budgeted expenses if the 1998–99 expected assessment income falls short.

The following table compares major budget expenditures recommended by the Committee on June 25, 1998, with major budget expenditures in the revised budget recommended on December 1, 1998:

Budget expense categories	($1,000)	
	6/25/98	12/1/98
Salaries, Wages and Benefits	191.5	189.7
Research and Development	30	0
Office Rent	23	23
Travel	21	18.5
Acreage Survey	21	0
Reserve (Contingencies)	9.14	50.93
Equipment Rental	9	9
Data Processing	8	3.85
Stationery and Printing	5.5	5
Office Supplies	5	5
Postage and Messenger	5	5

Due to unusually cool and wet weather conditions caused by the El Nino this season, the 1998–99 crop harvest is about four weeks late, of poor quality, and approximately 50 percent less than normal size. At its December 1, 1998, meeting, the Committee reduced the California Agricultural Statistical Service's dried prune crop estimate for 1998–99 from 170,000 tons (161,500 salable tons) to 103,000 tons (99,750 salable tons).

The Committee reviewed and unanimously recommended 1998–99 expenditures of $327,180. The assessment rate of $3.28 per ton of salable dried prunes was then determined by dividing the total recommended budget by the reduced estimate for salable dried prunes. The Committee is authorized to use excess assessment funds from the 1997–98 crop year (currently estimated at $58,088) for up to five months beyond the end of the crop year to fund 1998–99 crop year expenses. At the end of the five months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)). Anticipated assessment income and interest income during 1998–99 would be adequate to cover authorized expenses.

Recent price information indicates that the grower price for the 1998–99 season should average about $800 per salable ton of dried prunes. Based on estimated shipments of 99,750 salable tons, assessment revenue during the 1998–99 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 1, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

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

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

A proposed rule concerning this action was published in the **Federal Register** on December 18, 1998 (63 FR 70063). The proposal was made available through the Internet by the Office of the Federal Register. A 10-day comment period ending December 28, 1998, was provided for interested persons to respond to the proposal. No comments were received.

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to collect assessments from handlers based on the higher rate as soon as possible to pay its expenses which are incurred on a continuous basis; (2) the 1998-99 crop year began on August 1, 1998, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such year. Further, handlers are aware of this rule which was recommended unanimously at a public meeting. Also, no comments were received in response to the proposed rule on the assessment rate increase.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $3.28 per ton is established for California dried prunes.

Dated: January 19, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–1611 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 98–ASW–47]

RIN 2120–AA66

Amendments to Restricted Areas 6302C, D and E; Fort Hood, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the internal boundaries of Restricted Areas 6302 (R–6302) Fort Hood, TX. Specifically, this action reduces the dimension of R–6302E, and reconfigures the internal adjoining boundaries of R–6302C and R–6302D. In addition, this action removes the altitude restrictions associated with R–6302C and R–6302D, when R–6302E is activated. The FAA is taking this action in response to a request from the United States Army (USA) to modify the restricted areas to more accurately reflect the actual use of the airspace.

EFFECTIVE DATE: 0901 UTC, March 25, 1999.

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

SUPPLEMENTARY INFORMATION:

Background

As a result of a recent review of restricted area activity, the USA requested that the FAA take action to modify the dimensions of R–6302E to accurately reflect the protected airspace required for the operations being conducted therein. As a result of the review, the USA determined that when R–6302E is activated it encompasses the airspace above R–6302C and R–6302D which have not been activated because they are not required for the activity conducted therein. The FAA is granting the request because the total modification of the boundaries of the restricted airspace will provide additional airspace for other users of the National Airspace System. While this action modifies the western boundary of R–6302E, and redefines the internal abutting boundaries of R–6302C and R–6302D, it does not affect the designated altitudes, or activities conducted within R–6302C, R–6302D, and R–6302E.

The Rule

This amendment to 14 CFR part 73 modifies the dimension of R–6302E and the internal boundaries of R–6302C, and R–6302D. The FAA is taking this action in response to a request to modify the restricted areas to more accurately reflect the actual use of the airspace. Because this airspace is restricted, the solicitation of comments would not offer any meaningful right or benefit to any segment of the public, therefore, notice and comment under 5 U.S.C. 553(b) are unnecessary.

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

Environmental Review

This action reduces the lateral size of R–6302E, and internal boundaries of R–6302C and R–6302D. In accordance with FAA Order 1050.1D, ''Polices and Procedures for Considering Environmental Impacts,'' this action is not subject to environmental assessments and procedures and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.25 [Amended]

§ 73.25 is amended as follows:

* * * * *

R–6302C Fort Hood, TX [Amended]

By removing the existing boundaries and substituting the following:

Boundaries: Beginning at lat. 31°09′01″ N., long. 97°45′01″ W.; to lat. 31°09′01″ N., long. 97°55′01″ W.; to lat. 31°16′01″ N., long. 97°54′01″ W.; to lat. 31°19′01″ N., long. 97°51′01″ W.; to lat. 31°18′25″ N., long. 97°48′48″ W.; to lat. 31°14′15″ N., long. 97°50′33″ W.; to lat. 31°10′01″ N., long. 97°48′01″ W.; to the point of the beginning.

R–6302D Fort Hood, TX [Amended]

By removing the existing boundaries and substituting the following:

Boundaries: Beginning at lat. 31°18′25″ N., long. 97°48′48″ W.; to lat. 31°19′01″ N., long. 97°51′01″ W.; to lat. 31°24′01″ N., long. 97°48′01″ W.; to lat. 31°23′01″ N., long. 97°43′01″ W.; to lat. 31°22′08″ N., long. 97°41′56″ W.; to lat. 31°22′09″ N., long. 97°43′27″ W.; to lat. 31°20′00″ N., long. 97°45′23″ W.; to lat. 31°18′23″ N., long. 97°45′43″ W.; to the point of the beginning.

R–6302E Fort Hood, TX [Amended]

By removing the existing boundaries and substituting the following:

Boundaries: Beginning at lat. 31°22′08″ N., long. 97°41′56″ W.; to lat. 31°21′01″ N., long. 97°41′01″ W.; to lat. 31°20′01″ N., long. 97°41′01″ W.; to lat. 31°14′01″ N., long. 97°33′01″ W.; to lat. 31°08′01″ N., long. 97°39′01″ W.; to lat. 31°10′01″ N., long. 97°41′01″ W.; to lat. 31°09′01″ N., long. 97°43′01″ W.; to lat. 31°09′01″ N., long. 97°45′01″ W.; to lat. 31°10′01″ N., long. 97°48′01″ W.; to lat. 31°14′15″ N., long. 97°50′33″ W.; to lat. 31°18′25″ N., long. 97°48′48″ W.; to lat. 31°18′23″ N., long. 97°45′43″ W.; to lat. 31°20′00″ N., long. 97°45′23″ W.; to lat. 31°22′09″ N., long. 97°43′27″ W.; to the point of the beginning.

* * * * *

Issued in Washington, DC, January 15, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–1555 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 981006253–9021–03; I.D. 082698D]

RIN 0648–AK05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 9; OMB Control Numbers

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the approved measures in Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This final rule increases the minimum size for red porgy, black sea bass, gag, and black grouper for all participants in the fishery; increases the minimum size for vermilion snapper for a person subject to the bag limit; establishes bag limits for red porgy and black sea bass; during March and April, prohibits harvest and possession in

excess of the bag limit and prohibits purchase and sale of red porgy, gag grouper, and black grouper; for greater amberjack, reduces the bag limit, establishes a commercial quota, prohibits sale of greater amberjack caught under the bag limit when the commercial fishery is closed, prohibits harvest and possession in excess of the bag limit during April, changes the beginning of the fishing year to May 1, and prohibits coring (i.e., removing the head from the carcass); restricts possession of gag and black grouper within the aggregate grouper bag limit; establishes an aggregate bag limit for all snapper-grouper species currently not under a bag limit (excluding tomtate and blue runner); requires escape vents and escape panels with degradable hinges and fasteners in black sea bass pots; and specifies that a vessel with longline gear on board may only possess certain deep-water species of snapper-grouper (i.e., snowy grouper, warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish.) Finally, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule, publishes the OMB control number for these collections, and corrects the list of control numbers applicable to title 50 of the Code of Federal Regulations. The intended effect of this rule is to reduce overfishing and to conserve and manage these snapper-grouper species.

DATES: This final rule is effective February 24, 1999.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727–570–5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On September 8, 1998, NMFS announced the availability of Amendment 9 and requested comments on the amendment (63 FR 47461). On November 12, 1998, NMFS published a proposed rule to implement the measures in Amendment 9 and additional measures proposed by NMFS and requested comments on the rule (63 FR 63276). The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here. On December 9, 1998, after considering the comments received on the amendment and proposed rule, NMFS partially approved Amendment 9. The proposed commercial trip limit for greater amberjack was disapproved.

Comments and Responses

Fifteen comments were received during the public comment periods on the amendment and proposed rule. A summary of the comments and NMFS' responses follow.

Comment 1: Seven commenters supported the management measures in Amendment 9. They urged NMFS to implement Amendment 9 as soon as possible, and they are concerned about the delay in implementing this amendment.

Response: NMFS agrees, with the exception of the commercial trip limit for greater amberjack that NMFS disapproved.

Comment 2: Two commenters opposed allowing recreational anglers to fish during the spawning closures because that practice places most of the conservation burden on commercial fishermen.

Response: The Council and NMFS believe that the combined effect of the management measures results in an equitable sharing of the conservation burden on the respective user groups. In particular, the reduction in bag limits, increases in minimum size limits, and spawning closures ensure that recreational anglers share the conservation burden.

Comment 3: One commenter supports the increases in minimum size limit for black sea bass and vermilion snapper.

Response: NMFS agrees.

Comment 4: Two commercial fishermen who fish off northeast Florida and further north oppose the 1,000-lb (454-kg) trip limit for greater amberjack, and another opposes the quota for greater amberjack. They stated that the trip limit would severely impact their fishing operations because their fishing grounds are located approximately 50 miles (80.5 km) offshore. They commented that because of the low price of amberjack, it would not be economically feasible to travel a long distance and restrict trip catches to 1,000 lb (454-kg). They contend that these measures would put them out of business.

Response: Based on current information, it does not appear that the proposed commercial trip limit would provide benefits that would exceed costs. The benefits of a trip limit tend to be high when a restrictive quota creates the classic commercial fishing derby. However, when the quota is not very restrictive, as in the case at hand, the loss of individual trip benefits can easily offset whatever benefits might be accrued due to a lengthening of the fishing season. These individual trip losses stem from the fact that costs per trip do not vary greatly with the catch per trip, and a restrictive trip limit lowers the profitability of each individual trip. In consideration of this, and the concerns expressed by these commenters, NMFS disapproved the trip limit. NMFS believes that the approved greater amberjack measures in Amendment 9, especially the annual commercial quota, are necessary to protect this resource from overfishing.

Comment 5: One fisherman opposes beginning the fishing year for greater amberjack on May 1 because he fishes in the winter and is concerned that the quota would be taken before he could fish.

Response: Landings of greater amberjack have been quite variable in recent years. Thus, it is possible that the quota could be reached and closed in any given fishing year prior to the April spawning closure at the end of that year. However, based on landings in recent years, it appears that such a closure would not occur prior to March. Thus, fishermen should be able to fish most of the winter. The Council and NMFS will monitor the condition of the greater amberjack resource, and adjustments to the annual quota will be made as required.

Comment 6: One fisherman states that peak spawning of black grouper occurs during December, January, and February, not March and April. Thus, he believes that the spawning closure should be December through February rather than March and April. Also, he opposes raising the minimum size limit because it could focus fishing effort on males which could lead to a shortage of males. Finally, he recommends that the Council establish marine reserves because other management measures may not be sufficient to protect black grouper.

Response: The best scientific information available indicates that

major spawning occurs in March and April but that spawning is protracted. The Council and NMFS will monitor the condition of the black grouper resource, and as information becomes available, make adjustments to the spawning closure dates, if necessary. Raising the minimum size limit will increase yield-per-recruit and provide additional protection for spawners. Black grouper appear severely overfished; thus, it is imperative to provide additional protection to the spawning population. The Council is considering the use of marine reserves for management of snapper-grouper species because this approach may be useful in conjunction with traditional management measures.

Comment 7: Three hundred and twenty-two commercial fishermen signed a petition that opposes the March-April spawning closure and the increase in minimum size from 20 to 24 inches (51 to 61 cm) total length for black grouper. They state that the elimination of fish traps and longline gear in their area are all the biological measures that are needed to conserve black grouper. They advise managers to do additional research on the biological impacts of these measures.

Response: Because gag and black grouper are both called black grouper, it has been difficult to document trends in landings in commercial catches, which account for about 80 percent of total landings. Nonetheless, commercial catches declined about 40 percent from 1990 to 1995. Headboat catches declined 90 percent between 1983 and 1990. Also, a retrospective stock assessment, based on data from 1979 through 1995, indicates that black grouper are severely overfished with a spawning potential ratio of approximately 5 percent. The proposed increase in minimum size limit will result in increased yield-per-recruit, which should result in greater landings in the future because the average weight of fish taken will increase. In summary, the declines in recreational and commercial catches and the best available scientific information indicate that black grouper are overfished and, thus, the proposed management measures are necessary to rebuild this resource.

Comment 8: Eighty-two fishermen signed a petition that opposes all measures in Amendment 9. They believe that the limited access program, implemented under FMP Amendment 8, and the current moratorium on king mackerel permits are sufficient to protect snapper-grouper resources. They specifically oppose the spawning season closures and increases in minimum size limits. They advise NMFS to wait until the impacts of past conservation measures have been fully evaluated.

Response: The best available scientific information shows that red porgy, black sea bass, vermilion snapper, black grouper and gag are overfished. These stocks need to be rebuilt to the level where they are capable of producing their respective maximum sustainable yields. In this context, FMP Amendment 8, which limits the number of fishermen to anyone who held a Federal snapper-grouper permit between February 11, 1996 and February 11, 1997, and who reported at least one pound of fish taken between January 1, 1993 and August 20, 1996, does little, if anything, to reduce fishing pressure. Similarly, the moratorium on king mackerel permits established by Amendment 8 to the FMP for Coastal Migratory Pelagics has had little, if any, impact upon the snapper-grouper fishery. Consequently, additional measures are required to rebuild the overfished resources.

The Magnuson-Stevens Act specifies that overfishing should be prevented and overfished stocks should be rebuilt. Specifically, stocks should be rebuilt to a stock size that would result in a long-term average catch approaching maximum sustainable yield under prevailing ecological and environmental conditions. The approved management measures in Amendment 9 are necessary to rebuild overfished stocks in the snapper-grouper fishery. The greater amberjack measures are designed to prevent overfishing. These measures are consistent with the precautionary approach in fishing management required by the Sustainable Fisheries Act of 1996, as it amended the Magnuson-Stevens Act. The Council has indicated that it will take further conservation action should it be required for the full recovery of overfished resources and the prevention of overfishing.

Changes From the Proposed Rule

For the reasons discussed above, NMFS has disapproved the commercial trip limit for greater amberjack. That measure, as contained in § 622.44(c)(4) of the proposed rule, has been removed from this final rule.

Classification

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, Department of Commerce, has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA (AA).

The Regional Administrator, Southeast Region, NMFS, with the concurrence of the AA, determined that the approved measures of Amendment 9 are necessary for the conservation and management of the snapper-grouper fishery off the southern Atlantic states and that, with the exception of the measure that was disapproved, Amendment 9 is consistent with the Magnuson-Stevens Act and other applicable law.

The Council prepared a final supplemental environmental impact statement for this FMP; a notice of availability was published on October 9, 1998 (63 FR 54476).

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

NMFS prepared a FRFA for the final rule implementing Amendment 9 to the FMP. The FRFA was based on the Initial Regulatory Flexibility Analysis (IRFA) and public comments received on the proposed rule and is summarized below.

Amendment 9 contains 10 management actions (each including one or more measures) that provide additional regulations for red porgy, black sea bass, greater amberjack, vermilion snapper, gag, and black grouper. These actions also provide for escape mechanisms in black sea bass pots, specify allowable species that may be harvested by longlines, establish an aggregate recreational bag limit of 20 fish per person per day inclusive of all snapper grouper species currently not under a bag limit, and further define an aggregate bag limit for all grouper species in combination. These actions are being taken because of fishery problems that include excessive fishing mortality, habitat degradation, and localized depletion of fishery resources. Given these problems, the Council developed Amendment 9 specifically to prevent overfishing, minimize habitat damage, minimize gear and area conflicts among fishermen, evaluate and minimize localized depletion, and minimize bycatch. Significant issues raised during the public comment periods on the amendment and proposed rule, included: Generic support by individuals and institutions of all the conservation measures; opposition to allowing recreational anglers to fish during the spawning closures because that practice places most of the conservation burden on commercial fishermen; opposition to the trip limit for greater amberjack and quota; opposition to the fishing year starting on May 1 for greater amberjack and to the minimum size limit; support for marine reserves as an alternative management policy; opposition to the March-April spawning closure and the

increase in minimum size for black grouper; opposition to all the measures in the amendment and rule; and concern about the length of time NMFS has taken to issue this final rule. This rule will apply to all of the entities that currently hold valid Federal permits in the snapper grouper fishery and recreational fishermen (including headboats, charter boats and private/rental boats). It is estimated that about 2,500 commercial vessels currently hold valid Federal snapper grouper permits. The average investment in 1995 in vessel and equipment ranged from $53,000 for vessels operating with vertical lines to $237,000 for vessels operating with bottom longlines. The estimated cost of new vessels comparably equipped ranges from an average of $113,000 for vessels with vertical lines to $340,000 for vessels with bottom longlines. Data extrapolated from the NMFS catch and value data for 1995 indicate an estimated annual exvessel revenue value of about $6,200 for all vessels in the fishery. One of the measures will entail modifying existing black sea bass pots by requiring escape vents and escape panels with biodegradable fasteners. The total cost to modify all the sea bass pots used in the fishery is estimated at $25,000 or 13.5 percent of the current value of the pots. The Council and NMFS considered several alternatives to the Amendment 9 management actions approved by NMFS and implemented by this final rule and described in the background section of the FRFA. The Council prepared an IRFA which describes the impact the proposed rule, if adopted, would have on small entities. The findings of the IRFA were used as the baseline for the FRFA's discussion of the relative impacts of the preferred versus rejected alternatives. Virtually all the proposed actions are designed to reduce fishing mortality on the species addressed by the amendment, and these measures tend to create short-term economic losses for both commercial and recreational fishermen. The general approach used by the Council to minimize adverse socioeconomic impacts was to consider several alternatives for most of the proposed actions and to choose those which met the overfishing objectives while minimizing economic losses to the fishery. Rejected alternatives were either not capable of reducing fishing mortality by an acceptable level or were able to meet the fishing mortality reduction level but created greater adverse economic impacts than other alternatives that also met the conservation objectives.

Copies of the FRFA are available (see **ADDRESSES**).

This rule contains a new collection-of-information requirement subject to the Paperwork Reduction Act (PRA)—namely, the requirement that dealers possessing red porgy, gag, black grouper, or greater amberjack during seasonal closures must maintain documentation that such fish were harvested from areas other than the South Atlantic. This requirement has been approved by OMB under OMB control number 0648–0365. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

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

Dated: January 19, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 622 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b) table, under 50 CFR, the following entry is added in numerical order to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
622.45	0365
* * * * *	

50 CFR Chapter VI

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

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

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

4. In § 622.30, paragraph (d) is added to read as follows:

§ 622.30 Fishing years.

* * * * *

(d) *South Atlantic greater amberjack*—May 1 through April 30.

5. In § 622.36, a heading for paragraph (a) is added and paragraph (b) is revised to read as follows:

§ 622.36 Seasonal harvest limitations.

(a) *Gulf EEZ.* * * *

(b) *South Atlantic EEZ*—(1) *Greater amberjack spawning season.* During April, each year, the possession of greater amberjack in or from the South Atlantic EEZ and in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such greater amberjack were harvested, is limited to one per person per day or one per person per trip, whichever is more restrictive. Such greater amberjack are subject to the prohibition on sale or purchase, as specified in § 622.45(d)(6).

(2) *Mutton snapper spawning season.* During May and June, each year, the possession of mutton snapper in or from the EEZ on board a vessel that has a commercial permit for South Atlantic snapper-grouper is limited to 10 per person per day or 10 per person per trip, whichever is more restrictive.

(3) *Wreckfish spawning-season closure.* From January 15 through April 15, each year, no person may harvest or possess on a fishing vessel wreckfish in

or from the EEZ; offload wreckfish from the EEZ; or sell or purchase wreckfish in or from the EEZ. The prohibition on sale or purchase of wreckfish does not apply to trade in wreckfish that were harvested, offloaded, and sold or purchased prior to January 15 and were held in cold storage by a dealer or processor.

(4) *Black grouper and gag.* During March and April, each year, the possession of black grouper and gag in or from the South Atlantic EEZ and in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such black grouper or gag were harvested, is limited to two black grouper or gag, combined, per person per day or two black grouper or gag, combined, per person per trip, whichever is more restrictive. Such black grouper or gag are subject to the prohibition on sale or purchase, as specified in § 622.45(d)(5).

(5) *Red porgy.* During March and April, each year, the possession of red porgy in or from the South Atlantic EEZ and in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such red porgy were harvested, is limited to five per person per day or five per person per trip, whichever is more restrictive. Such red porgy are subject to the prohibition on sale or purchase, as specified in § 622.45(d)(5).

6. In § 622.37, paragraph (e) is revised to read as follows:

§ 622.37 Minimum sizes.

* * * * *

(e) *South Atlantic snapper-grouper*—(1) *Snapper.* (i) Lane snapper—8 inches (20.3 cm), TL.

(ii) Vermilion snapper—11 inches (27.9 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.39 (d)(1)(v) and 12 inches (30.5 cm), TL, for a fish taken by a person not subject to the bag limit.

(iii) Blackfin, cubera, dog, gray, mahogany, queen, silk, and yellowtail snappers; and schoolmaster—12 inches (30.5 cm), TL.

(iv) Mutton snapper—16 inches (40.6 cm), TL.

(v) Red snapper—20 inches (50.8 cm), TL.

(2) *Grouper.* (i) Red, yellowfin, and yellowmouth grouper; and scamp—20 inches (50.8 cm), TL.

(ii) Black grouper and gag—24 inches (61.0 cm), TL.

(3) *Other snapper-grouper species.* (i) Black sea bass—10 inches (25.4 cm), TL.

(ii) Gray triggerfish in the South Atlantic EEZ off Florida—12 inches (30.5 cm), TL.

(iii) Hogfish—12 inches (30.5 cm), fork length.

(iv) Red porgy—14 inches (35.6 cm), TL.

(v) Greater amberjack—28 inches (71.1 cm), fork length, for a fish taken by a person subject to the bag limit specified in § 622.39(d)(1)(i) and 36 inches (91.4 cm), fork length, for a fish taken by a person not subject to the bag limit.

* * * * *

7. In § 622.38, paragraph (e) is removed; paragraphs (f) through (i) are redesignated as paragraphs (e) through (h), respectively; and paragraph (a) is revised to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(a) The following must be maintained with head and fins intact: Cobia, king mackerel, and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel in paragraph (g) of this section; South Atlantic snapper-grouper in or from the South Atlantic EEZ, except as specified in paragraph (h) of this section; yellowtail snapper in or from the Caribbean EEZ; and finfish in or from the Gulf EEZ, except as specified in paragraphs (c) and (d) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition.

* * * * *

8. In § 622.39, a concluding sentence is added to paragraph (a)(1); paragraphs (d)(1)(i) and (d)(1)(ii) are revised; and paragraphs (d)(1)(vi) through (viii) are added to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(1) * * * The operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag and possession limits specified in this section are not exceeded.

* * * * *

(d) * * *

(1) * * *

(i) Greater amberjack—1.

(ii) Groupers, combined, excluding jewfish and Nassau grouper, and tilefishes—5. However, within the 5-fish aggregate bag limit, no more than two fish may be gag or black grouper, combined.

* * * * *

(vi) Red porgy—5.

(vii) Black sea bass—20.

(viii) South Atlantic snapper-grouper, combined, excluding tomtate and blue runner and those specified in paragraphs (d)(1)(i) through (vii) of this section—20.

* * * * *

9. In § 622.40, paragraph (b)(3)(i) is revised to read as follows:

§ 622.40 Limitations on traps and pots.

* * * * *

(b) * * *

(3) * * *

(i) A sea bass pot that is used or possessed in the South Atlantic EEZ between 35°15.3′ N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1′ N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL) is required to have—

(A) On at least one side, excluding top and bottom, a panel or door with an opening equal to or larger than the interior end of the trap's throat (funnel). The hinges and fasteners of each panel or door must be made of one of the following degradable materials:

(*1*) Ungalvanized or uncoated iron wire with a diameter not exceeding 0.041 inches (1.0 mm), that is, 19 gauge wire.

(*2*) Galvanic timed-release mechanisms with a letter grade designation (degradability index) no higher than J.

(B) An unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom. The minimum dimensions of an escape vent opening (based on inside measurement) are:

(*1*) 1⅛ by 5¾ inches (2.9 by 14.6 cm) for a rectangular vent.

(*2*) 1.75 by 1.75 inches (4.5 by 4.5 cm) for a square vent.

(*3*) 2.0-inch (5.1-cm) diameter for a round vent.

* * * * *

10. In § 622.41, paragraph (d)(6) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(d) * * *

(6) *Longline species limitation.* A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ on a trip with a longline on board, may possess only the following South Atlantic snapper-grouper: snowy grouper, warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler,

a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

* * * * *

11. In § 622.42, paragraph (e)(3) is added to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(3) *Greater amberjack*—1,169,931 lb (530,672 kg), gutted weight, that is, eviscerated but otherwise whole.

* * * * *

12. In § 622.43, paragraphs (a)(5) and (b)(1) are revised to read as follows:

§ 622.43 Closures.

(a) * * *

(5) *South Atlantic snapper-grouper, excluding wreckfish.—(i) Greater amberjack.* The bag limit specified in § 622.39(d)(1)(i) and the possession limits specified in § 622.39(d)(2) apply to all harvest or possession of greater amberjack in or from the South Atlantic EEZ, and the sale or purchase of greater amberjack taken from the EEZ is prohibited. In addition, the bag and possession limits for greater amberjack and the prohibition on sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such greater amberjack were harvested.

(ii) *Golden tilefish and snowy grouper.* Golden tilefish and snowy grouper, for which there are quotas, are managed under the commercial trip limits specified in § 622.44(c) in lieu of the closure provisions of this section.

* * * * *

(b) * * *

(1) The prohibition on sale/purchase during a closure for Gulf reef fish, king and Spanish mackerel, royal red shrimp, greater amberjack, or wreckfish in paragraphs (a)(1), (a)(3)(iii), (a)(4), (a)(5)(i), or (a)(6) of this section does not apply to the indicated species that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

* * * * *

13. In § 622.45, paragraphs (d)(5) and (d)(6) are added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(d) * * *

(5) During March and April, no person may sell or purchase a red porgy, gag, or black grouper harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during March and April does not apply to red porgy, gag, or black grouper that were harvested, landed ashore, and sold prior to March 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of red porgy, gag, or black grouper harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the red porgy, gag, or black grouper;

(iii) The port and date of offloading from the vessel harvesting the red porgy, gag, or black grouper; and

(iv) A statement signed by the dealer attesting that the red porgy, gag, or black grouper was harvested from an area other than the South Atlantic.

(6) During April, no person may sell or purchase a greater amberjack harvested from the South Atlantic EEZ or, if harvested by a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during April does not apply to greater amberjack that were harvested, landed ashore, and sold prior to April 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of greater amberjack harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the greater amberjack;

(iii) The port and date of offloading from the vessel harvesting the greater amberjack; and

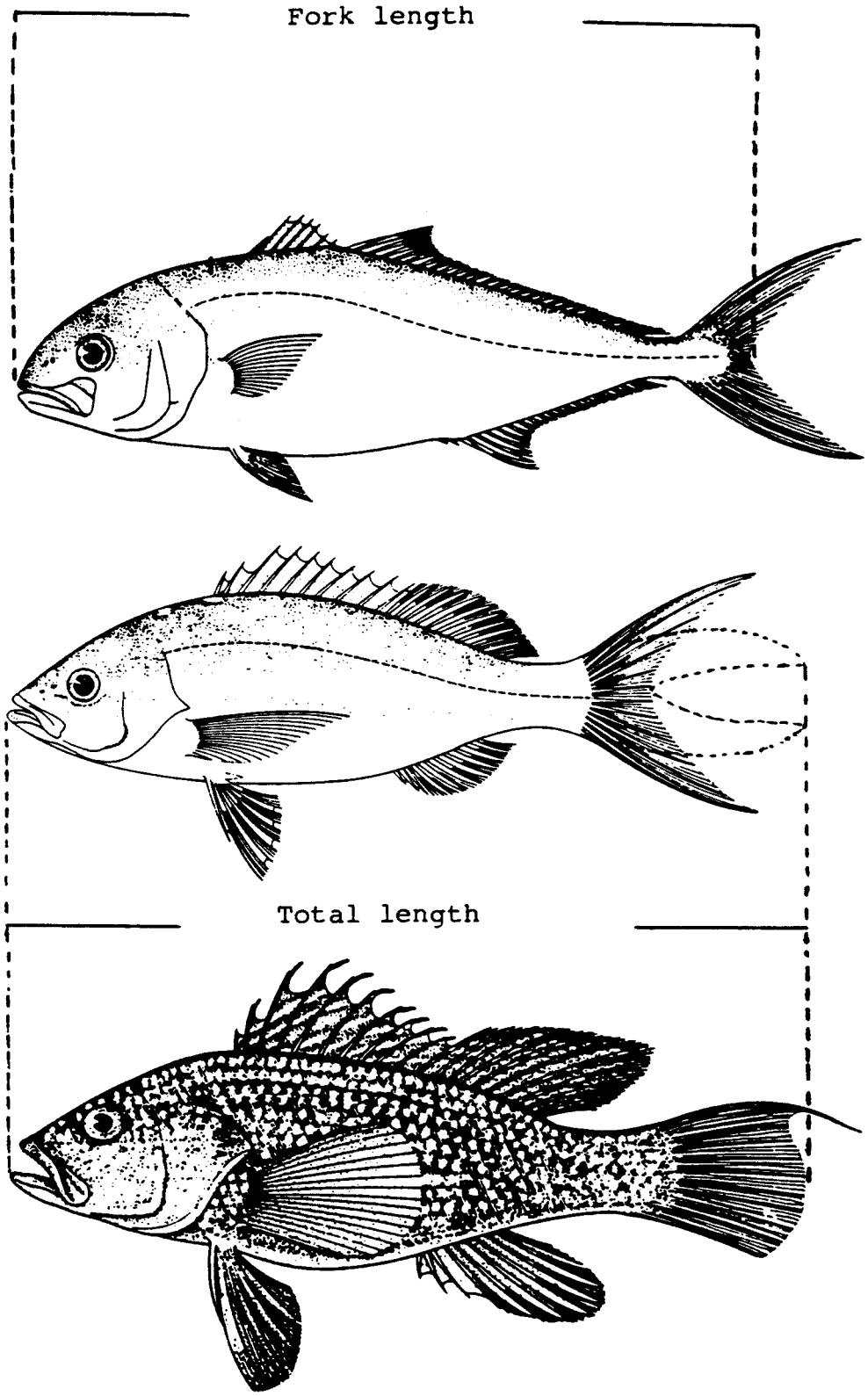
(iv) A statement signed by the dealer attesting that the greater amberjack was harvested from an area other than the South Atlantic.

* * * * *

14. Figure 2 of Appendix C to Part 622 is revised to read as follows:

BILLING CODE 3510–22–P

Figure 2 to Appendix C to Part 622— Illustration of Length Measurements



[FR Doc. 99–1604 Filed 1–21–99; 9:33 am]
BILLING CODE 3510–22–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8811]

RIN 1545–AV83

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to additions to, and deletions from, the list of items of information disclosed to the Bureau of the Census for use in certain statistical programs. These regulations provide guidance to IRS personnel responsible for disclosing the information. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective January 25, 1999.

Applicability Date: For dates of applicability, see § 301.6103(j)(1)–1T(e) of these regulations.

FOR FURTHER INFORMATION CONTACT: Jamie Bernstein, (202) 622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(j)(1) of the Internal Revenue Code, upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (''Bureau'') tax return information that is prescribed by Treasury regulations for the purpose of structuring censuses and national economic accounts and conducting related statistical activities. Section 301.6103(j)(1)–1 of the regulations provides an itemized description of the return information authorized to be disclosed for this purpose. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

This document adopts temporary regulations that authorize IRS personnel to disclose the additional items of return information that have been requested by the Secretary of Commerce. The temporary regulations also delete certain items of return information that are enumerated in the existing regulations but that the Secretary of Commerce has indicated are no longer needed.

Except for § 301.6103(j)(1)–1T(b)(3), (b)(6)(i)(A) and (b)(6)(iii), the text of the temporary regulations is the same as 26 CFR 301.6103(j)(1)–1. The changes made by § 301.6103(j)(1)–1T(b)(3), (b)(6)(i)(A) and (b)(6)(iii) are discussed below.

Explanation of Provisions

The request by the Secretary of Commerce for additional items of return information has indicated several areas in which changes to existing Bureau access to tax return information either would improve present statistical programs or are necessary to implement new programs.

To reduce small businesses' direct reporting burden in quinquennial economic censuses and current economic surveys, and to improve the quality of the data received, the Bureau needs certain items of information set forth in tax returns. These items include total expenses or deductions, beginning- and end-of-year inventories, net gain from sales of business property, other income, and total income.

The Secretary of Commerce also has requested identity information of parent corporations as shown on corporate tax returns. This information will enable the Bureau to collect data for various economic surveys at the subsidiary or division level rather than at the establishment level. Restructuring data collection in accordance with such new organizational linkages will reduce the burden on individual business establishments to estimate data relating to their affiliates, enhance the quality of the data collected, and provide the Bureau with an efficient sampling frame for surveys collecting certain data, such as capital expenditures, that are typically not available at the establishment level.

To eliminate the follow-up contact of corporate taxpayers presently required under the Quarterly Financial Report (QFR) program in order to establish S corporation status, the Bureau needs the document code and district office code from corporate returns. Another improvement to the QFR program would be effected by the requested disclosure of parent corporation identity information, because subsidiaries could then be linked before a sample was selected and would be relieved of the separate Census reporting requirements. Finally, the Bureau seeks to enhance the quality and reduce the size of sample frames under the QFR program by identifying inactive corporations so that they can be excluded from the universe subject to sampling. This requires that certain items of corporate employment tax information (employer identification number, tax period, total compensation, and taxable wages and tips), available to the Bureau under the existing regulations for economic census purposes, be available to the Bureau as well for QFR purposes.

The Secretary of Commerce has advised that the Bureau no longer uses certain items of information listed in the existing regulations: sales of livestock and produce raised, Schedule E information filed with the Form 1120 series, and, with respect to the QFR program, net income or loss. Accordingly, the temporary regulations have deleted these items from the enumeration of return information to be disclosed to the Bureau.

The transfer of the Census of Agriculture to the Department of Agriculture under the Census of Agriculture Act of 1997 (Pub. L. 105–113) has also obviated the need for the Secretary of Commerce to receive certain items of information. These items are: Schedule F filed with the Form 1040 series, net farm profits, agricultural activity code, and answers to material participation questions. These items have been deleted in the temporary regulations. For simplification and consistency, the term ''loss'' is not expressly stated in these regulations as an alternative to ''income'' or ''gain,'' but it is the intent of the Secretary to interpret ''income'' or ''gain'' as including negative or loss figures and to provide any such figures to the Bureau.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) see the Special Analyses section of the preamble to the cross reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Douglas Giblen, Office of the Associate Chief Counsel

(International) (formerly of the Office of Assistant Chief Counsel (Disclosure Litigation)). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

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

Section 301.6103(j)(1)–1T also issued under 26 U.S.C. 6103(j)(1); * * *

Par. 2. Section 301.6103(j)(1)–1 is amended by revising paragraphs (b)(3) and (b)(6)(i)(A) to read as follows:

§ 301.6103(j)(1)–1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b)(3)[Reserved]. For further guidance, see § 301.6103(j)(1)–1T(b)(3).

* * * * *

(b)(6)(i)(A)[Reserved]. For further guidance, see § 301.6103(j)(1)–1T(b)(6)(i)(A).

* * * * *

Par. 3. Section 301.6103(j)(1)–1T is added to read as follows:

§ 301.6103(j)(1)–1T Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities (temporary).

(a) through (b)(2)[Reserved]. For further guidance, see § 301.6103(j)(1)–1(a) through (b)(2).

(b)(3) Officers or employees of the Internal Revenue Service will disclose the following business related return information reflected on the return of a taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic, economic, and agricultural statistics programs, censuses, and surveys. The ''return of a taxpayer'' includes, but is not limited to, Form 941; Form 990 series; Form 1040 series and Schedules C and SE; Form 1065 and all attending schedules and Form 8825; Form 1120 series and all attending schedules and Form 8825; Form 851; Form 1096; and other business returns, schedules and forms that the Internal Revenue Service may issue—

(i) Taxpayer identity information (as defined in section 6103(b)(6)) including parent corporation, shareholder, partner, and employer identity information;

(ii) Gross income, profits, or receipts;

(iii) Returns and allowances;

(iv) Cost of labor, salaries, and wages;

(v) Total expenses or deductions;

(vi) Total assets;

(vii) Beginning- and end-of-year inventory;

(viii) Royalty income;

(ix) Interest income, including portfolio interest;

(x) Rental income, including gross rents;

(xi) Tax-exempt interest income;

(xii) Net gain from sales of business property;

(xiii) Other income;

(xiv) Total income;

(xv) Percentage of stock owned by each shareholder;

(xvi) Percentage of capital ownership of each partner;

(xvii) End-of-year code;

(xviii) Months actively operated;

(xix) Principal industrial activity code, including the business description;

(xx) Total number of documents and the total amount reported on the Form 1096 transmitting Forms 1099-MISC;

(xxi) Form 941 indicator and business address on Schedule C; and

(xxii) Consolidated return indicator.

(b)(4) and (5)[Reserved]. For further guidance, see § 301.6103(j)(1)–1(b)(4) and (5).

(b)(6)(i) Officers or employees of the Internal Revenue Service will disclose the following return information (but not including return information described in section 6103(o)(2)) reflected on the return of a corporation with respect to the tax imposed by Chapter 1 to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, developing and preparing, as authorized by law, the Quarterly Financial Report—

(A) From the business master files of the Internal Revenue Service—

(*1*) Taxpayer identity information (as defined in section 6103(b)(6)), including parent corporation identity information;

(*2*) Document code;

(*3*) District office code;

(*4*) Consolidated return and final return indicators;

(*5*) Principal industrial activity code;

(*6*) Partial year indicator;

(*7*) Annual accounting period;

(*8*) Gross receipts less returns and allowances; and

(9) Total assets.

(b)(6)(i)(B) and (ii)[Reserved]. For further guidance, see § 301.6103(j)(1)–1(b)(6)(i)(B) and (ii).

(iii) Information from an employment tax return disclosed pursuant to § 301.6103(j)(1)–1(b)(2)(iii)(A), (B), (D), (I) and (J) may be used by officers and employees of the Bureau of the Census for the purpose described in and subject to the limitations of this paragraph (b)(6).

(c) and (d) [Reserved]. For further guidance, see § 301.6103(j)(1)–1(c) and (d).

(e) *Effective date.* This section is applicable to the Bureau of the Census on January 25, 1999 through January 22, 2002.

Approved: December 29, 1998.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–1284 Filed 1–22–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Department of the Treasury Circular, Public Debt Series No. 1–93]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Treasury'' or ''Department'') is issuing in final form an amendment to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This amendment incorporates certain changes in the Department's marketable securities auction program that have been made over the last several months. The amendment defines the term ''bid-to-cover ratio'' and adds the term to the listing of information that the Department provides in its official auction results announcements. The amendment also updates an example of the proration of auction awards and the sample offering announcements to reflect the change in minimum bid amounts to $1,000 for all marketable

Treasury securities auctions. The amendment replaces the example of a 3-year note with a 5-year note in the sample highlights of the quarterly financing offering announcement. Further, the amendment makes various revisions to reflect the expansion of uniform or single-price auctions to all marketable Treasury securities. Finally, this amendment makes minor, unrelated technical corrections by restating terms in several equations in Appendix B.

EFFECTIVE DATE: January 25, 1999.

ADDRESSES: This final rule is available for downloading from the Bureau of the Public Debt's Internet site at the following address: www.publicdebt.treas.gov. It is also available for public inspection and copying at the Treasury Department Library, FOIA Collection, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C., 20220. Persons wishing to visit the library should call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Kerry Lanham (Acting Director), Chuck Andreatta or Kurt Eidemiller (Senior Financial Advisors), Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff, (202) 219–3632.

SUPPLEMENTARY INFORMATION: 31 CFR Part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department of the Treasury to the public of marketable Treasury bills, notes, and bonds. The uniform offering circular, in conjunction with offering announcements, represents a comprehensive statement of those terms and conditions.[1] This final amendment provides for several changes to the uniform offering circular. It adds a definition of the term ''bid-to-cover ratio'' in § 356.2 and revises § 356.23 by incorporating the term in the list of information included in auction results press releases; reflects in § 356.21 and Exhibit A the changes to $1,000 minimum bid amounts for all marketable Treasury securities auctions; replaces in Exhibit A the example of a 3-year note with a 5-year note in the sample highlights of the quarterly financing offering announcement; modifies the definition of ''noncompetitive bid'' in § 356.2 and revises §§ 356.20 and 356.23 and Exhibit A to reflect the Department's expansion of single-price auctions to all marketable Treasury securities auctions; and makes several minor, unrelated technical corrections in the equations provided in Appendix B.

After the conclusion of a marketable Treasury security auction, the Department makes an official announcement of the auction results through a press release. On June 1, 1998, the Department began providing the ''bid-to-cover ratio'' in all of its auction results press releases. This is the ratio of the total par amount of competitive and noncompetitive bids by the public divided by the total par amount of the securities awarded to the public. The press and some market participants use this figure as an indicator of the bidding interest and, therefore, the ''success'' of the auction.

The number is carried to two decimal places, using normal rounding. For example, if the total amount bid by the public[2] is $24.985561 billion, and the amount awarded to the public is $10.013049 billion, the bid-to-cover ratio is 24.985561/10.013049 = 2.495, or 2.50.

By providing the bid-to-cover ratio on the press release, the Department hopes to speed up the dissemination of auction results information to the market. This procedural change, however, should not be viewed as an endorsement by the Department of the bid-to-cover ratio as an analytical method that is superior to other methods for analyzing the results of a marketable Treasury security auction.

Accordingly, § 356.2 of the uniform offering circular is amended by adding the definition of the term ''bid-to-cover ratio.'' In addition, § 356.23 is reformatted and revised by adding the bid-to-cover ratio to the listing of information that the Department provides on the auction results press releases.

This final amendment also revises relevant sections of the uniform offering circular to reflect the Department's decision to reduce the minimum bid amounts (and minimum to hold amounts) to $1,000 for all marketable Treasury securities auctions. All Treasury bills, notes, and bonds are now issued and transferred in increments of $1,000. As announced at the August 1998 quarterly refunding press conference, this reduction in the minimum amounts ''puts Treasury bills and short-term notes within the reach of small investors.'' Prior to this, Treasury bills had minimum bid amounts of $10,000, and Treasury notes with maturities of four years or less required minimum bid amounts of $5,000. Notes with longer maturities and 30-year bonds have for a long time been available in $1,000 minimum purchase amounts. Accordingly, an example describing the Department's proration of certain auction awards in § 356.21 and the highlights of the sample offering announcements listed in Exhibit A are revised to reflect this change.

In addition, the highlights of the sample quarterly financing offering announcement, in Exhibit A, are updated to reflect the Department's decision to issue 5-year notes quarterly, instead of monthly, while discontinuing the issuance of 3-year notes as announced at the quarterly refunding press conference in May 1998.

The Department announced at its November 1998 quarterly refunding press conference on October 28, 1998 that, effective November 2, 1998 all future auctions of marketable Treasury securities will use the uniform or single-price auction method. Previously, Treasury bills and certain Treasury notes and bonds had been auctioned using a multiple-price auction method. As announced at this quarterly refunding press conference, the Department believes ''that using uniform-price auctions will promote improved efficiency in the markets, and will reduce the costs of financing the Federal debt.'' Accordingly, the existing definition of ''noncompetitive bid'' in § 356.2 is revised and respective 356.20 and 356.23 and the sample offering announcements, in Exhibit A, have been modified to reflect this change. The uniform offering circular, however, will continue to define and describe multiple-price auctions as it has historically done, although this method is not currently used. Finally, this amendment also makes several unrelated and minor technical corrections in the equations of Appendix B.

Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action'' pursuant to Executive Order 12866. Because this rule relates to public contracts and procedures for United States securities, the notice, public comment, and delayed effective date provisions of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply. There is no new collection of information contained in

[1] The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356.

[2] For the calculation of the bid-to-cover ratio, the amount bid by and awarded to the public excludes any bids or awards for accounts of foreign and international monetary authorities at Federal Reserve Banks or for the account of the Federal Reserve Banks.

this final rule, and, therefore, the Paperwork Reduction Act does not apply. The collections of information of 31 CFR Part 356 have been previously approved by the Office of Management and Budget under § 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under control number 1535–0112. Under this 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 valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

Dated: January 12, 1999.

Donald V. Hammond,

Fiscal Assistant Secretary.

For the reasons set forth in the preamble, 31 CFR Chapter II, Subchapter B, Part 356, is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

2. Section 356.2 is amended by adding in alphabetical order the definition of ''Bid-to-cover ratio'' and by revising the definition of ''Noncompetitive bid'' to read as follows:

§ 356.2 Definitions.

* * * * *

Bid-to-cover ratio means the total par amount of securities bid for by the public divided by the total par amount of securities awarded to the public. The bid-to-cover ratio excludes any bids or awards for accounts of foreign and international monetary authorities at Federal Reserve Banks and for the account of the Federal Reserve Banks.

* * * * *

Noncompetitive bid means, for a single-price auction, a bid to purchase securities at the highest yield or discount rate of awards to competitive bidders. For a multiple-price auction, a noncompetitive bid means a bid to purchase securities at the weighted average yield or discount rate of awards to competitive bidders.

* * * * *

3. Section 356.20 is amended by revising paragraph (b) to read as follows:

§ 356.20 Determination of auction awards.

* * * * *

(b) *Determining the interest rate for new note and bond issues.* The interest rate established as a result of the auction will be set at a 1/8 of one percent increment. For single-price auctions, the interest rate established produces the price closest to, but not above, par when evaluated at the yield awarded to successful competitive bidders. For multiple-price auctions, the interest rate established produces the price closest to, but not above, par when evaluated at the weighted-average yield of awards to successful competitive bidders.

* * * * *

4. Section 356.21 is amended by revising the last three sentences in paragraph (a) to read as follows:

§ 356.21 Proration of awards.

(a) *Awards to submitters.* * * * For example, Treasury bills may be issued with a minimum to hold of $1,000 and multiples of $1,000. Where an $18,000 bid is accepted at the high discount rate, and the percent awarded at the high discount rate is 88%, the award to that bidder will be $16,000, representing an upward adjustment from $15,840 ($18,000 x .88) to an appropriate multiple to hold. If tenders at the highest accepted discount rate are prorated at, for example, a rate of 4%, the award for a $10,000 bid will be $1,000, instead of $400, in order to meet the minimum to hold for a bill issue.

* * * * *

5. Section 356.23 is revised to read as follows:

§ 356.23 Announcing auction results.

(a) After the conclusion of the auction, the Department will make an official announcement of the auction results through a press release.

(b) The press release will include such information as:

(1) The amounts of bids recognized and accepted;

(2) The range of accepted yields or discount rates;

(3) The proration percentage;

(4) The interest rate for a note or bond;

(5) A breakdown of the amounts of noncompetitive and competitive bids recognized and accepted from the public;

(6) The amounts recognized and accepted from the Federal Reserve Banks for their own account and for foreign and international monetary authorities;

(7) The minimum par amount required to strip a note or bond;

(8) The bid-to-cover ratio; and

(9) other information that the Department may decide to include.

Appendix B to Part 356—[Amended]

6. In Appendix B to Part 356, section II, paragraph F is amended by replacing the term v_n (v with subscript n) throughout the paragraph with the term v^n (v with superscript n or, alternatively, v to the nth power).

7. In Appendix B to Part 356, section V, paragraph A is amended by revising the first equation under the resolution to read as follows:

* * * * *

V. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills

A. *Conversion of the discount rate to a purchase price for Treasury bills of all maturities:*

* * * * *

Resolution:

P=100 [(1—dr)/360]

* * * * *

8. Exhibit A to Part 356 is amended by revising Sections I through III to read as follows:

Exhibit A to Part 356—Sample Announcements of Treasury Offerings to the Public

* * * * *

I. Treasury Quarterly Financing Announcement

For release when authorized at press conference February 5, 20XX

Contact: Office of Financing, 202/XXX–XXXX

Treasury February Quarterly Financing

The Treasury will auction $16,000 million of 5-year notes, $12,000 million of 10-year notes, and $10,000 million of 30-year bonds to refund $26,996 million of publicly-held securities maturing February 15, 20XX, and to raise about $11,004 million of new cash.

In addition to the public holdings, Government accounts and Federal Reserve Banks, for their own accounts, hold $1,795 million of the maturing securities, which may be refunded by issuing additional amounts of the new securities.

The maturing securities held by the public include $1,654 million held by Federal Reserve Banks as agents for foreign and international monetary authorities. Amounts bid for these accounts by Federal Reserve Banks will be added to the offering.

All of the auctions being announced today will be conducted in the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders.

The 5-year and 10-year notes and the 30-year bond being offered today are eligible for the STRIPS program.

Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform

Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about the notes and bond are given in the attached offering highlights.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC

[February 20XX Quarterly Financing]

Offering Amount	$16,000 million	$12,000 million	$10,000 million.
Description of Offering:			
Term and type of security	5-year notes	10-year notes	30 year bonds.
Series	U–20XX	B–20XX	Bonds of February 20XX.
CUSIP number	912827XX X	912827XX X	912810XX X.
Auction date	February 11, 20XX	February 12, 20XX	February 13, 20XX.
Issue date	February 18, 20XX	February 18, 20XX	February 18, 20XX.
Dated date	February 15, 20XX	February 15, 20XX	February 15, 20XX.
Maturity date	February 15, 20XX	February 15, 20XX	February 15, 20XX.
Interest rate	Determined based on the highest accepted competitive bid.	Determined based on the highest accepted competitive bid.	Determined based on the highest accepted competitive bid.
Yield	Determined at auction	Determined at auction	Determined at auction.
Interest payment dates	August 15 and February 15	August 15 and February 15	August 15 and February 15.
Minimum bid amount and multiples.	$1,000	$1,000	$1,000.
Accrued interest payable by investor.	Determined at auction	Determined at auction	Determined at auction.
Premium or discount	Determined at auction	Determined at auction	Determined at auction.
STRIPS Information:			
Minimum amount required	Determined at auction	Determined at auction	Determined at auction.
Corpus CUSIP number	912820XX X	912820XX X	912803XX X.
Due dates and CUSIP numbers for additional TINTs.	Not applicable	Not applicable	February 15, 20XX—912833 XX X.

The following rules apply to all securities mentioned above:	
Submission of Bids:	
Noncompetitive bids	Accepted in full up to $5,000,000 at the highest accepted yield.
Competitive bids	(1) Must be expressed as a yield with three decimals in increments of .001%, e.g., 7.123%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all yields, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering.
Maximum Award	35% of public offering.
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Standard time on auction day.
Competitive tenders	Prior to 1:00 p.m. Eastern Standard time on auction day.
Payment Terms	By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. Treasury Direct customers can use the Pay Direct feature which authorizes a charge to their account of record at their financial institution on issue date.

II. Treasury Weekly Bill Announcement

Embargoed Until 2:30 p.m. April 15, 20XX
Contact: Office of Financing, 20/XXX-XXXX

Treasury Offers 13-Week and 26-Week Bills

The Treasury will auction two series of Treasury bills totaling approximately $16,000 million, to refund $13,469 million of publicly held securities maturing November 19, 1998 and to raise about $2,531 million of new cash.

In addition to the public holdings, Federal Reserve Banks for their own accounts hold $7,442 million of the maturing bills, which may be refunded at the highest discount rate of accepted competitive tenders. Amounts issued to these accounts will be in addition to the offering amount.

The maturing bills held by the public include $1,991 million held by Federal Reserve Banks as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the highest discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

The 13- and 26-week bill auctions will be conducted in the single-price auction format.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Details about each of the new securities are given in the attached offering highlights.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS TO BE ISSUED APRIL 24, 20XX

Offering Amount	$8,000 million	$8,000 million.
Description of Offering:		
Term and type of security	91-day bill	182-day bill.
CUSIP number	912795 XX X	912795 XX X.

HIGHLIGHTS OF TREASURY OFFERINGS OF BILLS TO BE ISSUED APRIL 24, 20XX—Continued

Auction date	April 21, 20XX	April 21, 20XX.
Issue date	April 24, 20XX	April 24, 20XX.
Maturity date	July 24, 20XX	October 23, 20XX.
Original issue date	July 25, 20XX	April 24, 20XX.
Currently outstanding	$31,725 million	
Minimum bid amount and multiples	$1,000	$1,000

The following rules apply to all securities mentioned above:	
Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the highest discount rate of accepted competitive bids.
Competitive bids	(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $1 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering.
Maximum Award:	35% of public offering.
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender. Treasury Direct customers can use the Pay Direct feature which authorizes a charge to their account of record at their financial institution on issue date.

III. Treasury Cash Management Bill Announcement

Embargoed until 2:30 p.m. February 25, 20XX

Contact: Office of Financing 202/XXX-XXXX

Treasury to Auction Cash Management Bills

The Treasury will auction approximately $23,000 million of 45-day Treasury cash management bills to be issued March 3, 20XX.

Competitive and noncompetitive tenders will be received at all Federal Reserve Banks and Branches. Tenders will *not* be accepted for bills to be maintained on the book-entry records of the Department of the Treasury (Treasury Direct). Tenders will *not* be received at the Bureau of the Public Debt, Washington, D.C.

Additional amounts of the bills may be issued to Federal Reserve Banks as agents for foreign and international monetary authorities at the highest discount rate of accepted competitive tenders.

The 45-day cash management bill will be conducted in the single-price auction format. All competitive and noncompetitive awards will be at the highest discount rate of accepted competitive tenders.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (31 CFR Part 356, as amended).

Note: Competitive bids in cash management bill auctions must be expressed as a discount rate with *two* decimals, e.g., 7.10%.

Details about the new security are given in the attached offering highlights.

Attachment

HIGHLIGHTS OF TREASURY OFFERING OF 45-DAY CASH MANAGEMENT BILL

Offering Amount	$23,000 million.
Description of Offering:	
Term and type of security	45-day Cash Management Bill.
CUSIP number	912795 XX X.
Auction date	February 27, 20XX.
Issue date	March 3, 20XX.
Maturity date	April 17, 20XX.
Original issue date	October 17, 20XX.
Currently outstanding	$24,724 million.
Minimum bid amount and multiples	$1,000.
Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the highest accepted discount rate.
Competitive bids	(1) Must be expressed as a discount rate with two decimals in increments of .01%, e.g., 7.12%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $1 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering.
Maximum Award	35% of public offering.

HIGHLIGHTS OF TREASURY OFFERING OF 45-DAY CASH MANAGEMENT BILL—Continued

Receipt of Tenders:	
Noncompetitive tenders	Prior to 11:00 a.m. Eastern Standard time on auction day.
Competitive tenders	Prior to 11:30 a.m. Eastern Standard time on auction day.
Payment Terms	By charge to a funds account at a Federal Reserve Bank on issue date, or payment of full par amount with tender.

* * * * *

[FR Doc. 99–1441 Filed 1–22–99; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 409, 410, and 424

[HCFA–1813–FC]

RIN 0938–AH13

Medicare Program; Coverage of Ambulance Services and Vehicle and Staff Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period revises and updates Medicare policy concerning ambulance services. It identifies destinations to which ambulance services are covered, establishes requirements for the vehicles and staff used to furnish ambulance services, and clarifies coverage of nonemergency ambulance services for Medicare beneficiaries. This rule also implements section 4531(c) of the Balanced Budget Act of 1997 concerning Medicare coverage for paramedic interecept services in rural communities.

DATES: *Effective Date:* These regulations are effective on February 24, 1999. *Comment Period:* We will consider comments concerning Medicare coverage for paramedic intercept services in rural areas if we receive the comments at the appropriate address, as provided below, no later than 5 p.m. on March 26, 1999.

ADDRESSES: Mail written comments (an original and three copies) to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1813–FC P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments (an original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–14–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: HCFA1813FC@hcfa.gov. For e-mail comment procedures, see the beginning of **SUPPLEMENTARY INFORMATION.** For further information on ordering copies of the **Federal Register** containing this document and on electronic access, see the beginning of **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Robert Niemann, (410) 786–4569 for issues relating to payment for Paramedic Intercept Services. Margot Blige, (410) 786–4642 for all other issues.

SUPPLEMENTARY INFORMATION:

E-mail, Comments, Availability of Copies, and Electronic Access

E-mail comments must include the full name, postal address, and affiliation (if applicable) of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1813–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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I. Background

A. Statutory Coverage of Ambulance Services

Under section 1861(s)(7) of the Social Security Act (the Act), Medicare Part B (Supplementary Medical Insurance) covers and pays for ambulance services, to the extent prescribed in regulations, when the use of other methods of transportation would be contraindicated. The House Ways and Means Committee and Senate Finance Committee Reports that accompanied the 1965 Social Security Amendments suggest that the Congress intended that (1) the ambulance benefit cover transportation services only if other means of transportation are contraindicated by the beneficiary's

medical condition, and (2) only ambulance service to local facilities be covered unless necessary services are not available locally, in which case, transportation to the nearest facility furnishing those services is covered (H.R. Rep. No. 213, 89th Cong., 1st Sess. 37, and S. Rep. No. 404, 89th Cong., 1st Sess., Pt I, 43 (1965)). The reports indicate that transportation may also be provided from one hospital to another, to the beneficiary's home, or to an extended care facility.

B. Current Medicare Regulations for Ambulance Services

Our regulations relating to ambulance services are located at 42 CFR Part 410, subpart B. Section 410.10(i) lists ambulance services as one of the covered medical and other health services under Medicare Part B. Ambulance services are subject to basic conditions and limitations set forth at § 410.12 and to specific conditions and limitations included at § 410.40.

II. Provisions of the Proposed Regulations

On June 17, 1997, we published a proposed rule in the **Federal Register** at 62 FR 32715 that would revise and update our ambulance regulations at § 410.40. Specifically, we proposed to provide coverage of ambulance services only if the supplier meets the proposed applicable vehicle, staff, and billing and reporting requirements and proposed medical necessity and origin and destination requirements. We also proposed to cover ambulance services in the United States at either the basic life support (BLS) or advanced life support (ALS) level of services. Under the proposed rule, we would base coverage on a beneficiary's medical condition as described by the International Classification of Diseases, 9th revision, Clinical Modification (ICD–9–CM) diagnosis codes; these codes would be used to bill for ambulance services. In addition, we proposed an exception to the ALS/BLS distinction for certain non-Metropolitan Statistical Areas.

We also proposed to provide for the coverage of nonemergency transportation, including but not limited to transportation for an end-stage renal disease (ESRD) beneficiary, if the ambulance supplier obtains a written physician's order certifying that the beneficiary be transported in an ambulance because other means of transportation are contraindicated.

Finally, we proposed to allow coverage of ambulance services for ESRD beneficiaries to the nearest treatment facility rather than to the nearest hospital-based facility.

III. The Balanced Budget Act of 1997

On August 5, 1997, after we had issued the ambulance services proposed rule, the Balanced Budget Act of 1997 (the BBA), Public Law 105–33, was enacted. Section 4531(b) of the BBA adds a new section 1834(l) to the Act, which provides for the establishment of a fee schedule for payment of ambulance services effective January 1, 2000. In addition, section 1834(l)(1) of the Act requires that the fee schedule be developed through a negotiated rulemaking process. Section 1834(l)(20(B) of the Act provides that, in establishing the fee schedule, the Secretary must establish definitions for ambulance services that link payments to the types of services furnished.

As noted above, one of the provisions of the June 17, 1997 proposed rule would have defined ambulance services as either ALS or BLS services and linked the Medicare payment to the type of service (ALS or BLS) required by the beneficiary's condition. Under section 1834(l) of the Act, this type of service definition and resulting payment is required to be a part of the negotiated rulemaking. Therefore, we are deferring any final action on those provisions of the proposed rule. We will reopen the discussion of the definition of ambulance services and the appropriate payment as a part of the negotiated rulemaking process. We note, however, that our current policy, as stated in section 5116 of the Medicare Carriers Manual (MCM), which provides for the payment of two separate reasonable charge rates for ambulance services, one for BLS level of ambulance service and one for ALS level of service, remains applicable. In general, the ALS reasonable charge may be used as a basis for payment when an ALS level of ambulance service is provided. However, as stated in MCM section 5116.1, there may be instances when the supplier exhibits a pattern of uneconomical care such as repeated use of ALS ambulances in situations in which it should have known that the less expensive BLS ambulance was available and that its use would have been medically appropriate. While we allow higher payments for the ALS services, the carrier is responsible for evaluating the appropriate level of service for each claim.

In addition to providing for a fee schedule for ambulance services, section 4531(c) of the BBA authorizes the Secretary to include coverage of ALS services provided by a paramedic intercept service provider in a rural area if certain conditions are met. We are implementing this provision in this final rule with comment period. We discuss, in detail, this provision and the changes to the regulations necessary to implement it, in section V of this preamble.

IV. Analysis of, and Responses to, Public Comments

In response to our proposed regulation published on June 17, 1997, we received 2,270 comments from ambulance service suppliers, emergency medical service personnel, ambulance associations, health care providers, Medicare contractors, and private citizens. As noted above, because we are not proceeding in this final rule with the proposed provisions related to basing coverage and payment of ambulance service on the level of medically necessary services, we are not responding to the comments we received concerning that proposal, including the use of ICD–9–CM diagnosis codes to determine medical necessity and the proposed exception to this policy for ALS services furnished in areas that are not part of a Metropolitan Statistical Area. We not that the vast majority of the comments concerned the definition of services as ALS or BLS. The remaining comments and our responses are set forth below.

A. Medicare Coverage of Ambulance Services—Basic Rule

In the proposed rule, we clarified in § 410.40(a) the circumstances under which an ambulance service is paid under Medicare Part B as opposed to Medicare Part A. We received one comment on this proposal.

Comment: A supplier commented that the proposed regulations are unclear on two points. First, they do not indicate the point at which Part A begins to cover transportation services and whether those services provided before admission to the hospital are covered under that Part or only those provided during the patient's hospital stay. Second, the proposed regulations seem to indicate that if a patient's stay in the hospital is covered by Part A, the ambulance service provided before admission and at discharge would be part of the Part A payment and could not be billed under Part B. If this is true, the commenter believed that this is a change in policy that would destroy many Part B ambulance services and be detrimental to hospitals.

Response: The proposed revisions to the regulations were made merely to clarify and restate current policy on the scope of benefits under Parts A and B of Medicare, not to make any change in policy. To explain the policy in this area, we must distinguish between

ambulance services, which are covered under Part B, and transportation services, which are covered under Part A. The movement of a beneficiary from his or her home, an accident scene, or any other point of origin to the nearest hospital, critical care access hospital (CAH) (formally known as a rural primary care hospital (RPCH)), or skilled nursing facility (SNF) that is capable of furnishing the required level and type of care for the beneficiary's illness or injury is covered, assuming medical necessity and other coverage criteria are met, only under Part B as an ambulance service. No Part A coverage is available because, at the time the beneficiary is transported, he or she is not an inpatient of any provider paid under Part A of the program. The transfer of a beneficiary from one provider to another (for example, from an acute care hospital to a long-term care hospital or to an SNF) is also not covered as a Part A provider service because, at the time the person is in transit, he or she is not a patient of either provider. This service may be covered under Part B.

However, once a beneficiary has been admitted to a hospital, CAH,or SNF, it may be necessary to transport the beneficiary to another hospital or other site for specialized care. In this instance, the specialized services are furnished under arrangements made by the hospital, CAH, or SNF. Following that treatment, the beneficiary is returned to the hospital, CAH, or SNF to complete the inpatient stay. This movement of the beneficiary is considered ''patient transportation'' and is covered as an inpatient hospital or CAH service under Part A of the program and as an SNF service when the SNF is furnishing it as a covered SNF service, and Part A payment is made for that service. Because the service is covered and payable as a beneficiary transportation service under Part A, the service cannot be classified and paid for as an ambulance service under Part B. This is not a change from current policy, but has been the policy since the inception of the Medicare program. In order to more clearly indicate that ambulance services are covered under Part A when the beneficiary is an inpatient of a hospital or CAH, we have revised the regulations at § 409.10 to include this service as a covered inpatient hospital or CAH service. We have also revised § 409.20 to include it as a SNF covered service.

We note that, as provided in §§ 412.2(c)(5)(iii)(B) and 413.40(c)(2)(iii)(B), ambulance services are specifically excluded from the preadmission payment window provisions applicable to hospital inpatient services. That is, ambulance services furnished during the 3 days before the day of a beneficiary's admission to a hospital (or 1 day for hospitals excluded from the prospective payment system) may be paid under Part B and are not considered inpatient hospital services.

B. Medical Necessity

Under current regulations, Medicare covers transportation provided by an ambulance if the beneficiary must be transported by an ambulance because other means of transportation are contraindicated. In the June 1997 proposed rule (62 FR 32719), we proposed that if a beneficiary is ''bed-confined,'' other means of transportation would be presumed to be contraindicated. We also proposed that ''bed-confined'' would be defined as the inability to—

- Get up from bed without assistance;
- Ambulate; and
- Sit in a chair, including a wheelchair.

We noted that we used this term synonymously with the terms ''bedridden'' or ''stretcher-bound.'' However, it is not synonymous with ''bed rest'' or ''nonambulatory.''

In addition, nonemergency transportation would be covered only if, before furnishing the service, the ambulance supplier obtained a physician's written order certifying that the beneficiary must be transported in an ambulance because other means of transportation are contraindicated (§ 410.40(c)(2)). The physician's order must be dated no more than 60 days before the date the service is furnished. We received several comments on these proposed policies.

Comment: A Medicare carrier and a national renal association supported the definition of bed-confined as proposed. They believed that the definition ensures that ambulance services will be provided only to those individuals with the greatest need and the most severe physical limitations.

Response: We agree with the commenters. Our purpose in developing this definition was to identify as eligible for covered ambulance services only those individuals who are not able to be up and out of bed under any condition and cannot tolerate other methods of transportation.

Comment: Three commenters stated that the definition of ''bed-confined'' as proposed is too restrictive and that the policy eliminates transportation for many individuals who would ''in reality have no other way of obtaining medical care.''

Response: It is important to note that the Medicare law contains no provisions for ''transportation,'' but rather provides for coverage of ambulance services. Section 1861(s)(7) of the Act allows Medicare coverage of ambulance services only when the use of other methods of transportation is contraindicated by the beneficiary's condition. The regulations reflect the intent expressed in the House Ways and Means Committee and Senate Finance Committee reports on H.R. 6675, the 1965 Social Security Amendments (H. Rep. No. 213 at page 36 and S. Rep. No. 404 at page 43) that ambulance transportation be covered only if ''* * * normal transportation would endanger the health of the patient * * *'' Therefore, a patient whose condition permits transport in any type of vehicle other than an ambulance would not qualify for ambulance services under Medicare Part B.

Comment: Seven ambulance suppliers stated that all factors relating to the beneficiary's condition should be considered in evaluating if a beneficiary has met the medical necessity criteria for ambulance service. That is, bed-confinement should not be the sole criterion used in determining medical necessity because it is only one factor. The commenters suggested that suppliers should provide documentation on why the beneficiary is bed-confined.

Response: It is always the responsibility of the ambulance supplier to furnish complete and accurate documentation to demonstrate that the ambulance service being furnished meets the medical necessity criteria. The fact that a definition of bed-confined has been adopted does not suggest that bed-confinement is the sole determinant of medical necessity nor does it relieve the supplier of his or her responsibility to submit adequate information supporting the reason for a bed-confinement determination.

Comment: Three ambulance suppliers disagreed that the proposed bed-confined definition should be synonymous with ''stretcher-bound.'' They suggested that ''stretcher-bound'' refers to the beneficiary being secured to the stretcher and not specifically to the condition of the beneficiary. They asked that we clarify that stretcher-bound is not a synonym for ''bed-confined.''

Response: We agree with the commenters and will not use the term ''stretcher-bound'' in describing the medical condition of the beneficiary. We proposed a definition of ''bed-confined'' as a part of our proposal to use ICD–9–CM medical condition codes. The ICD–9–CM list set forth in the

proposed rule included the diagnosis code V49.8, Other Specified Problems Influencing Health Status. We added a definition of bed-confined which could be used in conjunction with this code. As noted above, we are not including the proposed medical necessity provision based on ICD–9–CM codes in this final rule. However, as a result of comments, as well as past questions, we have specified certain criteria that must be met in order for ambulance services to be covered. In accordance with § 410.40(d), nonemergency ambulance transportation would be covered if the beneficiary is unable to get up from bed without assistance.

Comment: One ambulance supplier commented that the proposed definition will cause undue hardship for the beneficiary, family, physician, and ambulance supplier because some beneficiaries are able to sit in a wheelchair for brief periods of time, but cannot tolerate a wheelchair for the period of time required for transport. Under the proposed definition, ambulance transportation furnished to beneficiaries such as these would not be covered.

Response: If there are circumstances associated with the beneficiary's condition that warrant the need for ambulance transportation, the documentation submitted on behalf of that beneficiary should reflect the condition and support the need for the services. That documentation will then be considered by the carrier in processing the claim.

Comment: Several ambulance suppliers and a national ambulance association commented that the proposed definition of ''bed-confined'' is too narrow and that most beneficiaries who can ''technically sit in a chair or wheelchair momentarily'' or be ''restrained'' to a chair or wheelchair would not meet the definition and would therefore be denied ambulance services. They also expressed the belief that the definition should be based on the condition of the beneficiary at the time of transport rather than any period before or after the transport. One of the commenters suggested that it is not safe to transport someone in a wheelchair who must be restrained in order to travel. To ensure that the definition allows those beneficiaries who are bed-confined to receive ambulance benefits, commenters suggested the following revisions for the definition of ''bed-confined'':

- Add the phrase ''without assistance'' to the second and third criteria of the proposed definition.
- Add the phrase ''* * * the inability to ride in a moving vehicle without being restrained to that chair'' to the last criterion.
- Revise the third criterion to read ''* * * the inability to sit for an extended period of time in a chair or wheelchair, without restraint.''
- The phrase ''without assistance'' should be removed from the first criterion and the ''and'' be replaced with ''or'' so that if any one of the criteria is met, the beneficiary would be determined to be ''bed-confined.''

Response: In developing the proposed definition, it was our intent to describe clearly individuals who are completely confined to bed and unable to tolerate any activity out of bed. We recognize that it is standard and accepted medical practice in both hospitals and nursing homes to take steps to ensure that beneficiaries are up and out of bed as often as their condition permits. Such beneficiaries are not bed-confined. It is incumbent upon health care professionals responsible for the care of individual beneficiaries to determine what is safe for those beneficiaries. If it is determined that it is unsafe for a particular beneficiary to be unmonitored during transport, then the documentation submitted for that particular transport should support the need for ambulance transportation. That documentation will be considered by the carrier in processing the claim.

We considered whether it would be appropriate to include a time-frame with respect to the ''bed-confined'' definition. That is, adding a phrase such as ''for more than 10 minutes'' to the various criteria. Because of the difficulty associated with obtaining accurate information related to how long an individual may have been out of bed as well as the difficulty associated with efforts to substantiate such information, we determined that it would be inappropriate to employ the use of absolute terms if we did not intend to identify a means by which a time factor could be measured.

We do not believe it is necessary to make the proposed revisions on the basis that the proposed definition encompasses the variations requested by the commenters. We will however, revise the definition to clarify that all three components must be met in order for the patient to meet the requirements of the definition of ''bed-confined''.

Comment: A national ambulance association stated that because we did not define ''emergency'' and ''nonemergency'' in the proposed rule, ambulance suppliers will not know when physician certification is needed. The association does, however, support the need for physician certification, in 60-day intervals, for repetitive transports. They recommended the following definition for repetitive patients:

''Multiple scheduled treatments (for example, dialysis or radiation therapy treatments) for the same diagnosis that requires ambulance transportation over an extended period of time.''

Response: The applicable definition that we use to define emergency services is the definition set forth in section 1861(v)(1)(K)(ii) of the act, which defines the term ''bona fide emergency services.'' This definition provides that an emergency service is one that is provided after the sudden onset of a medical condition manifesting itself by acute sysmptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in placing the beneficiary's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Any ambulance transportation service that does not meet these criteria would be a nonemergency service. This would include all scheduled transports (regardless of origin and destination), as well as transports to SNFs or to the beneficiary's residence. Medically necessary transports to and from dialysis facilities are scheduled and, therefore, are nonemergency ambulance services.

Comment: Four ambulance suppliers commended that the physician certification requirement should not apply to beneficiaries who reside at home or in facilities where they are not directly under the care of a physician.

Response: We agree that suppliers may often be unable to obtain the appropriate physician certificate for these patients for a unscheduled transport. We will revise the final regulations to provide that the physician certification will be required for these beneficiaries for scheduled, repetitive transports and scheduled, nonrepetitive transports because we can assume that beneficiaries who are scheduled for medical appointments are under a physician's care. In addition, for beneficiaries who reside in a facility and are under a physician's care, there should be little difficulty in obtaining the certificate for unscheduled transports. For nonemergency, unscheduled transportation of beneficiaries residing at home or in facilities were they are not under the direct care of a physician, the physician certification requirement will not apply.

Comment: Several commenters, including an Emergency Medical Services (EMS) Director, stated that nonscheduled, nonemergency transports

should be judged on their medical necessity and therefore exempt from the bed-confined requirement and that, to avoid unnecessary delays, it would be appropriate to obtain the physician certification with 48 hours after the ambulance service was furnished. The commenters do support use of a physician certification for those patients needing repetitive transports to receive specialized services.

Response: After considering the arguments and observations made by commenters, we concluded that we should proceed with our proposal to require physician certification for all nonemergency transports, both scheduled and unscheduled, except for the revisions discussed in the previous response to comments concerning beneficiaries who are not living in a facility directly under a physician's care. Nonemergency ambulance service is a Medicare service furnished to a beneficiary for whom a physician is responsible; therefore, the physician is responsible for the medical necessity determination. The physician certification requirement will help to ensure that the claims submitted for ambulance services are reasonable and necessary, because other methods of transportation are contraindicated. We believe that this requirement will help to avoid Medicare payment for unnecessary ambulance services that are not medically necessary even though they may be desirable to beneficiaries. However, we agree with the commenters that, to avoid unnecessary delays, for unscheduled transports, the required documentation can be obtained within 48 hours after the ambulance transportation service has been furnished. That is, it is not necessary that the ambulance suppliers have the physician certification in hand prior to furnishing the service. While it is reasonable to expect that an ambulance supplier could obtain pretransport physician certification for routine, scheduled trips, it is less reasonable to impose such a requirement on unscheduled transports. Therefore, we have revised the final regulations to reflect this change.

Comment: Two ambulance suppliers commented that physicians are unaware of the coverage requirements for ambulance services and that their decisions to request ambulance services may be based on ''family preference or the inability to safely transport the beneficiary by other means rather than on the medical necessity requirement imposed by Medicare.''

Response: Section 1861(s)(7) of the Act allows for Medicare coverage of ambulance services only when the use of other methods of transportation is contraindicated by the beneficiary's condition. If the ability to safely transport the beneficiary, given the beneficiary's condition, is at issue, then the supplier may obtain from the physician the necessary documentation supporting the reason for the transportation. If the decision to use ambulance services is based on the convenience of the beneficiary, the beneficiary's family, the beneficiary's physician, or some other element of personal preference, Medicare coverage is not available.

To facilitate awareness of the Medicare rules as they relate to the ambulance service benefit, ambulance suppliers may need to educate the physician (or the physician's staff members) when making arrangements for the ambulance transportation of a beneficiary. Suppliers may wish to furnish an explanation of applicable medical necessity requirements as well as requirements for physician certification and to explain that the certification statement should indicate that the ambulance services being requested by the attending physician are medically necessary.

C. Origins and Destinations

In the proposed rule, we added a provision that allowed coverage of round-trip ambulance transportation for an ESRD beneficiary living at home to the nearest treatment facility capable of furnishing the necessary dialysis service regardless of whether the dialysis facility is located at a hospital. We currently cover the ambulance services only if the beneficiary is transported to a hospital-based facility for dialysis.

Comment: Several commenters, including a consortium of EMS Directors, renal associations, and dialysis facilities, believed that the proposed change concerning transportation to the nearest dialysis facility is not in the best interest of the beneficiary and that it will have an impact on the continuity of beneficiary care. That is, beneficiaries who have been receiving dialysis at the nearest hospital-based treatment facility may now be forced to go to another, closer nonhospital treatment facility. The commenters recommended that we allow for transport to the nearest facility where there is an ''existing, established beneficiary care relationship'' and the facility has an ''available bed.''

Response: While we were developing the proposed regulation, concerns were raised by representatives of the renal community that the current policy was detrimental to beneficiaries with ESRD because it forced some of them to travel great distances to a hospital for dialysis when the same services were available closer to their homes. In response to these concerns, we proposed to allow coverage of ambulance services to the nearest appropriate dialysis facility. This policy is consistent with our general ambulance policy, set forth in section 2120.3.F of the MCM, for emergency services which, in general, limits payment for otherwise covered ambulance transportation services to the nearest facility capable of furnishing care.

If the closest dialysis facility is not able to perform the type of treatment the beneficiary requires or is unable to accommodate the beneficiary for another reason, for example, lack of capacity, then Medicare will pay for the beneficiary to be transported to the more distant facility. It is, of course, the prerogative of the beneficiary to choose the facility where he or she wishes to be treated. If the beneficiary decides to be transported to a facility farther away, and it is determined that the nearer facility was capable of providing the required type and level of care, Medicare payment for the ambulance service is limited to the amount that would have been paid to transport the beneficiary to the nearest appropriate dialysis facility.

Comment: Three ambulance suppliers commented that we should consider paying for other forms of transportation for ESRD beneficiaries.

Response: As noted above, the only transportation service covered by Medicare is that set forth at section 1861(s)(7) of the Act. That section allows Medicare coverage for ambulance services only when the use of other methods of transportation are contraindicated by the beneficiary's condition. We believe Congress made a distinction between ''transportation by ambulance'' and ''normal transportation.'' We believe Congress intended, by this distinction that Medicare coverage be limited to ambulance services for beneficiaries who could not reach care any other way. Thus, a beneficiary whose condition permits transfer in any vehicle other than ambulance would not qualify for Medicare Part B payment.

Comment: A State ambulance association and a hospital-based ambulance provider commented that the proposed change for ESRD beneficiaries will increase the number of transports and the incidence of fraud and abuse.

Response: The proposed change in the policy for ESRD beneficiaries does not expand the coverage of transportation for these beneficiaries; it merely changes the allowable destinations for dialysis

treatment. We concluded the transporting ESRD beneficiaries from their residence to the nearest appropriate dialysis facility to receive medically necessary dialysis services could result in a cost savings to the Medicare program through the substitution of shorter trips for unnecessarily long trips and, in some cases, ambulance trips to distant hospital-based facilities to obtain dialysis. This modification, coupled with the 60-day physician certification requirement for nonemergency, scheduled ambulance transports and the medical necessity determination, provides limitations that should prevent inappropriate coverage of ambulance services furnished to ESRD beneficiaries. Therefore, we anticipate that this revision to the Medicare ambulance services policy will not result in an increased number of transports or an increase in the incidence of fraud and abuse.

Comment: Three ambulance suppliers commented that, in order to decrease the burden on local emergency rooms and to provide most cost-effective service, HCFA should consider expanding the allowable destinations for ambulances transportation to include physician's offices, urgent care facilities, and freestanding radiological facilities. In support of this recommendation, one supplier indicated that the Omnibus Reconciliation Act of 1980 (Public Law 96–499) specifically covered ambulance transportation to freestanding radiological facilities.

Response: Although we proposed to allow ESRD beneficiaries residing at home to receive medically necessary ambulance transportation to the nearest appropriate dialysis facility, even if that facility is not hospital-based, we are not proposing to extend ambulance coverage for transport to other facilities or for other populations of beneficiaries. In making our decision to expand the destination sites for ESRD beneficiaries, we considered the fact that many beneficiaries who are confined to home may have a broader range of needs on a routine basis, such as visits to the physician, for which they might wish to have ambulance transportation could be available. However, an expansion of this type would be difficult to monitor to ensure that the ambulance services benefit was being used only for medically necessary transportation where all other means of transportation were unacceptable. Without built-in limitations (for example, routinely requiring the use of physician certifications) and extensive rules for determining when the need for medical services justifies coverage of ambulance transportation, the ambulance services benefit could easily become a benefit for general transportation services, which would be inconsistent with Congressional intent and program history.

It is also important to note that, generally, Medicare does not provide coverage for ambulance transportation to a physician's office, for example, transportation to a physician's office for a follow-up visit with an attending physician. There are two exceptions to this rule. First, under Medicare Part A, we cover ambulance transportation of hospital or SNF inpatients to the nearest appropriate treatment facility including a physician's office to obtain medically necessary diagnostic or therapeutic services not available at the institution where the beneficiary is an inpatient. This exception may be applied only if the services cannot reasonably be brought to the beneficiary or the cost of transporting the beneficiary is less than the cost of bringing the services to the beneficiary. Second, if while transporting a beneficiary to a hospital, the ambulance stops at a physician's office because of the beneficiary's dire need for professional attention, and, immediately thereafter, the ambulance continues to the hospital, Medicare coverage may be available.

The House Report of the Committee on the Budget that accompanied Public Law 96–499 did recommend that we consider including coverage of round-trip ambulance transportation for beneficiaries in SNFs or confined to their homes to obtain medically necessary radiological services furnished in a nonhospital setting. However, the suggestion to provide coverage for round-trip ambulance transportation services to freestanding radiological facilities was not included in the final provisions of the law.

D. Requirements for Ambulance Suppliers

1. Vehicles

We proposed that any vehicle used as an ambulance must be designed and equipped to respond to medical emergencies and, in nonemergency situations, be capable of transporting beneficiaries with acute medical conditions. The vehicle must also comply with all applicable State and local laws governing the licensing and certification of an emergency medical transportation vehicle. In addition, we proposed that, at a minimum, the ambulance must contain a stretcher, linens, emergency medical supplies, oxygen equipment, and other lifesaving emergency medical equipment and be equipped with emergency warning lights, sirens, and two-way telecommunications.

Comment: Several ambulance suppliers commented that requiring ''two-way telecommunications'' is unnecessary, cost prohibitive, and not practical for rural areas. One commenter suggested that the requirement be revised to state, ''* * * be equipped with telecommunications equipment as required by State or local law, to include, at a minimum, one two-way voice radio or wireless telephone.''

Response: We agree that the commenter's alternative will satisfy our needs for safety and efficiency. We have decided, therefore, that we will adopt the commenter's suggestion.

Comment: Three ambulance suppliers commented that the reference to ''lifesaving equipment'' is vague. One commenter suggested that we specifically enumerate the ALS equipment required.

Response: It is our intent to defer to State or local requirements where vehicle equipment and personnel certification requirements are concerned. In addition, a review of the proposal reflects an inadvertent omission of the phrase ''* * * as required by State or local law''; therefore, § 410.41(a) will be revised accordingly.

2. Vehicle Staff

We proposed staffing requirements at both the BLS and ALS level of service. As proposed, a BLS vehicle would have to be staffed by at least two persons, each trained to provide first aid and certified as an emergency medical technician-basic (EMT–B) by the State or local authority where the services are furnished and legally authorized to operate all lifesaving equipment on board the vehicle.

An ALS vehicle would need to include at least two persons: one person trained to provide basic first aid at the EMT–B level and one person trained and certified as a paramedic or emergency medical technician-advance (EMT–A) who is also trained and certified to perform one or more ALS services. The EMT–A or paramedic would have had to be certified by the State in which the services are furnished and legally authorized to operate all lifesaving equipment on board the vehicle.

Comment: Several ambulance suppliers commented that the proposed staffing requirements are contrary to existing State standards and the proposed requirement that a BLS ambulance be staffed with two EMTs

would have a detrimental effect on volunteer companies. The commenters recommended that we revise the staffing requirements to defer to State or local requirements for ambulance staffing. Many comments pointed out that the State EMS offices set the minimum staffing level requirements.

Response: We agree with the commenters that it is sufficient for Medicare purposes if the BLS vehicle staffing meets the State and local laws. Based on a review of the comments, we acknowledge that a requirement for a minimum of two EMTs, as proposed, has the potential of placing considerable burden on volunteer ambulance services and may possibly lead to the elimination of such services, particularly in rural areas. We will revise the regulations accordingly.

Comment: Three suppliers requested that we define the following terms: EMT–A, EMT–B, and paramedic.

Response: Based on comments received in response to the proposed regulation, we acknowledge that the terms EMT–A and EMT–B are no longer used by the EMS industry; thus, we are deleting reference to EMT–A and EMT–B. We will, however, maintain our proposed requirement that if an ALS staff member is authorized, under State or local laws, to operate as an ALS crew member, then the EMT must be certified to perform one or more ALS services. The term ''paramedic'' is defined by State and local laws.

3. Billing and Reporting Requirements

In the proposed rule, we stated that we would require ambulance suppliers to use the HCFA Common Procedure Coding System (HCPCS) codes to describe the origin and destination of ambulance trips. We also proposed that, at the carrier's request, a supplier would complete and submit an ambulance supplier form established by HCFA and provide the carrier with documentation of the supplier's compliance with State and local emergency vehicle and staff licensure and certification requirements. In addition, suppliers would be required to provide any information requested by the carrier for purposes of documenting the ambulance supplier's compliance with the regulations and to support claims processing.

Comment: A majority of the commenters objected to the proposed billing and reporting requirements on the ground that they are unfunded mandates that are burdensome and in excess of the informational updates required at the State or local level. They also believe that the carriers should not be allowed unlimited access to records, many of which are protected under other Federal laws and regulations.

Response: Current Medicare instructions (section 2120.1 of the MCM) require ambulance suppliers to submit a statement and other documentary evidence that their vehicles and personnel meet all of the requirements set by State or local authorities. The guideline specifies that, in addition to the submission of documentary evidence, the statement should describe the equipment and beneficiary care items with which the vehicles are equipped, the extent of first-aid training acquired by personnel staffing those vehicles and the supplier's agreement to notify the carrier of any changes in operation that would affect the coverage of the supplier's ambulance services. Our intent in proposing that suppliers complete a HCFA-developed Ambulance Supplier Form was to promote consistency in the collection of this already-required information as well as make it easier for suppliers by providing them with a preprinted form to complete.

Current guidelines also specify that when the required information is not submitted or whenever there is a question about the supplier's compliance with the requirements, the carrier should take appropriate action. The appropriate action may include conducting an on-site visit as well as requesting additional information. We disagree with commenters that the proposed requirement allow unlimited access to protected records. This requirement formalizes, in a consistent format, an informational requirement that has been in effect for several years.

Based on comments, we will revise the final regulations to clarify that, upon carriers' request, suppliers will be required to submit additional information and documentation as it relates to vehicle and personnel operations. That is, suppliers will not be required to automatically submit information and documentation for each new vehicle that is purchased or crew member that is hired.

Comment: Several suppliers stated that verification of compliance information should be obtained from State databases and not directly from the ambulance supplier.

Response: To coordinate the transfer of information between various State computer systems and the systems used by our Medicare contractors could present administrative problems for the State as well as the carrier. We would also need to take into consideration system capabilities, compatibility, and the potential cost to the State, carrier, HCFA, and the supplier. We are not requiring the submission of documentation that is inconsistent with information suppliers are already required to report to the State or local authority. This provision requires suppliers to complete the standardized Ambulance Supplier Form and to photocopy documentation already in their possession.

Comment: One ambulance supplier commented that the Ambulance Supplier Form appears to contradict the information provided in the HCFA–855, Medicare Provider/Supplier Enrollment form. The supplier questioned whether the State ambulance license will be acceptable in lieu of vehicle and staffing information required on the HCFA–855 application.

Response: The HCFA–855 is required to be completed by all providers and suppliers who wish to enroll in the Medicare program (except for those who are required to enroll through the survey and certification process). The information being requested on that form is used to determine eligibility and to make proper payments under the Medicare program. Attachment 2 of the HCFA–855 Enrollment Application form indicates that, ''If you are licensed by your State as an Ambulance Supply Service, you are not required to submit the information on the supplier form Attachment 2.'' The information that Attachment 2 requires related to vehicle descriptions for each vehicle including specifying the type of vehicle, license number, and the list of first-aid, ALS equipment, if applicable, safety and other care items. Even in instances where a supplier does complete the Ambulance Supplier Form shown in the attachment, because the service is not licensed by the State, the company would still be required to submit to the carrier evidence of recertification. This is the same requirement imposed on suppliers who are State licensed. The enrollment form instructions specify that evidence of vehicle and personnel recertification must be submitted to the carrier on an ongoing basis and that copies of applicable certificates and licenses should be included. This instruction guideline is applicable to all ambulance service suppliers.

In conclusion, the proposed billing and reporting requirements, which require submission of the Ambulance Supplier Form, are not new requirements. This form is the method by which suppliers will submit evidence of vehicle and crew recertification. The form was developed to provide a consistent format for the collection of verification of compliance

information currently required by Medicare instructional guidelines.

V. Paramedic Intercept Provisions of the BBA

Paramedic intercept services are ALS services delivered by paramedics who operate separately from the agency that provides the ambulance transport. This type of service is most often provided for an emergency ambulance transport in which a local volunteer ambulance that can provide only BLS-level service is dispatched to transport a beneficiary. If the beneficiary needs ALS services, such as EKG monitoring, chest decompression, or IV therapy, another agency, typically a hospital or proprietary emergency medical service, dispatches a paramedic to meet the BLS ambulance at the scene or en route to the hospital. The ALS paramedics then provide their services to the beneficiary.

This tiered approach to life-saving may be cost effective in many areas because most volunteer ambulances do not charge for their service, and one paramedic service can cover many communities. Under current policy, Medicare payment may be made for these services only when the claim is submitted by the ambulance provider (that is, the actual transporting ambulance unit). Payment cannot be made directly to the intercept service supplier because there is no benefit category in the Medicare statute for the intercept service itself. With the limited exception provided in section 4531(c) of the BBA (discussed below), the only statutory basis for covering these services is under section 1861(s)(7) of the Act, as an integral part of the ambulance transportation benefit. In a jurisdiction that prohibits volunteer ambulances from billing Medicare and other health insurance, the intercept service cannot be paid for treating a Medicare beneficiary and is forced to bill the beneficiary for the intercept service.

Section 4531(c) of the BBA provided that the Secretary could include limited coverage of these intercept services provided in a rural area; that is, payment may be made directly to the agency providing the paramedic service. However, the services could be covered only if they are provided under contract with one or more volunteer ambulance services and they are medically necessary based on the condition of the beneficiary receiving the ambulance service. In addition, the volunteer ambulance service involved must meet all of the following requirements:

- Be certified as qualified to provide ambulance services for purposes of this provision.
- Provide only BLS services at the time of the intercept.
- Be prohibited by State law from billing for any service. Finally, the entity providing the ALS paramedic intercept service must meet the following requirements:
- Be certified as qualified to provide the services under the Medicare program.
- Bill all Recipients who receive ALS paramedic intercept services from the entity, regardless of whether or not those recipients are Medicare Beneficiaries.

We are revising § 410.40 to include these provisions. We are defining rural area in the same way it is defined for purposes of the Medicare hospital inpatient prospective payment system under section 1886(d)(2)(D) of the Act and in regulations at § 412.62(f). A rural area is any area outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA) as defined by the Office of Management and Budget. (Please see Tables 4A and 4B in the final rule in the July 31, 1998 **Federal Register** entitled, Health Care Financing Administration, Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates; Final Rule.)

Although it provided the Secretary with the authority to cover ALS paramedic intercept services under certain conditions, section 4531(c) of the BBA did not specify what the payment should be for those services. We considered three different methods of payment for these services.

First, we considered paying the full ALS payment rate. We discussed the issued with several ambulance companies that furnish paramedic intercept services, that believe that the total cost of providing these services is virtually the same as that of providing the full ALS ambulance service. In addition, because these services are furnished in rural areas, there is a low utilization rate that raises their cost per service. That is, the paramedic intercept service has the same fixed costs as ambulance company (i.e., flycar vehicle, life saving equipment, labor and overhead) but these costs are spread over only 2 or 3 calls per day, whereas the typical ALS ambulance company has 30 to 40 calls per day.

A second option would be to pay for intercept services based on the difference between the ALS ambulance service rate and the BLS ambulance service rate. This would Place a value on the intercept service consistent with the fact that the full ALS service is comprised of two components: the intercept service and a transport service. The transport would be valued at the BLS rate and the intercept service would be valued as the difference between the ALS rate and the BLS rate.

Finally, we could pay the average salary of a paramedic multiplied by the average amount of time involved for an intercept service. While this option would cover the costs associated with the paramedic's services during an intercept, it would not recognize other costs such as standby time, the vehicle used by the paramedics, medical equipment carried on that vehicle, and other overhead expenses.

After examining these options, we believe the best option would be the second option; that is, pay the difference between the ALS payment rate and the BLS payment rate. If we were to pay the full ALS rate, we would be recognizing the intercept service as virtually equivalent to the full ALS ambulance service. However, the ALS ambulance service is actually equivalent to a paramedic intercept service plus a transport service. We do not believe that it is appropriate to price a component of the ALS service at the same rate as the total ALS service. However, to pay only the costs of the paramedics' services does not recognize the additional costs associated with furnishing the BLS service.

We believe the second option balances considerations for access to care and consistency with current ambulance payment policy. We would be providing the intercept company with a reasonable payment while not providing the same amount of payment that we would to an ambulance company that provides both the transport and the paramedic service. If we pay the difference between the ALS and BLS rates to the intercept company, we would be acknowledging the BLS rate that would have been paid to the volunteer company had it been permitted to bill the program for the transport.

VI. Provisions of the Final Regulations

Other than the changes made to implement section 4531(c) of the BBA, those provisions of this final rule that differ from the proposed rule are as follows:

- We are revising §§ 409.10 and 409.20 to clarify that ambulance services are covered under Medicare Part A as hospital, CAH, and SNF inpatient services.
- We have revised the medical necessity requirements in § 410.40(d) to specify when a beneficiary can be determined to be bed-confined and,

thus, potentially eligible for ambulance services.

• We have revised the physician certification requirements for nonemergency, unscheduled ambulance services in § 410.40(d). In cases where a beneficiary requires a nonemergency, unscheduled ambulance transport, the written physician certificate can be obtained 48 hours after the ambulance transportation has been furnished. We are also revising the regulations to provide that in situations where nonemergency, unscheduled ambulance transportation is required for beneficiaries residing at home (private residence) or in facilities where they are not under the direct care of a physician, the physician certification will not be required.

• We have revised the provision in § 410.41(a) that identifies the minimum equipment required on a vehicle used as an ambulance, to require that a vehicle used as an ambulance must be equipped with telecommunication equipment as required by State or local law, to include, at a minimum, one two-way voice radio or wireless telephone.

• We have revised § 410.41(b), which established minimum vehicle staffing requirements for both the BLS and ALS level of service. For BLS vehicles, we require that, at a minimum, the staff must meet staffing requirements established by State or local authorities. For ALS vehicles, we have revised this provision to delete reference to EMT–A and EMT–B designations.

VII. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act requires that we solicit comment on the following issues:

• Whether the information collection is necessary and useful to carry out the proper functions of our agency.

• The accuracy of our estimate of the information collection burden.

• The quality, utility, and clarity of the information to be collected.

• Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Section 410.40 Coverage of Ambulance Services

The information collection requirements in § 410.40 require the ambulance supplier to obtain written certification from the beneficiary's attending physician certifying that the medical necessity requirements of paragraph (d)(1) of this section are met, before furnishing non-emergency, scheduled ambulance services. The physician's order must be dated no earlier than 60 days before the date the service is furnished. And, for nonemergency, unscheduled ambulance services for a resident of a facility who is under the care of a physician, the ambulance supplier must obtain the written certification, within 48 hours after the transport, from the beneficiary's attending physician certifying that the medical necessity requirements of paragraph (d)(1) of this section are met.

The requirement for the physician's certification does not require a particular form or format and can be simply a written statement to describe the beneficiary's condition that supports the need for ambulance services. Some suppliers have developed their own physician certification forms. We estimate that a physician's certification could take, on average, 10 minutes of the physician's time per beneficiary and, in cases involving repetitive transports, one certificate could be used by the supplier for a 60-day period. The following chart shows the potential paperwork burden that may be imposed on physicians by this final rule.

ESTIMATED PAPERWORK BURDEN ON PHYSICIANS

CFR Section	Estimated annual number of ambulance trips per supplier (9,000 suppliers) requiring certification statements	Estimated average time in minutes to complete each statement (Minutes)	Estimated total annual burden for all physicians combined (9,000 × 3,000 certificates per supplier × 10 minutes) (Hours)
410.40(d)(2) & (3)(i)	3,000	10	4,500,000

In addition, suppliers will be required to retain all physician certifications on file and make the certifications available upon request by the Medicare carrier or intermediary. The burden associated with this requirement is the time required for the supplier to retain the physician certification. We estimate that this could take, on average, 2 minutes to file each physician certification. Given that we estimate 3,000 certifications per year, the total burden associated with these requirements is 6,000 minutes or 100 annual hours, per supplier. The total burden imposed by the requirements of this section are 4,500,000 hours for all physicians and (9,000 × 100 hours record keeping) 900,000 hours for suppliers. This paperwork burden requirement will impact all physicians. We estimate that there are 500,000 physicians. Total burden hours imposed on physicians times $15 (the estimated hourly cost for an administrative employee to complete the form, less the attending physician's signature) equals an additional cost of $67.5 million for physicians and a cost of $9 million for ambulance suppliers.

Section 410.41 Requirements for ambulance suppliers

This section requires an ambulance supplier to bill for ambulance services using HCFA-designated procedure codes to describe origin and destination and indicate on the claims form that the physician certification is on file and available for review upon request by the Medicare carrier or intermediary. The burden associated with this requirement is captured during the completion of the HCFA 1500/1491 common claim file form, approved under OMB number 0938–0008. Therefore, we are assigning one token-hour of burden for this requirement.

This section also requires, upon a carrier's request, an ambulance supplier to complete and return the attached Ambulance Supplier Form and to submit documentation of emergency vehicle and staff licensure and certification requirements in keeping with State and local laws to the Medicare carrier.

This requires completion of the Ambulance Supplier Form, photocopying documentation already required by State or local laws and in

the possession of the supplier, and sending those copies, along with the completed form to the carrier. We will require ambulance suppliers to complete the Ambulance Supplier Form on an annual basis or in keeping with licensure or certification requirements established by State or local laws. It is our understanding that an overwhelming number of States require ambulance supplier licensure or certification renewal on an annual basis.

Our decision no to state a specific time frame, for example requiring annual submission of the documentation, in which ambulance suppliers will be required to submit the form took into consideration the potential burden on those suppliers operating in areas with renewal requirements other than on an annual basis. It is estimated that the time to complete this form is no more than 32 minutes.

The following chart shows the potential paperwork burden that may be imposed on ambulance suppliers by this final rule.

ESTIMATED ANNUAL SUPPLIER REPORTING BURDEN

CFR Sections	Estimated no. of ambulance suppliers	Estimated average burden per response (Minutes)	Estimated annual burden (Hours)
410.41(c)(2) ambulance supplier form and documentation	9,000	32	4,530

We have submitted a copy of this final rule to OMB for its review of the information collection requirements in §§ 410.40 and 410.41. The information collection requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained.

If you comment on these information collection and record keeping requirements, or the attached form, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: John Burke, HCFA–1813–FC, or

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer

VIII. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all suppliers of ambulance services are considered to be small entities. Individuals, carriers, and States are not considered to be ''small entities.''

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

As illustrated below, the impact of this regulation does not meet the criteria under Executive Order 12866 to require a regulatory impact analysis; however, the following information, together with information provided elsewhere in this preamble, constitutes a voluntary analysis and meets the requirements of the RFA.

First, this final rule was initiated partly because of the concern over the rapid increase in the cost to the Medicare program for furnishing ambulance services to beneficiaries. This rapid increase in expenditures can be attributed to a variety of causes that include the following:

- High costs for equipment, supplies, and trained personnel incurred by all ambulance suppliers are passed on to the public.
- Provision of nonemergency, scheduled ambulance services to ESRD beneficiaries for treatment or therapy to hospital-based facilities that may be farther away from the beneficiary's home than nonhospital-based facilities offering the same service. These transports cost the Medicare program more because of the higher mileage charges.
- Erroneous Medicare payment of claims for ambulance services from suppliers using nonemergency vehicles that transport beneficiaries whose medical condition is such that transportation in an ambulance is unnecessary.

Second, we believe the policies contained in this rule will result in the consequences outlined below:

- The requirement that ambulance services be furnished in a vehicle equipped and staffed to respond to a medical emergency or an acute care situation will improve the overall quality of services furnished to beneficiaries and eliminate payment for transportation services that are furnished in a vehicle not equipped or staffed to provide ambulance services. This particular aspect of the final rule may cause some suppliers to have to upgrade their vehicles, equipment or staff training and certification so that the vehicles meet the definition of an ambulance. There may be some, however, who may not be able to upgrade their vehicles or staff. We do not know how many suppliers this requirement would affect; however, because we believe the entities that may be affected by this final rule primarily provide transportation services, such as wheelchair van transportation, we do not believe the number to be substantial.
- The requirement for physicians to certify the need for scheduled and certain unscheduled, nonemergency ambulance services for beneficiaries to receive therapy or treatment will ensure that those beneficiaries receiving the ambulance services actually require that level of transport.

—This requirement will affect all physicians. We estimate that there are 500,000 physicians. Total burden hours imposed on physicians times $15 (the estimated hourly cost for an administrative employee to complete the form, less the attending physician's signature) equals an additional cost of $67.5 million for physicians and a cost of $9 million for ambulance suppliers.

—The physician certification provision also affects the suppliers:

- The physician certification provision requires, in situations

involving scheduled, nonemergency transportation, suppliers to obtain, from the beneficiary's attending physician, a written physician's order certifying the need for ambulance transportation. The certification is renewable every 60 days. Many suppliers currently provide carriers with similar documentation to certify medical necessity when transporting beneficiaries with ESRD. In cases where a beneficiary requires a nonemergency, unscheduled ambulance transport, the supplier must obtain, from the beneficiary's attending physician, the physician's written certificate 48 hours after the ambulance transportation has been furnished.

- The billing and reporting provision set forth in § 410.41(c)(2) requires ambulance suppliers to verify compliance with State or local licensure and certification requirements. This provision does not require the submission of information that is inconsistent with information suppliers provide to State or local authorities. Suppliers are already required to complete the standardized HCFA-Ambulance Supplier Form and submit the appropriate documentary evidence. This provision will require the photocopying of documentary evidence in the possession of the supplier.

—The provision permitting ESRD beneficiaries to be transported to the nonhospital-based facilities nearest their home will be more convenient, since they will no longer have to be transported to hospital-based facilities that may be farther away. In addition, for those beneficiaries this is a more cost-effective policy since regularly transporting beneficiaries farther from their homes is more costly.

- For the first time, Medicare payment may be made for paramedic intercept services that meet the conditions for coverage. Currently, when these services have been provided to a Medicare beneficiary, the ALS paramedic intercept company has been free to bill the beneficiary for the full charge of the intercept service because it was not a covered service. Now that the service is covered, Medicare payment will be made to the intercept company, and the beneficiary will be responsible for only the applicable deductible and coinsurance. This will benefit both the company and the beneficiary.

The only State that we are aware of in which the conditions described in section 4531(c) of the BBA exist is New York. After consultations with the ambulance industry in New York, and examination of the Medicare program data, we estimate the volume of services that will be covered under this provision in a year will be between 2,000 and 4,000. A payment allowance of $150.00 per service (the difference between the average allowance for ALS and the average allowance for BLS in New York) yields a negligible cost. Because the Medicare Part B coinsurance and deductible provisions apply, the program payment will be between $240,000 and $480,000. The remainder of the cost will be the responsibility of beneficiaries.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any final rule with comment period that may result in an annual expenditure by State, local or tribal government, in the aggregate, or by the private sector of $100 million. The final rule with comment period will not have an effect on the governments mentioned, and private sector costs will be less than the $100 million threshold. The physician certification provision requires, in situations involving scheduled, nonemergency transportation, suppliers to obtain, from the beneficiary's attending physician, a written physician's order certifying the need for ambulance transportation. The certification is renewable every 60 days. Many suppliers currently provide carriers with similar documentation to certify medical necessity when transporting beneficiaries with ESRD. In cases where a beneficiary requires a nonemergency, unscheduled ambulance transport, the supplier must obtain, from the beneficiary's attending physician, the physician's written certificate 48 hours after the ambulance transportation has been furnished.

The billing and reporting provision set forth in § 410.41(c)(2) requires ambulance suppliers to verify compliance with State or local licensure and certification requirements. This provision does not require the submission of information that is inconsistent with information suppliers provide to State or local authorities. Suppliers are already required to complete the standardized HCFA-Ambulance Supplier Form and submit the appropriate documentary evidence. This provision will require the photocopying of documentary evidence in the possession of the supplier.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

IX. Other Required Information

A. Waiver of Notice of Proposed Rulemaking

This final rule contains a provision relating to ambulance services that was not included in the proposed rule published on June 17, 1997. That provision, the limited Medicare coverage of paramedic intercept services in rural areas, was authorized by section 4531(c) of the BBA. We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of the final rule take effect. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest.

As explained in detail in section V of this preamble, section 4531(c) of the BBA authorizes us to provide coverage of paramedic intercept services under very limited conditions, which are specifically stated in the law. Because of the specificity of the law, we have little discretion in the manner in which we implement this extension of the ambulance benefit.

This provision was not included in the proposed rule because publication of the proposed rule predated enactment of the BBA. Nonetheless, we have received many letters requesting that we implement the provision as soon as possible. As discussed above, this change will allow suppliers of paramedic intercept services that meet the statutory requirements to receive payment for those services. Because those suppliers are now prohibited from billing Medicare for their services, Medicare beneficiaries are responsible for paying the full charge for the services. We believe that it is appropriate to implement this change as soon as possible to reduce the burden on Medicare beneficiaries who must pay for these services out-of-pocket. Thus, we find that, in this case, prior notice and comment would be impracticable and unnecessary, therefore, we find good cause to waive proposed rulemaking for the revisions set forth at § 410.40(c) and to issue these regulations as final. However, we are providing a 60-day period for public comment, as indicated at the beginning of this rule, on these changes.

B. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. Comments on the

paramedic intercept provision will be considered if we receive them by the date specified in the **DATES** section of this preamble. We will not consider comments concerning the provisions of this final rule that were published in the June 17, 1997 proposed rule, whether those provisions are presented in this final rule as unchanged or have been revised based on public comment.

List of Subjects

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Chapter IV is amended as set forth below:

Part 409—HOSPITAL INSURANCE BENEFITS

A. Part 409 is amended as set forth below:

1. The authority citation for part 409 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 409.10 [Amended]

2. In § 409.10, the following amendments are made:

a. In paragraphs (a)(1) through (a)(5), the semicolon at the end of each paragraph is removed, and a period is added in its place.

b. In paragraph (a)(6), the words ''services; and'' are removed, and ''services.'' is added in their place.

c. A new paragraph (a)(8) is added to read as follows:

§ 409.10 Included services.

(a) * * *

(8) Transportation services, including transport by ambulance.

* * * * *

§ 409.20 [Amended]

3. In § 409.20, the following amendments are made:

a. In paragraph (a), the period at the end of the introductory text is removed, and a colon is added in its place.

b. In paragraph (a)(1) through (a)(5), the semicolon at the end of each paragraph is removed, and a period is added in its place.

c. In paragraph (a)(6), ''; and'' is removed, and a period is added in its place.

d. A new paragraph (a)(8) is added to read as follows:

§ 409.20 Coverage of services.

(a) * * *

(8) Transportation services, including transport by ambulance.

* * * * *

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

B. Part 410 is amended as set forth below:

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 410.40 is revised to read as follows:

§ 410.40 Coverage of ambulance services.

(a). *Basic rules.* Medicare Part B covers ambulance services if the following conditions are met:

(1) The supplier meets the applicable vehicle, staff, and billing and reporting requirements of § 410.41 and the service meets the medical necessity and origin and destination requirements of paragraphs (d) and (e) of this section.

(2) Medicare Part A payment is not made directly or indirectly for the services.

(b) *Levels of services.* Medicare covers ambulance services within the United States at the following levels of services:

(1) Basic life support (BLS) services.

(2) Advanced life support (ALS) services.

(3) Paramedic ALS intercept services described in paragraph (c) of this section.

(c) *Paramedic ALS intercept services.* Paramedic ALS intercept services must meet the following requirements:

(1) Be furnished in a rural area (as defined in § 412.62(f) of this chapter).

(2) Be furnished under contract with one or more volunteer ambulance services that meet the following conditions:

(i) Are certified to furnish ambulance services as required under § 410.41.

(ii) Furnish services only at the BLS level.

(iii) Be prohibited by State law from billing for any service.

(3) Be furnished by a paramedic ALS intercept supplier that meets the following conditions:

(i) Is certified to furnish ALS services as required in § 410.41(b)(2).

(ii) Bills all the recipients who receive ALS intercept services fro the entity, regardless of whether or not those recipients are Medicare beneficiaries.

(d) *Medical necessity requirements*—(1) *General rule.* Medicare covers ambulance services only if they are furnished to a beneficiary whose medical condition is such that other means of transportation would be contraindicated. For nonemergency ambulance transportation, the following criteria must be met to ensure that ambulance transportation is medically necessary:

(i) The beneficiary is unable to get up from bed without assistance.

(ii) The beneficiary is unable to ambulate.

(iii) The beneficiary is unable to sit in a chair or wheelchair.

(2) *Special rule for nonemergency, scheduled ambulance services.* Medicare covers nonemergency, scheduled ambulance services if the ambulance supplier, before furnishing the service to the beneficiary, obtains a written order from the beneficiary's attending physician certifying that the medical necessity requirements of paragraph (d)(1) of this section are met. the physician's order must be dated no earlier than 60 days before the date the service is furnished.

(3) *Special rule for nonemergency, unscheduled ambulance services.* Medicare covers nonemergency, unscheduled ambulance services under the following circumstances:

(i) For a resident of a facility who is under the care of a physician if the ambulance supplier obtains a written order from the beneficiary's attending physician, within 48 hours after the transport, certifying that the medical necessity requirements of paragraph (d)(1) of this section are met.

(ii) For a beneficiary residing at home or in a facility who is not under the direct care of a physician. A physician certification is not required.

(e) *Origin and destination requirements.* Medicare covers the following ambulance transportation:

(1) From any point of origin to the nearest hospital, CAH, or SNF that is capable of furnishing the required level and type of care for the beneficiary's illness or injury. The hospital or CAH must have available the type of physician or physician specialist needed to treat the beneficiary's condition.

(2) From a hospital, CAH, or SNF to the beneficiary's home.

(3) From a SNF to the nearest supplier of medically necessary services not available at the SNF where the beneficiary is a resident, including the return trip.

(4) For a beneficiary who is receiving renal dialysis for treatment of ESRD, from the beneficiary's home to the

nearest facility that furnishes renal dialysis, including the return trip.

(f) *Specific limits on coverage of ambulance services outside the United States.* If services are furnished outside the United States, Medicare Part B covers ambulance transportation to a foreign hospital only in conjunction with the beneficiary's admission for medically necessary inpatient services as specified in subpart H of part 424 of this chapter.

3. A new § 410.41 is added to read as follows:

§ 410.41 Requirements for ambulance suppliers.

(a) *Vehicle.* A vehicle used as an ambulance must meet the following requirements:

(1) Be specially designed to respond to medical emergencies or provide acute medical care to transport the sick and injured and comply with all State and local laws governing an emergency transportation vehicle.

(2) Be equipped with emergency warning lights and sirens, as required by State or local laws

(3) Be equipped with telecommunications equipment as required by State or local law to include, at a minimum, one two-way voice radio or wireless telephone.

(4) Be equipped with a stretcher, linens, emergency medical supplies, oxygen equipment, and other lifesaving emergency medical equipment as required by State or local laws.

(b) *Vehicle staff—(1) BLS vehicles.* A vehicle furnishing ambulance services must be staffed by at least two people, one of whom must meet the following requirements:

(i) Be certified as an emergency medical technician by the State or local authority where the services are furnished.

(ii) Be legally authorized to operate all lifesaving and life-sustaining equipment on board the vehicle.

(2) *ALS vehicles.* In addition to meeting the vehicle staff requirements of paragraph (b)(1) of this section, one of the two staff members must be certified as a paramedic or an emergency medical technician, by the State or local authority where the services are being furnished, to perform one or more ALS services.

(c) *Billing and reporting requirements.* An ambulance supplier must comply with the following requirements:

(1) Bill for ambulance services using HCFA-designated procedure codes to describe origin and destination and indicate on claims form that the physician certification is on file.

(2) Upon a carrier's request, complete and return the ambulance supplier form designated by HCFA and provide the Medicare carrier with documentation of compliance with emergency vehicle and staff licensure and certification requirements in accordance with State and local laws.

(3) Upon a carrier's request, provide additional information and documentation as required.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 424.124 [Amended]

In § 424.124, paragraph (c)(2) is amended by removing the reference to ''§ 410.140'' and adding in its place the reference to ''§ 410.41''.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 10, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: January 13, 1999.

Donna E. Shalala,

Secretary.

Note: Addendum 1 and Addendum 2 will not appear in the Code of Federal Regulations.

Addendum 1

NOTE TO: (INSERT NAME OF MEDICARE SUPPLIER)

FROM: (INSERT NAME OF MEDICARE CARRIER)

SUBJECT: Completion of Attached Ambulance Supplier Form

The attached form must be completed by you whenever your State and Local laws require that you update the licensure of your vehicles and/or staff. We are also requiring that this form be completed at the carrier's discretion so that the latest documentation will be on file with the carrier to make appropriate claims payment determinations.

The form is self explanatory and, therefore, there are no program instructions for its completion. We do not expect that it will take longer than 30 minutes to answer the questions and will require only another minute or two to copy and attach the photocopies supporting the response to some of the questions.

If you have any questions about completing this form please contact us at (fill in the telephone number and or address of the carrier).

Addendum 2—Ambulance Supplier Form

1. Corporate/Business Name of Ambulance Company: _____

_____

Trade Name of Ambulance Company: _____

_____

(Exactly as it appears on the vehicle(s))

2. Medicare Provider Number: _____

Federal Tax Identification Number: _____

3. License Number(s): _____

(A copy of the current license/certificate *must* be submitted with this form. The effective date and expiration must be stated on the license/certificate. Program payment will be based these dates.)

4. Physical Address of Ambulance Company Headquarters: _____

_____

Mailing Address (If different): _____

_____

(Post Office Boxes and Drop Boxes are *not* acceptable as a physical business address.)

Physical address locations of any substations, other than Headquarters, where vehicles are garaged (if applicable):

a. _____

_____

b. _____

_____

(Attach additional sheets if necessary)

What geographic area(s) do you serve? _____

_____

5. Business Telephone Number(s): (____) ____

Fax Machine Number(s): (____) _____

(List telephone numbers for all locations. The business telephone number(s) must be a number where patients or customers can reach you or register complaints.)

Name of Daily Contact Person: _____

_____

(Please print name, title, and provide a telephone number, if different from the business telephone number.)

6. Owner's Name(s) and Social Security Number(s): _____

_____

(Identify all individuals and their Social Security Numbers or entities who have ownership or controlling interest in this company. Attach additional sheets if necessary.)

7. Indicate the number of vehicles providing each type of service. Provide a copy of the license/certification documentation from the State or local regulatory agency for each vehicle:

____ Advanced Life Support

____ Advanced Life Support (Paramedic Intercept Squad Unit)

____ Advanced Life Support (Mobile Intensive Care Unit)

____ Basic Life Support

____ Air Ambulance

Identify all vehicles in your fleet by providing the following information:

(Attach additional sheets if necessary)

Year Make Model VIN#

_____

_____

_____

8. List the name of each crew member and their individual training (e.g., CPR, first aid, ACLS, etc.) A copy of their certificate(s) of training *must* be attached. (Attach additional sheets if necessary.)

Name: _____
Training: _____
Name: _____
Training: _____

9. Name of Medical Director: _____

Medical License Number of Medical Director: _____
Telephone Number: (____) _____

10. Has your company or any owner *ever* been excluded from participation in the Medicare or Medicaid program?

Yes _____ No_____

If yes, under what corporate/business name(s), trade name(s) and owner(s), did the exclusion occur?

_____

List prior Medicare Identification Number(s):

_____

Provide name(s) and location(s) of prior Carrier(s):

_____

(If service was provided under the Medicaid program, list the prior Medicaid Identification Number and the State where the service was provided.)

11. You agree to notify this office of any change in operation, ownership, or revocation of licensure. It is also understood that representatives from the Health Care Financing Administration (HCFA) and HCFA Medicare contractors may make on-site inspections at any time.

By signing, I agree to the above statement and verify that I have reviewed all of the information contained herein, or submitted separately in support of this verification of compliance form, and verify that the information is accurate and complete.

Name and Title (please print): _____

Address: _____

Signature: _____
Date: _____

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB number for this information collection is 0938–xxxx. The time required to complete this information collection is estimated to average xx hours (or minutes) per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: HCFA, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Mail Stop N2–14–26 and to the Office of the Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

[FR Doc. 99–1547 Filed 1–20–99; 4:15 pm]

BILLING CODE 4120–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–318, RM–7311, 7516]

Radio Broadcasting Services; Chillicothe, Forest, Lima, New Washington, Peebles and Reynoldsburg, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Petition for Reconsideration.

SUMMARY: At the request of Pearl Broadcasting, Inc., this document dismisses the Petition for Reconsideration filed by Pearl Broadcasting, Inc. of the *Report and Order,* 61 FR 44288 (Aug. 28, 1996) which denied Pearl's request to change the community of license of Station WKKJ(FM), Channel 227B from Chillicothe to Reynoldsburg, Ohio and denied proposed allotments at Peebles, Forest and Lima, Ohio. The Commission determined that the request for dismissal complied with the requirements of § 1.420(j) of the Commission's Rules. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 25, 1999.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 90–318, adopted January 6, 1999 and released January 15, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–1640 Filed 1–22–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961204340–7087–02; I.D. 011999D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: Effective 12:00 noon, local time, January 20, 1999, through June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on February 19, 1998 (63 FR 8353), NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 1.17 million lb (0.53 million kg). That quota was further divided into two equal quotas of 585,000 lb (265,352 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(2)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached or is projected to be reached by filing a notification at the Office of the Federal Register. NMFS has determined that the

commercial quota of 585,000 lb (265,352 kg) for Gulf group king mackerel for vessels using run-around gillnets in the Florida west coast subzone was reached on January 19, 1999. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:00 noon, local time, January 20, 1999, through June 30, 1999, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06'' W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1999; and (2) 25°48' N. lat. (due west of the Monroe/Collier County, FL, boundary) from April 1, 1999, through October 31, 1999.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: January 20, 1999.

Gary C. Matlock,

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

[FR Doc. 99–1588 Filed 1–20–99; 1:37 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981016260–9018–02; I.D. 090998B]

RIN 0648–AL20

Fisheries of the Exclusive Economic Zone Off Alaska; Vessel Moratorium Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 59 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (BSAI), Amendment 57 to the FMP for Groundfish of the Gulf of Alaska, and Amendment 9 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands submitted by the North Pacific Fishery Management Council (Council). These amendments extend the Vessel Moratorium Program (VMP) authorized under the subject FMPs from January 1, 1999, through December 31, 1999. This action is necessary to prevent a 1-year hiatus between the original expiration of the VMP on December 31, 1998, and the start of fishing under the License Limitation Program (LLP) on January 1, 2000. This action is intended to implement approved amendments to, and further the objectives of, the subject FMPs.

DATES: Effective January 19, 1999.

ADDRESSES: Copies of the Regulatory Impact Review for this action can be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802. Comments on the collection of information burden estimate or any other aspects of the data collection of this action can be sent to the preceding address and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the BSAI in the exclusive economic zone pursuant to the FMPs for groundfish in the respective management areas. The State of Alaska manages the commercial king crab and Tanner crab fisheries in the Bering Sea and Aleutian Islands with Federal oversight, pursuant to the FMP for those fisheries. The Council prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

NMFS implemented the VMP through regulations effective January 1, 1996, to impose a temporary moratorium on the entry of new vessels into the commercial groundfish fisheries in the Exclusive Economic Zone of the GOA and the BSAI and the commercial king crab and Tanner crab fisheries in the BSAI (60 FR 40763, August 10, 1995). The purpose of the VMP originally was, and still is, to curtail increases in fishing capacity and provide industry stability while additional measures, such as the LLP, were developed and implemented.

NMFS approved the LLP on September 12, 1997. However, fishing under the LLP will not begin until January 1, 2000. The extension of the VMP through December 31, 1999, under this final rule will eliminate the 1-year hiatus between fishing under the LLP and the expiration of the VMP on December 31, 1998.

NMFS published a Notice of Availability (NOA) for Amendments 59, 57, and 9 in the **Federal Register** on September 18, 1998 (63 FR 49892). The comment period for the NOA ended on November 17, 1998. FMP amendments were required for this extension because the FMPs specified an expiration date of December 31, 1998, for the VMP. NMFS published the proposed rule to implement Amendments 59, 57, and 9 in the **Federal Register** on November 13, 1998 (63 FR 63442). NMFS received no comments on the proposed rule; however, NMFS received one comment from the U.S. Coast Guard during the comment period for the NOA. The U.S. Coast Guard indicated that all its enforcement and safety concerns were addressed by the amendments.

NMFS approved the FMP amendments on December 16, 1998. The amendments include a provision to eliminate the potential for latent capacity entering the affected fisheries through a restriction on the submission of new moratorium permit applications during the extension. Under the original VMP, an applicant could apply for a new moratorium permit at any time during the VMP. To date, approximately 1,900 moratorium permits, out of a potential of approximately 3,350 permits, have been issued. If the VMP were extended without a restriction on applications, up to 1,450 more moratorium permits could be applied for and issued. Therefore, this action extending the VMP through December 31, 1999, provides that no person may apply for a new moratorium permit after the original VMP expiration date of December 31, 1998, unless the application is based on a moratorium qualification that was used as a basis for obtaining a moratorium permit issued on or before that date.

Accordingly, NMFS will deny an application for a moratorium permit received after December 31, 1998, unless the moratorium qualification on which the application is based has been used as a basis for the issuance of a moratorium permit.

To reduce the administrative costs of extending the VMP, this action will extend existing moratorium permits through December 31, 1999, rather than authorizing the reissuance of new permits with the new expiration date. The only new moratorium permits that will be issued are those based on moratorium qualification transfers. These new permits will also expire on December 31, 1999.

Changes From the Proposed Rule to the Final Rule

The final rule includes changes from the proposed rule that NMFS does not consider substantial. These changes concern the expiration date of the purpose and scope of the VMP and its definitions. An expiration date of December 31, 1998, originally was established for these items and inadvertently was left unchanged in the proposed rule. The purpose and scope and definitions are an integral part of the VMP. Therefore, in the final rule, NMFS corrected the expiration date of the purpose and scope and the following definitions to December 31, 1999: Catcher/processor, catcher vessel, directed fishing, maximum LOA, moratorium crab species, moratorium groundfish species, moratorium qualification, moratorium species, original qualifying LOA, original qualifying vessel, person, qualifying period, and reconstruction.

Classification

The Administrator, Alaska Region, NMFS, determined that FMP Amendments 59, 57, and 9 are necessary for the conservation and management of the commercial groundfish fishery off Alaska and the commercial king and Tanner crab fisheries in the BSAI in and off Alaska and that these FMP amendments are consistent with the Magnuson-Stevens Act and other applicable laws.

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

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

OMB approved a collection-of-information requirement for this rule subject to the Paperwork Reduction Act (PRA) under control number 0648–0282. Public reporting burden for applications for moratorium permits, or to transfer a moratorium permit, are estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for the burden, to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The Assistant Administrator for Fisheries, NOAA, finds there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness because (1) this rule does not establish any new requirements with which affected parties must come into compliance, (2) delay in effectiveness would frustrate the Council's intent to eliminate a hiatus in the VMP, and (3) delay in effectiveness may cause confusion to the affected industry concerning VMP requirements.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, revise the heading of paragraph (c) to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(c) *Moratorium on entry (applicable through December 31, 1999).* * * *

(1) * * *

§ 679.2 [Amended]

3. In § 679.2, remove the date ''December 31, 1998'' and add in its place the date ''December 31, 1999'' in the following definitions:

Catcher/processor, paragraph (2)
Catcher vessel, paragraph (2)
Directed fishing, paragraph (2)
Maximum LOA (MLOA), paragraph (1)
Moratorium crab species
Moratorium groundfish species
Moratorium qualification
Moratorium species, paragraph (2)
Original qualifying LOA
Original qualifying vessel
Person, paragraph (3)
Qualifying period
Reconstruction

4. In § 679.4, the heading of paragraph (c), paragraphs (c)(1)(ii), (c)(1)(iii)(E), (c)(6), and (c)(7) are revised to read as follows:

§ 679.4 Permits.

* * * * *

(c) *Moratorium permits (applicable through December 31, 1999)*

(1) * * *

(ii) *Duration*. Notwithstanding the expiration date printed on the permit, a moratorium permit is valid through December 31, 1999, unless otherwise specified.

(iii) * * *

(E) The permit's term indicates an expiration of December 31, 1998, or December 31, 1999.

* * * * *

(6) *Application for permit*—(i) *General*. A moratorium permit will be issued to the owner of a vessel of the United States if he/she submits to the Regional Administrator a complete application that is subsequently accepted and approved and if the vessel's LOA does not exceed the maximum LOA as specified in § 679.2.

(ii) *Contents of application*. A complete application for a moratorium permit must include the following information for each vessel:

(A) Name of the vessel, state registration number of the vessel, and the USCG documentation number of the vessel, if any;

(B) Name(s), business address(es), and telephone and fax numbers of the owner of the vessel;

(C) Name of the managing company;

(D) Valid documentation of the vessel's moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel from January 1, 1988, through February 9, 1992;

(E) Reliable documentation of the vessel's original qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, fishing permit records, or other reliable and probative documents that clearly identify the vessel and its LOA and that are dated before June 24, 1992;

(F) Specifications of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994;

(G) Specification of the vessel as either a catcher vessel or a catcher/processor vessel;

(H) If applicable, transfer authorization if a permit request is based on the transfer of moratorium qualification pursuant to paragraph (c)(9) of this section; and

(I) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(iii) An application for a moratorium permit received after December 31, 1998, will be denied unless it is based on a moratorium qualification for which a moratorium permit was issued on or before December 31, 1998.

(7) *Moratorium qualification*—(i) *Qualification by landings.* A vessel has moratorium qualification if:

(A) The vessel is an original qualifying vessel based on a legal landing of moratorium species between January 1, 1988, and February 9, 1992;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The vessel's moratorium qualification has not been transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(ii) *Qualification by transfer.* A vessel has moratorium qualification if:

(A) The vessel receives a valid moratorium qualification by a transfer approved by the Regional Administrator under paragraph (c)(9) of this section;

(B) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(C) The moratorium qualification received by transfer has not been subsequently transferred; and

(D) A moratorium permit for the vessel's moratorium qualification has been issued based on an application submitted on or before December 31, 1998.

(iii) *Expiration of moratorium qualification.* A vessel's moratorium qualification will expire on December 31, 1998, unless a moratorium permit has been applied for on or before December 31, 1998, and subsequently issued based on that moratorium qualification.

* * * * *

[FR Doc. 99–1456 Filed 1–19–99; 4:22 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981021263–9019–02; I.D. 090898D]

RIN: 0648–AK12

Fisheries of the Exclusive Economic Zone Off Alaska; Inshore-Offshore Allocations of Pollock and Pacific Cod Total Allowable Catch; Inshore-Offshore Allocation of 1999 Interim Groundfish Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 51 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). This action is necessary to implement the approved portions of Amendments 51/51. The rules re-establish the catcher vessel operational area (CVOA) in the Bering Sea and the allocations of total allowable catches (TACs) of pollock and Pacific cod in the GOA between inshore and offshore components of the fisheries through 2001. Accordingly, the 1999 interim groundfish specifications are revised to reflect these allocations. This action is intended to promote the goals and objectives of the FMPs.

DATES: Effective January 20, 1999.

ADDRESSES: Copies of the Environmental Assessment, Regulatory Impact Review and Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action are available from the Alaska Region, NMFS, P.O. Box 21688, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries off Alaska under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations appearing at 50 CFR parts 600 and 679, respectively contain general regulations governing U.S. fisheries and implement the FMPs.

Background

The TACs for pollock in the BSAI and for pollock and Pacific cod in the GOA have been allocated between inshore and offshore components of the groundfish fisheries since 1992. The Council repeatedly has recommended inshore-offshore allocations of limited duration to allow for periodic review of the performance of these management measures relative to the fishery conservation and management problems they are designed to resolve. The original inshore-offshore allocations were effective from 1992 through 1995. Amendments 38 and 40 to the BSAI and GOA FMPs, respectively, reestablished inshore-offshore allocations that expired at the end of 1998.

At its meeting in June 1998, the Council took final action to adopt Amendments 51/51 to the FMPs. By proposing these FMP amendments, the Council intended to change the inshore-offshore allocations in the BSAI but to continue the existing allocations in the GOA. Some other changes in the inshore-offshore regime also were proposed as part of these amendments. The Council transmitted Amendments 51/51 to NMFS on September 4, 1998, and NMFS published a notice of availability (NOA) of the amendments and supporting analyses on September 16, 1998 (63 FR 49540). The public comment period on the NOA ended on November 16, 1998. NMFS published proposed implementing rules for Amendments 51/51 on October 29, 1998, (63 FR 57996). The comment period on the proposed rules ended on December 14, 1998. Additional background information appears in the NOA and proposed rule notices.

On October 21, 1998, the President signed the American Fisheries Act (AFA) into law (Pub. L. 105–277). The AFA, among other things, allocated the BSAI pollock TACs differently than the Council had recommended. The Council held a special meeting November 10–13, 1998, in part to discuss the effects of AFA on its inshore-offshore proposal and other management programs. In light of the AFA, the Council recommended specific changes to its Amendment 51/51 proposal. Under the Magnuson-Stevens Act (section 304), NMFS has authority only to approve, disapprove, or partially approve an FMP or amendment; NMFS cannot change a proposed FMP or FMP amendment once it has been submitted for review, even if requested to do so by the Council that submitted it. NMFS must base a decision to approve, disapprove, or partially approve an FMP or FMP amendment on inconsistencies between

the disapproved parts and the Magnuson-Stevens Act or other applicable law. On December 15, 1998, the Alaska Regional Administrator, NMFS, (RA) partially approved BSAI Amendment 51, fully approved GOA Amendment 51, and notified the Council of this decision. The RA's decision not to approve parts of BSAI Amendment 51 is consistent with the Council's intent for achieving consistency with the AFA as expressed at its meeting in November 1998.

Elements of Amendments 51/51 Approved and Disapproved

BSAI Amendment 51

As adopted by the Council in June 1998, this amendment contemplated four changes to the current inshore-offshore allocation regime. These changes are discussed below with reasons for approval or disapproval of each change.

1. Pollock allocation–disapproved. This part of the amendment would have changed the proportional allocation of the BSAI pollock TACs, after subtraction of the reserves. The inshore allocation would have increased from its current 35 percent to 39 percent; the offshore allocation would have reciprocally decreased from its current 65 percent to 61 percent. Because Amendment 45 to the BSAI FMP removed the 7.5 percent Community Development Quota (CDQ) program allocation from the inshore-offshore allocations, Amendment 51 did not include a CDQ allocation.

NMFS disapproved the amendment's pollock allocation because it was inconsistent with AFA section 206. This section of the AFA specifically mandates an allocation of 10 percent of the pollock TAC to a directed fishing allowance for the CDQ program plus an additional allocation of pollock for incidental catches in all non-pollock fisheries. Of the remaining pollock TAC, the law stipulates the following allocations: 50 percent to the inshore component, 40 percent to the offshore component (catcher/processors), 10 percent to the offshore component (motherships).

The allocations specified by the AFA will be implemented in 1999 through the annual groundfish specification process. Proposed and interim specifications were published, respectively, on December 30, 1998 (63 FR 71867), and January 4, 1999 (64 FR 50).

2. Small vessel set aside–Disapproved. This part of the amendment would have set aside a portion of the inshore component pollock allocation for use by catcher vessels less than 125 ft (38.1 m) length overall immediately before the pollock B season, starting about August 25. The amount reserved in the set aside would have been equal to 2.5 percent of the BSAI pollock TACs, after subtraction of reserves.

NMFS disapproved this part of Amendment 51 because it was inconsistent with several sections of the AFA and National Standard 7 of the Magnuson-Stevens Act which requires that conservation and management measures shall where practicable minimize cost and avoid unnecessary duplication. Section 206 of the AFA specifically mandates allocations among CDQ and inshore and offshore components of the BSAI pollock fishery. The proposed set aside conflicts with these AFA-specified allocations because it would have been based on the TAC; not simply a sub-allocation of the inshore component allocation. Further, sections 208(a) and 210(b) of the AFA appear to provide the market erosion protections for small vessels that the TAC set aside was designed to provide. Section 208(a) establishes increased restrictions on entry into the inshore catcher vessel fishery, and section 210(b) allows inshore catcher vessels to form an exclusive cooperative. Moreover, the AFA provides the entire inshore component with a substantially increased allocation of the pollock TAC (about 30 percent) relative to its allocation from 1992 through 1998. The small vessels that operate in the inshore component likely will benefit to some degree from this increased allocation. Therefore, in light of the AFA, the proposed small vessel set aside provisions would duplicate existing provisions and impose unnecessary regulatory costs on the pollock fisheries.

3. Catcher vessel operational area (CVOA)–Partially Approved. This part of Amendment 51 will continue the CVOA specified in the existing regulations with respect to the geographic area and its effectiveness during the B season (50 CFR 679.22(a)(5)). Amendment 51, however, would have changed the existing CVOA rules by excluding from the CVOA all catcher vessels that deliver pollock to the offshore component. This would have prevented catcher vessels from conducting directed fishing in the CVOA for pollock for delivery to motherships or catcher/processors (the offshore component) during the B season. Under the current CVOA regulation, all catcher vessels, regardless of whether they deliver to inshore or offshore components, may fish in the CVOA.

The NMFS has approved all of the proposed amendment text pertaining to the CVOA with the exception of the phrases that would have excluded from the CVOA catcher vessels catching pollock for processing by the offshore component. The reason for selectively disapproving such text is its inconsistency with national standard 7. The Council intended the disapproved text to establish parity between the motherships and the catcher/processor vessels within the offshore component. Motherships have been allowed to operate within the CVOA, receiving and processing pollock harvested by catcher vessels. Catcher/processor vessels are not allowed to harvest pollock in the CVOA during the B season. In recommending the CVOA portion of Amendment 51, the Council attempted to create parity between motherships and catcher/processor vessels. As stated in the preamble to the proposed rule (63 FR 58000–58001), the Council noted that the proportion of catch taken by mothership operations increased at the expense of catcher/processors during the period 1991–96, and that motherships may have had a competitive advantage over catcher/processors. The AFA, however, specifies separate allocations of the pollock TACs for the mothership and catcher/processor sectors, thereby achieving the parity intended by the Council. Hence, the exclusion of catcher vessels from the CVOA that deliver to the offshore component was an unnecessary duplication of an AFA provision. As such, it was inconsistent with national standard 7.

Disapproval of the offshore catcher vessel text does not prevent the implementation of the CVOA provision. In fact, it makes the approved CVOA more closely resemble the CVOA provision in effect during 1996–98. In addition, at its meeting in November 1998, the Council indicated its desire to remove this more restrictive provision from its Amendment 51 proposal and return to the previous CVOA rule.

Although the approved CVOA provisions are effectively the same as they were from 1996–98, further restrictions on fishing in the CVOA will be implemented in 1999 to mitigate the effects of pollock fishing on Steller sea lions and their critical habitat, within which much of the CVOA lies. These restrictions will have the effect of dispersing the pollock fishery in time and area and will be made by separate regulatory action.

4. Duration–Disapproved. As proposed, the pollock allocations in Amendment 51 would have been effective for the 3-year period, January

1, 1999, through December 31, 2001. This period is inconsistent with the effective period of the inshore-offshore allocations specified in the AFA of January 1, 1999, through December 31, 2004 (sec. 206 and 213). No duration limit was specified in the proposed amendment text for the CVOA provision. Hence, this provision will continue in effect until changed by action of the Council and NMFS.

GOA Amendment 51

As adopted by the Council in June 1998, this amendment reestablishes, without change, the current inshore-offshore allocation regime in the GOA through December 31, 2001. These provisions are discussed below with reasons for approval of each change.

1. Pollock allocation–Approved. This part of the amendment will maintain the current allocation of the pollock TACs of 100 percent to the inshore component. This allocation is consistent with the Magnuson-Stevens Act and other applicable law.

2. Pacific cod allocation–Approved. This part of the amendment will maintain the current allocation of the Pacific cod TACs of 90 percent to the inshore component and 10 percent to the offshore component. These provisions are consistent with the Magnuson-Stevens Act and other applicable law.

3. Duration—Approved. The effective period for the allocations in Amendment 51 is extended for another 3 years, from January 1, 1999, through December 31, 2001. Section 213 of the AFA does not apply to the GOA allocations proposed by the Council. Therefore, the proposed duration of the amendment is not inconsistent with AFA, the Magnuson-Stevens Act or other applicable law.

Changes From the Proposed Rule

As indicated above, the AFA substantially changed the statutory climate in which the Council was acting when it adopted Amendments 51/51 in June 1998. The proposed implementing rule for Amendments 51/51, published on October 29, 1998 (63 FR 57996), represented the amendments as the Council had submitted them and discussed anticipated AFA provisions in the preamble. Hence, differences between the proposed rule and this final rule are due to the partial approval of the amendments, as discussed earlier above, and result principally from the effect of the AFA. A detailed discussion of these differences follows.

1. Definitions. The terms ''inshore component'' and ''offshore component'' are changed to reflect the AFA meaning of these terms in the BSAI as distinct from their meaning in the GOA and to prescribe different duration dates in the BSAI and the GOA. The AFA's definition of ''inshore component'' for pollock fishing in the BSAI does not include vessels that process pollock or GOA Pacific cod in a single geographic location in Alaska State waters. Rather the AFA considers such vessels to be ''shoreside processors'' (AFA sec. 208(f)(1)(A)). For the GOA pollock fishery, however, the ''inshore component'' definition remains as proposed. Also, the duration of the AFA provisions continues through December 31, 2004 (AFA sec. 213(a)), whereas the duration of the GOA inshore-offshore provisions, as recommended by the Council and approved, continue through December 31, 2001. This final rule clarifies these differences between the AFA and approved inshore-offshore provisions for the GOA by prescribing 4 separate definitions for the BSAI and GOA inshore and offshore components.

2. Prohibitions. The inshore-offshore prohibitions paragraph (§ 679.7(a)(7)) is expanded to accommodate the differences between the inshore and offshore component definitions in the BSAI and the GOA, respectively, as explained above. The final rule prohibitions are substantially the same as those in the proposed rule, however, in that they prohibit the operation of a vessel in more than one category of the inshore component or in the inshore and offshore component during the same fishing year.

3. Allocations specified. The specific allocations of the pollock TACs in the BSAI in § 679.20(a)(6)(i) are changed for consistency with the AFA. This final rule references section 206(b) of the AFA as governing these allocations instead of explicitly specifying the AFA inshore and offshore allocations. These allocations will be made effective for 1999 through the annual specifications notices required under § 679.20(c). Likewise, § 679.20(b)(1)(iv) is allowed to expire because non-specific reserve amounts of pollock are superceded by the AFA. The Council may submit another FMP amendment during 1999 to formally integrate the AFA provisions into the FMP for the Groundfish Fishery of the BSAI.

With respect to the GOA allocations, no substantive changes are made in this final rule. Minor changes were made, however, in light of the new defined terms for inshore and offshore components. Similar editorial changes are made in the final rule paragraphs (b)(2) and (c)(4) of § 679.20 to differentiate the duration dates and inshore and offshore component terms defined for the BSAI and GOA, respectively.

The proposed BSAI pollock TAC ''set-aside'' for vessels less than 125 ft (38.1 m) LOA, is not included in the final rule because NMFS has disapproved this part of Amendment 51 (see above).

4. Area closures. The proposed duration date for the CVOA is omitted in this final rule because the approved BSAI Amendment 51 text does not explicitly state an expiration date for the CVOA. In addition, the proposed exclusion of ''vessels catching pollock for processing by the offshore component'' from the CVOA (in proposed § 679.22(a)(5)(ii)) is removed from this final rule because this part of the Amendment 51 CVOA proposal was disapproved. In effect, the approved CVOA provision as implemented by this rule is the same as the CVOA provision in effect during 1996 through 1998.

5. Seasons. The effective duration date is changed for the restrictions that apply to the offshore component in the BSAI (at § 679.23(e)(2)(ii)). This change is made to achieve consistency with the AFA. In addition, the proposed season beginning date for vessels less than 125 ft (38.1 m) LOA fishing for the pollock ''set-aside'' is not included in this final rule because this part of Amendment 51 was disapproved. This provision was proposed at § 679.23(e)(2)(iii) which is removed from this final rule. As a result, proposed § 679.23(e)(2)(iv), the B season fair start provision, is redesignated as § 679.23(e)(2)(iii) and edited to remove reference to the ''set-aside'' season provision.

NMFS anticipates that the restrictions on season start dates for the offshore component in the BSAI set forth at § 679.23(e)(2)(ii) and (iii) will be subject to change under subsequent rulemaking to implement Steller sea lion mitigation measures.

Response to Comments

The public comment period on Amendments 51/51 ended on November 16, 1998, as announced in the NOA published September 16, 1998 (63 FR 49540). The comment period on the proposed rules to implement the amendments ended on December 14, 1998, as announced in the proposed rule published on October 29, 1998 (63 FR 57996). All comments received on the amendments and the proposed rule are summarized and responded to below. A total of 71 letters of comment were received. Of the total, 65 letters essentially made the same comment and are summarized under Comment 1. One letter responded with no comment and one letter asked for an extension of the comment period which was denied.

Comment 1. The existing allocation of 35 percent inshore and 65 percent offshore has worked well since 1992. Both sectors of the pollock processing industry have been able to prosper under this allocation. Moving more pollock from the offshore to the inshore sector will hurt employment in the offshore sector. Comment writers were fearful of the negative economic effects on their families and their communities of allocating pollock TAC away from the offshore vessels and supported maintaining the 35/65 split of the pollock TACs for inshore-offshore allocation.

Response. NMFS appreciates the economic significance of the pollock fishing and processing industry. Passage of the AFA, however, removed the pollock allocation decision from the Council's and NMFS's authority, and NMFS is not making the BSAI reallocations in this final rule. NMFS expects to implement the APA-mandated allocations through the final specifications and other proposed and final rules. NMFS will analyze the economic impacts of such allocations at the time of those rulemakings.

Comment 2. The small vessel set-aside adversely restricts access to a certain portion of the Bering Sea pollock resource based on the size of catcher vessels. The analyses do not support a decision to approve the set-aside, especially in light of the AFA. The root cause of the market erosion experienced by smaller vessels is not adequately identified. The small vessel set-aside will increase the amount of pollock caught without observers aboard because vessels under 125 ft (38.1 m) LOA have less observer coverage than larger vessels. Increased catches by smaller vessels will increase operating inefficiencies and safety problems.

Response. The partial approval of BSAI Amendment 51 did not include the proposed small vessel set-aside provision. NMFS determined that this provision was unnecessary in light of the AFA. The Council also reached this conclusion at its meeting in November 1998 (see Comment 5).

Comment 3. Concern was expressed about the proposal to prohibit catcher vessels that deliver pollock to the offshore sector from operating in the CVOA. Moving the catcher vessels that deliver to motherships out of the CVOA during the B season may pose an increased safety risk. Accident records of the U.S. Coast Guard for the last 5 years indicate more vessels under 124 ft (37.8 m) were lost outside of the CVOA than were lost inside the CVOA.

Response. NMFS did not approve the offshore catcher vessel prohibition part of the CVOA proposal (see above).

Comment 4. Council discussion of the issue of prohibiting catcher vessels from the CVOA if they deliver to motherships centered on the contention that catcher/processors were disadvantaged by the motherships ability to operate in the CVOA. This contention is wrong because catcher/processors are allowed to operate in the CVOA if they operate in the same manner as motherships (i.e. do not catch pollock but only receive pollock from catcher vessels). Mothership operations have no competitive advantage over catcher/processor inside the CVOA. Catcher/processors normally choose to fish outside of the CVOA for economic, not regulatory, reasons. With the passage of the AFA, the Council's proposal regarding offshore catcher vessels in the CVOA becomes moot because it fixes the allocation of pollock between motherships and catcher/processors.

Response. NMFS agrees and did not approve the offshore catcher vessel prohibition part of the CVOA proposal (see above).

Comment 5. The Council commented on its BSAI Amendment 51 proposal in light of the AFA and based on Council discussions at its special meeting in November 1998. The Council recommended substituting the pollock allocation percentages and duration provisions of the AFA for those proposed in BSAI Amendment 51. The Council also recommended that the TAC set-aside for small vessels and the exclusion of offshore catcher vessels from the CVOA be found unnecessary given the explicit allocations under the AFA that increase the inshore component's share of the TAC and allow the inshore component to form cooperative agreements under the AFA. Although originally submitted as a non-severable FMP amendment proposal, the passage of the AFA represents a unique situation which requires partial disapproval of the Council's earlier recommendations.

Response. NMFS agrees and has disapproved the proposed provisions for a small vessel set-aside and the exclusion of offshore catcher vessels from the CVOA. The Magnuson-Stevens Act does not allow NMFS to substitute new provisions for those recommended by a Regional Council. The Act allows only the approval, disapproval, or partial approval of the Council's recommended provisions. The AFA-mandated allocations of the pollock TACs, however, will be implemented in 1999 through the annual specification process. A letter from NMFS indicating the approved and disapproved portions of Amendments 51/51 was sent to the Council on December 15, 1998.

Interim Specifications

Regulations at § 679.20(c)(1) require annual publication of proposed specifications of catch limits in the BSAI and GOA groundfish fisheries for the next fishing year. The 1999 proposed specifications for the BSAI and the GOA were published on December 30, 1998 (63 FR 71867 and 71876, respectively). Interim specifications (§ 679.20(c)(2)) provide for groundfish fisheries that start in early January each year and remain in effect until superceded by publication of the final specifications. Interim specifications for the BSAI and GOA groundfish fisheries were published on January 4, 1999 (64 FR 50 and 46, respectively). The AFA authorizes the interim specification of inshore and offshore amounts for the BSAI pollock fisheries. This final rule makes effective the interim allocations of inshore and offshore amounts for the GOA pollock and Pacific cod fisheries.

Classification

This action has been determined to be not significant under E.O. 12866, based on the EA/RIR/FRFA prepared for this action (see **ADDRESSES**).

The Council prepared an IRFA on the proposed rule to implement amendments 51/51. However, as explained above, NMFS has disapproved substantial portions of the proposed amendments and is consequently implementing only a portion of the provisions described in the proposed rule. NMFS has prepared an FRFA that considers only those aspects of the proposed rule that are now being implemented.

This final rule would apply to about 1,508 vessels that participated in the GOA groundfish fisheries in 1996, an unknown number of which are small entities. The number is unknown because the data source for this number, i.e., permit records, does not have any data regarding whether the vessel is a small entity. The proportion of these vessels that participate in the inshore sector versus the offshore sector is unknown. However, NMFS believes that most of these vessels are likely inshore small entities because there is virtually no offshore fishery in the GOA; 100 percent of the pollock fishery is allocated to the inshore component, and ninety percent of the Pacific cod fishery is also allocated to the inshore component. The portion of the rule implementing the CVOA would apply only to the independent catcher vessels

that participate in the BSAI pollock fishery. The FRFA estimates those vessels to consist of about 50 independent catcher vessels all of which are small entities.

The final rule imposes no new reporting, record keeping, or other compliance requirements. A description of the need for this action, as well as summaries of and responses to public comments, appear in this preamble, above. The comment most relevant to the IRFA was Comment one. Although the allocations mandated by the AFA may have even more pronounced economic impacts than the proposed rule may have had, those impacts are no longer associated with this rule. NMFS expects to implement these AFA allocations through the final specifications or other proposed and final rules. NMFS will analyze the economic impacts of those allocations for these future rule makings.

The approved portions of the amendments (the CVOA and the GOA allocations) would benefit the inshore component to the detriment of the offshore component. Because most of the small entities affected by this final rule participate in the inshore component, while the offshore component consists mainly of large entities, the main impacts of this final rule are likely to be beneficial to small entities. The allocations in the GOA maintain the status quo, but the CVOA allocations in the BSAI exclude the catcher processors, which has the effect of conveying benefits to small entities. Because NMFS expects actions to be beneficial to small entities, NMFS has taken no steps to minimize the significant economic impacts on small entities.

Pursuant to section 7 of the Endangered Species Act, NMFS initiated consultation on the effects of proposed Amendments 51/51 and the BSAI and GOA pollock fisheries on listed and candidate species, including the Steller sea lion and designated critical habitat. The biological opinion prepared for this consultation, dated December 3, 1998, and revised December 16, 1998, concludes that the BSAI and GOA pollock fisheries jeopardize the continued existence of Steller sea lions and adversely modify their designated critical habitat. The biological opinion contains reasonable and prudent alternatives (RPAs) to mitigate the adverse impacts of the pollock fisheries on Steller sea lions. Specific measures to implement the RPAs were discussed by the Council at its meeting in December 1998 and will be implemented by NMFS through emergency rulemaking before the start of the BSAI and GOA pollock fisheries in 1999. The effects of Steller sea lion mitigation measures on the pollock allocations created under the AFA and GOA Amendment 51 are uncertain.

This rule contains no new collection-of-information requirements subject to the Paperwork Reduction Act.

The Assistant Administrator for Fisheries, NOAA, finds there is good cause under the authority contained in 5 U.S.C. 553(d) to waive the 30-day delay in effective date because the immediate effectiveness of this rule is required to prevent the offshore component in the GOA from exceeding its statutory allocations of pollock and Pacific cod when directed fisheries for these species open in January 1999.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 19, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 773 *et seq.*, 16 U.S.C. 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definitions of ''Inshore component'' and ''Offshore component'' are removed and the definitions of ''Inshore component in the BSAI'', ''Inshore component in the GOA'', ''Offshore component in the BSAI'', and ''Offshore component in the GOA'' are added, in alphabetical order, to read as follows:

§ 679.2 Definitions.

* * * * *

Inshore component in the BSAI (applicable through December 31, 2004) means the following categories that process groundfish harvested in the BSAI:

(1) Shoreside processors, including those eligible under section 208(f) of the American Fisheries Act; and

(2) Vessels less than 125 ft (38.1 m) LOA that process less than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod.

Inshore component in the GOA (applicable through December 31, 2001) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

* * * * *

Offshore component in the BSAI (applicable through December 31, 2004) means all vessels not included in the definition of ''inshore component in the BSAI'' that process groundfish in the BSAI.

Offshore component in the GOA (applicable through December 31, 2001) means all vessels not included in the definition of ''inshore component in the GOA'' that process groundfish in the BSAI or GOA.

* * * * *

3. In § 679.7, paragraph (a)(7) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) *Inshore-offshore*—(i) (*Applicable through December 31, 2004*). Operate any vessel in the BSAI in more than one of the two categories included in the definition of ''inshore component in the BSAI,'' in § 679.2, during any fishing year.

(ii) (*Applicable through December 31, 2004*). Operate any vessel in the BSAI under both the ''inshore component in the BSAI'' and the ''offshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(iii) (*Applicable through December 31, 2001*). Operate any vessel in the BSAI under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(iv) (*Applicable through December 31, 2001*). Operate any vessel in the GOA in more than one of the three categories included in the definition of ''inshore component in the GOA,'' in § 679.2, during any fishing year.

(v) (*Applicable through December 31, 2001*). Operate any vessel in the GOA under both the ''inshore component in the GOA'' and the ''offshore component in the GOA'' definitions in § 679.2 during the same fishing year.

(vi) (*Applicable through December 31, 2001*). Operate any vessel in the GOA

under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(vii) (*Applicable through December 31, 2001*). Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the ''inshore component in the BSAI'' and the ''inshore component in the GOA'' definitions in § 679.2 during the same fishing year.

* * * * *

4. In § 679.20, paragraphs (a)(6), (b)(2), and (c)(4) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(6) *Inshore-offshore apportionments*—(i) *BSAI pollock (applicable through December 31, 2004).* The apportionment of pollock in each BSAI subarea or district and season between the inshore component in the BSAI and the offshore component in the BSAI will be the same as that specified in section 206(b) of the American Fisheries Act.

(ii) *GOA pollock (applicable through December 31, 2001).* The apportionment of pollock in all GOA regulatory areas and for each season allowance described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod (applicable through December 31, 2001).* The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

* * * * *

(b) * * *

(2) * * *

(i) *Pollock inshore-offshore reapportionment (applicable through December 31, 2001).* Any amounts of the GOA reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific cod inshore-offshore reapportionment (applicable through December 31, 2001).* Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of the section.

* * * * *

(c) * * *

(4) *Inshore-offshore allocations*—(i) *BSAI pollock (applicable through December 31, 2004).* The proposed, interim, and final specifications will specify the allocation of pollock for processing by the inshore component in the BSAI and the offshore component in the BSAI, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

(ii) *GOA pollock and Pacific cod (applicable through December 31, 2001).* The proposed, interim, and final specifications will specify the allocation of GOA pollock and GOA Pacific cod for processing by the inshore component in the GOA and the offshore component in the GOA, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

* * * * *

5. In § 679.22, paragraph (a)(5) is revised to read as follows:

§ 679.22 Closures.

(a) * * *

(5) *Catcher Vessel Operational Area (CVOA).* The CVOA is defined as that part of the BSAI that is south of 56°00' N. lat. and between 163°00' W. long. and 167°30' W. long. (Figure 2 to part 679).

(i) *Effective time period.* The CVOA is established annually during the B season, defined at § 679.23(e)(2)(I)(B), from September 1 until the date that NMFS closes the B season allocation for the inshore component in the BSAI to directed fishing.

(ii) *Offshore component in the BSAI restrictions.* A catcher/processor vessel in the offshore component is prohibited from conducting directed fishing for pollock in the CVOA unless it is operating under a CDP approved by NMFS.

(iii) *Fisheries other than pollock.* A vessel that harvests or processes groundfish in directed fisheries for species other than pollock may operate within the CVOA consistent with the other provisions of this part.

* * * * *

6. In § 679.23, paragraph (e)(2) is revised to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(2) *Directed fishing for pollock.* (i) Subject to other provisions of this part, and except as provided in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section, directed fishing for pollock is authorized only during the following two seasons:

(A) *A season.* From 0001 hours A.l.t. January 1 through 1200 hours A.l.t. April 15.

(B) *B season.* From 1200 hours A.l.t. September 1 through 1200 hours A.l.t. November 1.

(ii) *Offshore component in the BSAI restrictions (applicable through December 31, 2004)*—(A) *Offshore A season.* Subject to other provisions of this part, directed fishing by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is authorized from 1200 hours A.l.t. January 26 through 1200 A.l.t. April 15.

(B) *Offshore A season ''fair start'' requirement.* Directed fishing for pollock by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is prohibited through 1200 hours A.l.t., February 5, for any vessel that is used to fish in a non-CDQ fishery for groundfish in the BSAI or GOA, or for king or Tanner crab in the BSAI prior to 1200 hours, A.l.t., January 26 of the same year.

(iii) *B season ''fair start'' requirement.* Directed fishing for pollock is prohibited from 1200 hours, A.l.t., September 1, through 1200 hours, A.l.t., September 8, for any vessel that is used to fish for groundfish with trawl gear in a non-CDQ fishery in the BSAI or GOA between 1200 hours, A.l.t., August 25, and 1200 hours, A.l.t., September 1.

* * * * *

[FR Doc. 99–1529 Filed 1–20–99; 12:36 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981222314–8321–02; I.D. 012099B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod and pollock in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod and pollock by vessels catching these species for processing by the offshore component in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1999 interim total allowable catch (TAC) of Pacific cod and pollock allocated to vessels catching these species for processing by the offshore component in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 20, 1999, until 2400 hrs, A.l.t., December 31, 1999.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(d), if the Administrator, Alaska Region, NMFS (Regional Administrator), determines that the amount of a target species or ''other species'' category apportioned to a fishery will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA Regulatory Area or district (§ 697.20(d)(1)(iii)).

NMFS published interim 1999 harvest specifications for the GOA groundfish fisheries (64 FR 46, January 4, 1999). A final rule authorizing the inshore/offshore allocation of GOA Pacific cod and pollock was filed with the Office of the Federal Register, January 20, 1999, and became effective January 20, 1999. The Regional Administrator has determined that the following interim Pacific cod TAC amounts for the GOA offshore component will be reached and are necessary as incidental catch to support other anticipated groundfish fisheries prior to the time that final specifications for groundfish are likely to be in effect for the 1999 fishing year:

Pacific cod, offshore component

Western Regulatory Area 436 metric tons

Central Regulatory Area 834 metric tons

Eastern Regulatory Area 23 metric tons

Consequently, in accordance with § 679.20(d)(i), the Regional Administrator establishes these interim TAC amounts as directed fishing allowances. Further, the Regional Administrator finds that these directed fishing allowances will be reached before the end of the year. NMFS is prohibiting directed fishing for Pacific cod by vessels catching these species for processing by the offshore component in the Gulf of Alaska in accordance with § 679.20(d). These closures will be in effect beginning at 1200 hours, A.l.t., January 20, 1999, until superseded by the Final 1999 Initial Harvest Specifications for Groundfish. Under the final rule implementing the GOA inshore/offshore allocations, 0 metric tons of pollock are allocated to the offshore directed fishery for this species. Therefore, in accordance with § 679.20(d), NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Gulf of Alaska. These closures will be in effect beginning at 1200 hours, A.l.t., January 20, 1999, until superseded by the notice of Final 1999 Initial Harvest Specifications for Groundfish.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the interim 1999 TAC of Pacific cod and pollock allocated to vessels catching these species for processing by the offshore component in the GOA. A delay in the effective date is impracticable and contrary to the public interest, and further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: January 20, 1999.

Gary C. Matlock,

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

[FR Doc. 99–1644 Filed 1–20–99; 4:27 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 15
Monday, January 25, 1999

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV99–993–2 PR]

Dried Prunes Produced in California; Undersized Regulation for the 1999–2000 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on changes to the undersized prune regulation for dried prunes received by handlers from producers and dehydrators under Marketing Order No. 993 for the 1999–2000 crop year. The marketing order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets, and allow handlers to dispose of the undersized prunes in such outlets as livestock feed. The Committee estimated that this rule would reduce the excess of dried prunes by approximately 6,700 tons, while leaving sufficient prunes to fulfill foreign and domestic trade demand.

DATES: Comments received by April 15, 1999, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632, or E-Mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This proposal invites comments on changes to the undersized regulation in § 993.49(c) of the prune marketing order for the 1999–2000 crop year for volume control purposes. The regulation removes prunes passing through specified screen openings. For French prunes, the screen opening would be increased from 23/32 to 24/32 of an inch in diameter, and for non-French prunes, the opening would be increased from 28/32 to 30/32 of an inch in diameter. This rule would remove the smallest, least desirable of the marketable size dried prunes produced in California from human consumption outlets. The rule would be in effect from August 1, 1999, through July 31, 2000, and was unanimously recommended by the Committee at a December 1, 1998, meeting.

Section 993.19b of the prune marketing order defines undersized prunes as prunes which pass freely through a round opening of a specified diameter. Section 993.49(c) of the prune marketing order establishes an undersized regulation of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes. These diameter openings have been in effect for quality control purposes. Section 993.49(c) also provides that the Secretary upon a recommendation of the Committee may establish larger openings for undersized dried prunes whenever it is determined that supply conditions for a crop year warrant such regulation. Section 993.50(g) states in part: ''No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes* * *.'' Pursuant to § 993.52, minimum standards, pack specifications, including the openings prescribed in § 993.49(c), may be modified by the Secretary, on the basis

of a recommendation of the Committee or other information.

Pursuant to the authority in § 993.52 of the order, § 993.400 modifies the undersized openings prescribed in § 993.49(c) to permit undersized regulations using openings of 23/32 or 24/32 of an inch for French prunes, and 28/32 or 30/32 of an inch for non-French prunes.

During the 1974–75 and 1977–78 crop years, the undersized prune regulation was established by the Department at 23/32 of an inch in diameter for French prunes and 28/32 of an inch in diameter for non-French prunes. These diameter openings were established in §§ 993.401 and 993.404, respectively (39 FR 32733; September 11, 1974; and 42 FR 49802; September 28, 1977). In addition, the Committee recommended and the Department established volume regulation percentages during the 1974–75 crop year with an undersized regulation at the aforementioned 23/32 and 28/32 inch diameter screen sizes. During the 1975–76 and 1976–77 crop years, the undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in §§ 993.402 and 993.403 respectively (40 FR 42530, September 15, 1975 and 41 FR 37306, September 3, 1976). The prune industry had an excess supply of prunes, particularly small size prunes. Rather than recommending volume regulation percentages for the 1975–76, 1976–77 and 1977–78 crop years, the Committee recommended the establishment of an undersized prune regulation applicable to all prunes received by handlers from producers and dehydrators during each of those crop years.

The objective of the undersized regulations during each of those crop years was to preclude the use of small prunes in manufactured prune products, such as juice and concentrate. Handlers could not market undersized prunes for human consumption, but could dispose of them in nonhuman outlets such as livestock feed.

With these experiences as a basis, the marketing order was amended on August 1, 1982, establishing the continuing quality-related regulation for undersized French and non-French prunes under § 993.49(c). That regulation has removed from the marketable supply those prunes which are not desirable for use in prune products.

As in the 1970's, the prune industry is currently experiencing an excess supply of prunes, particularly in the smaller sizes. During the 1998–99 crop year, the undersized prune regulation was established at 24/32 of an inch for French prunes, and 30/32 of an inch for non-French prunes. These diameter openings were established in § 993.405 (63 FR 20058, April 23, 1998). At its meeting on December 1, 1998, the Committee recognized that the 1998–99 prune crop is about 50% of the normal size; however, with the large inventories and anticipated large 1999–2000 prune crop, the Committee unanimously recommended continuing with volume controls for the 1999–2000 crop year by proposing an undersized prune regulation at 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes. This regulation would be in effect from August 1, 1999, through July 31, 2000.

The Committee estimated that there will be an excess of about 18,700 natural condition tons of dried prunes as of July 31, 1999. This proposed rule would continue to remove primarily small sized prunes from human consumption channels, consistent with the undersized regulation that was implemented for the 1998–99 crop year. It is estimated that approximately 6,700 natural condition tons of small prunes would be removed from human consumption channels during the 1999–2000 crop year. This would leave sufficient prunes to fill domestic and foreign trade demand during the 1999–2000 crop year, and provide an adequate carryout on July 31, 2000, for early season shipments until the new crop is available for shipment. According to the Committee, the desired inventory level to keep trade distribution channels full while awaiting the new crop is about 38,000 natural condition tons.

In its deliberations, the Committee reviewed statistics reflecting: (1) a worldwide prune demand which has been relatively stable at about 260,000 tons; (2) a worldwide oversupply that is expected to continue growing into the next century (estimated at 350,845 natural condition tons by the year 2003); (3) a continuing oversupply situation in California caused by increased production from increased plantings and higher yields per acre (between the 1990–91 and 1997–98 crop years, the yield ranged from 1.5 to 2.8 versus a 10 year average of 2.2 tons per acre); and (4) California's continued excess supply situation. The production of these small sizes ranged from 2,575 to 8,778 natural condition tons during the 1990–91 through the 1997–98 crop years. The Committee concluded that it had to continue utilizing supply management techniques to accelerate the return to a balanced supply/demand situation in the interest of the California dried prune industry. The proposed changes to the undersized regulation for the 1999–2000 crop year are the result of these deliberations, and the Committee's desire to bring supplies more in line with market needs.

The current oversupply situation facing the California prune industry has been caused by four consecutive large crops (1994–95 through 1997–98) of over 180,000 natural condition tons. Further burdening the oversupply situation will be large California prune crops over the next few years caused by new prune plantings in recent years and higher yields per acre. During the 1990–91 crop year, the non-bearing acreage totaled 5,900 acres, but by 1995–96, the non-bearing acreage had quadrupled to more than 23,000 acres. Yields have ranged from 2.3 to 2.8 tons per acre over a three-year period from the 1995–96 through the 1997–98 crop years, compared to a 10-year average of 2.2 tons to the acre. The 1998–99 prune crop is exceptionally light, about 50% of normal size (103,000 tons), due to the unusually cool and wet weather conditions caused by the weather phenomenon known as El Nino. Even though this year's small dried prune crop and the 1998–99 undersized prune regulation will help reduce the existing oversupply, the prune supply has been outstripping demand over the past nine crop years. Another large crop of about 200,000 natural condition tons is expected for the 1999–2000 crop year, partly because of an anticipated increase in bearing acreage, and this will add to the continuing oversupply.

Because of the oversupply situation during the 1997–98 crop year, producer prices for the 24/32 of an inch in diameter French prunes declined to $40–50 per ton. Consequently, producers lost about $260–270 per ton on every ton they delivered to handlers during 1997–98. The lower pricing of the smaller prunes continued in 1998–99, and is expected to continue as an incentive in future crop years to convince producers to produce the larger sizes needed to help the industry better meet the increasing market demand for larger size prunes used for pitted prunes.

The 1998–99 undersized prune rule of 24/32 of an inch for French prunes and 30/32 of an inch for non-French prunes has expedited the reduction of small prune inventories, but more needs to be done to bring supplies into balance with market demand. The excess inventory on July 31, 1998, was 88,840 natural condition tons, and only about 2,400 natural condition tons of dried prunes are expected to be removed from the 1998–99 marketable supply by the current undersized regulation. The Committee believes that the same

undersized regulation also should be implemented during the 1999–2000 crop year to continue reducing the inventories of small prunes, to help reduce the expected large 1999–2000 prune crop, and more quickly bring supplies in line with demand. Attainment of this goal would benefit all of the producers and handlers of California prunes.

The recommended decision of June 1, 1981 (46 FR 29271) regarding undersized prunes states that the undersized prune regulation at the 23/32 and 28/32 inch diameter size openings would be continuous for the purposes of quality control even in above parity situations. It further states that any change (i.e., increase) in the size of those openings would not be for the purpose of establishing a new quality-related minimum. Larger openings would only be applicable when supply conditions warranted the regulation of a larger quantity of prunes as undersized prunes. Thus, any regulation prescribing openings larger than those in § 993.49(c) should not be implemented when the grower average price is expected to be above parity. The season average price received by prune growers averaged about 54 percent of parity during the 1993 through 1997 seasons, and is in a downward trend. As discussed later, the average grower price for prunes during the 1999–2000 crop year is not expected to be above parity, and implementation of this more restrictive undersized regulation would be appropriate in reference to parity.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action would not impact the dried prune import regulation because the action would affect volume control, not quality control. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented to improve product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of volume control. Therefore, the increased diameters would not be applied to imported prunes.

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

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

There are approximately 1,250 producers of dried prunes in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated industry profile shows that 8 out of 20 handlers (40%) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Twelve of the 20 handlers (60%) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 90 producers, or about 7% of the 1,250 total producers, would be considered large growers with annual income over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This proposed rule would establish an undersized prune regulation of 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes for the 1999–2000 crop year for volume control purposes. This change in regulation would result in more of the smaller sized prunes being classified as undersized prunes, and is expected to benefit producers, handlers, and consumers. Since prune handlers already use 24/32 and 30/32 grader screens, small and large producers and handlers would not incur extra costs to purchase new screen sizes. Moreover, because the quality related undersized regulation has been in place continuously since the early 1980's, the only additional cost resulting from the increased openings would be the disposal of additional undersized prune tonnage (about 6,700 natural condition tons) to nonhuman consumption outlets as required by the order. With the less restrictive openings, only 5,635 natural condition tons or 3.3 percent of the marketable production has been removed on average over the past eight crop years since 1990–91. The more restrictive openings currently in place for 1998–99 are expected to remove only 2,400 tons of dried prunes from the excess marketable supply. The Committee estimated that there will be an excess of about 18,700 natural condition tons of dried prunes on July 31, 1999. Implementation of the more restrictive openings in 1999–2000 is expected to reduce the surplus by about 6,700 tons.

Because the benefits and costs of the proposed action would be directly proportional to the quantity of 24/32 screen French prunes and 30/32 screen non-French prunes produced or handled, small businesses should not be disproportionately affected by the proposal. While variation in sugar content, prune density, and dry-away ratio vary from county to county, they also vary from orchard to orchard and season to season. In the major producing areas of the Sacramento and San Joaquin Valleys, which account for over 99 percent of the State's production, the prunes produced are homogeneous enough that the proposal should not be viewed as inequitable by large and small producers in any area of the State.

The quantity of small prunes in a lot is not dependent on whether a producer or handler is small or large, but is primarily dependent on cultural practices, soil composition, and water costs. The cost to minimize the quantity of small prunes is similar for small and large entities. The anticipated benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for larger entities. The only additional costs on producers and handlers expected from the increased openings would be the disposal of additional tonnage (now estimated to be about 6,700 tons) to nonhuman consumption outlets. These costs are expected to be minimal, and would be offset by the benefits derived by the elimination of some of the excess supply of small sized prunes.

At the December 1, 1998, meeting, the Committee discussed the financial impact of this change on handlers and producers. Handlers and producers receive higher returns for the larger size prunes. Prunes eliminated through the implementation of this rule have very little value. As mentioned earlier, the current situation for these small sizes is quite bleak with producers losing about $260–270 on every ton they deliver to handlers. The 1998–99 grower field price for 24/32 screen French prunes is ranging between $40 and $50 per ton, just like last crop year. The cost of drying a ton of such prunes is $260 per ton at a 4 to 1 dry-away ratio, transportation is at least $20 per ton,

and the producer assessment paid to the California Prune Board (a body which administers the State marketing order for promotion) is $30 per ton. The total cost is about $310 per ton which equates to a loss of about $260–270 per ton for every ton of 24/32 screen French prunes produced and delivered to handlers.

Utilizing data provided by the Committee, the Department has evaluated the impact of the proposed undersized regulation change upon producers and handlers in the industry. The analysis shows that a reduction in the marketable production and handler inventories would result in higher season-average prices which would benefit all producers. The removal of the smallest, least desirable of the marketable dried prunes produced in California from human consumption outlets would eliminate an estimated 6,700 tons of small-sized dried prunes during the 1999–2000 crop year from the marketplace. This would help lessen the negative marketing and pricing effects resulting from the excess supply situation facing the industry. California prune handlers reported that they held 126,485 tons of natural condition prunes on July 31, 1998, the end of the 1997–98 crop year. This was the largest year-end inventory reported since the Committee began collecting such statistics in 1949. The desired industry inventory level is based on an average 12-week supply to keep trade distribution channels full while awaiting new crop. Currently, it is about 38,000 natural condition tons. This leaves an inventory surplus of over 88,000 tons which will likely take the industry several years to market. The small 1998–99 prune crop and undersized regulation will help reduce the surplus, but the anticipated large 1999–2000 prune crop is expected to bring supplies further out-of-balance with demand.

Further burdening this oversupply situation will be large California prune crops over the next few years caused by the new prune plantings of recent years and higher yields per acre. During the 1990–91 crop year, the non-bearing acreage totaled 5,900 acres, but by 1995–96, the non-bearing acreage had quadrupled to more than 23,000 acres. Yields have ranged from 2.3 to 2.8 tons per acre over a three-year period from the 1995–96 through the 1997–98 crop year, compared to a 10-year average of 2.2 tons to the acre. The 1998–99 crop is expected to be about 50% of normal size (103,000 natural condition tons). Even though this year's small prune crop and the 1998–99 undersized prune regulation will help reduce the existing oversupply, the prune supply has been outstripping demand over the past nine years. In addition, the 1999–2000 prune crop is expected to be about 200,000 tons, further increasing the industry's oversupply problems.

As the marketable dried prune production and surplus prune inventories are reduced through this proposal, the trade should begin taking a position early in the season for its dried prune needs, which would help firm up market prices and eventually reflect a higher overall price to the producers. In addition, as producers implement improved cultural and thinning practices, the overall size of the prunes will get larger. As a result, producer returns would increase because producers will be producing less tonnage of small sized fruit at a $260–270 per ton loss. Instead producers will be receiving the higher prices paid for the larger sizes.

For the 1993–94 through the 1997–98 crop years, the season average price received by the producers ranged from a high of $1,120 per ton to a low of $827 per ton during the 1997–98 crop year. The season average price received by producers during that 5-year period averaged about 54 percent of parity. Based on available data and estimates of prices, production, and other economic factors, the season average producer price for the 1998–99 season is expected to be about $790 per ton, or about 41 percent of parity.

The Committee discussed alternatives to this change, including making no changes to the undersized prune regulation and allowing market dynamics to foster prune inventory adjustments through lower prices on the smaller prunes. While reduced grower prices for small prunes are expected to contribute toward a slow reduction in dried prune inventories, the Committee believed that the undersized rule change was needed to expedite that reduction. With the excess tonnage of dried prunes, the Committee also considered establishing a reserve pool and diversion program to reduce the oversupply situation. These initiatives were not supported because they would not specifically eliminate the smallest, least valuable prunes which are in oversupply. Instead, the reserve pool and diversion program would eliminate larger size prunes from human consumption outlets. Reserve pools for prunes have historically been implemented on dried prunes regardless of the size of the prunes. While the marketing order also allows handlers to remove the larger prunes from the pool by replacing them with small prunes and the value difference in cash, this exchange would be cumbersome and expensive to administer compared to the proposal.

Section 8e of the Act requires that when certain domestically produced commodities, including prunes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements for the domestically produced commodity. This action does not impact the dried prune import regulation because the action to be implemented is for volume control, not quality control, purposes. The smaller diameter openings of 23/32 of an inch for French prunes and 28/32 of an inch for non-French prunes were implemented for the purpose of improving product quality. The recommended increases to 24/32 of an inch in diameter for French prunes and 30/32 of an inch in diameter for non-French prunes are for purposes of volume control.

Therefore, the increased diameters would not be applied to imported prunes.

This action would not impose any additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

In addition, the Committee's meeting was widely publicized throughout the prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 1, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of twenty-two members, of which seven are handlers, fourteen are producers, and one is a public member. Moreover, the Committee and its Supply Management Subcommittee have been reviewing this supply management problem for the second year, and this proposed rule reflects their deliberations completely. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The Committee has requested a comment period through April 15, 1999, to allow interested persons to respond to this proposal. This longer comment period is needed to give the Committee

more time to observe the bloom period during the spring and industry shipment trends during the year and allow sufficient time to comment to the Department concerning any changes deemed appropriate. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Note: This section will not appear in the Code of Federal Regulations.

2. A new § 993.406 is added to read as follows:

§ 993.406 Undersized prune regulation for the 1999–2000 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 1999–2000 crop year is hereby established. Undersized prunes are prunes which pass through openings as follows: for French prunes, 24/32 of an inch in diameter; for non-French prunes, 30/32 of an inch in diameter.

Dated: January 19, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–1609 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–54]

Amendment to Class E Airspace; Alliance, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice announces an extension of the comment period of a Notice of Proposed Rulemaking (NPRM), which proposed to amend the Class E airspace at Alliance, NE. This action is being taken due to a delay in publication of the NPRM document.

DATES: Comments must be received on or before February 17, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ACE–520, Federal Aviation Administration, Docket No. 98–ACE–54, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Background

Airspace Docket No. 98–ACE–54, published on January 4, 1999 (64 FR 60) proposed to amend the Class E airspace at Alliance, NE. This action will extend the comment period closing date on that airspace docket from January 15, 1999, to February 17, 1999, to allow for a 45-day comment period instead of the existing 11 day comment period.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Extension of Comment Period

The comment period closing date on Airspace Docket No. 98–ACE–54 is hereby extended to February 17, 1999.

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

Issued in Kansas City, MO, on January 6, 1999.

Bryan H. Burleson,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–1557 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–49]

Proposed Realignment of Federal Airway; Columbus, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes to realign Federal Airway 220 (V–220) in the vicinity of Columbus, NE. The FAA is proposing this action to enhance the management of air traffic operations and allow for better utilization of navigable airspace in the Columbus, NE, area.

DATES: Comments must be received on or before March 15, 1999.

ADDRESSES: Send comments on this proposal in triplicate to: Manager, Air Traffic Division, AGL–500, Docket No. 98–AGL–49, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue; Des Plaines, IL 60018.

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

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue; Des Plaines, IL 60018.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AGL–49.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

Background

As the result of a recent airspace review, the FAA has determined that a segment of V–220, south of Columbus, NE, was not required for aircraft operations and should be deleted from the National Airspace System.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to terminate V–220 in the vicinity of Columbus, NE. The FAA is proposing this action to enhance the management of air traffic operations and allow for better utilization of the navigable airspace in the Columbus, NE, area.

Domestic VOR Federal airways are published in Section 6010(a) of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Federal airway listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6010 VOR Federal Airways

* * * * *

V–220 [Revised]

From Grand Junction, CO; INT Grand Junction 075° and Rifle, CO, 163° radials; Rifle; Meeker, CO; Hayden, CO; Kremmling, CO; INT Kremmling 081° and Gill, CO, 234° radials; Gill; Akron, CO; INT Akron 094° and McCook, NE, 264° radials; McCook; INT McCook 072° and Grand Island, NE, 241° radials; Kearney, NE; Hastings, NE; Columbus, NE.

* * * * *

Issued in Washington, DC, on January 15, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–1554 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–37]

Proposed Realignment of Federal Airway; Rochester, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes to realign Federal Airway 411 (V–411) in the vicinity of Rochester, MN. The FAA is proposing this action to support the revision of several standard terminal arrival routes. This action would enhance the management of air traffic operations and allow for better utilization of navigable airspace in the Rochester, MN, area.

DATES: Comments must be received on or before March 11, 1999.

ADDRESSES: Send comments on this proposal in triplicate to: Manager, Air Traffic Division, AGL–500, Docket No. 98–AGL–37, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue; Des Plaines, IL 60018.

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

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue; Des Plaines, IL 60018.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AGL–37.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be

considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

Background

As a result of a recent airspace review, the FAA has taken action to revise several standard terminal arrival routes (STAR). This revision of the STARs will require modification of V–411 in the vicinity of Rochester, MN.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign V–411 in the vicinity of Rochester, MN. The FAA is proposing this action due to the realignment of several standard terminal arrival routes, V–411 would be realigned by 4 degrees. The FAA is proposing this action to enhance the management of air traffic operations and allow for better utilization of navigable airspace in the vicinity of the Rochester, MN, area.

Domestic VOR Federal airways are published in Section 6010(a) of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Federal airway listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6010 VOR Federal Airways

* * * * *

V–411 [Revised]

From Lone Rock, WI; via Waukon, IA; Rochester, MN; INT Rochester 315(T(310(M) and Farmington, MN, 184° radials; Farmington.

* * * * *

Issued in Washington, DC, on January 15, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–1553 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Airspace Docket No. 97-ASO–21

Proposed Establishment of the San Juan High Offshore Airspace Area, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish the San Juan High Offshore Airspace Area. The proposed action would designate Class A airspace, extending upward from 18,000 feet mean sea level (MSL) to and including flight level (FL) 600, within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. The FAA is proposing this action to provide additional airspace within which domestic air traffic control (ATC) procedures would be used. Establishment of this Class A airspace would enhance the management of air traffic operations and result in more efficient use of that airspace.

DATES: Comments must be received on or before March 11, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 97-ASO–21, Federal Aviation Administration, P. O. Box 20636, Atlanta, GA 30320. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, ASO–500, Federal Aviation Administration, P. O. Box 20636, Atlanta, GA 30320.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments providing supporting facts for the views and suggestions presented are particularly helpful in developing

reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97-ASO–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking also will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Federal Register's electronic bulletin board service (telephone: 202–512–1661). Internet users may reach the Federal Register's web page at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice or docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, designated the San Juan Low Offshore Airspace Area. This designation was necessary to comply with the Airspace Reclassification final rule (56 FR 65638; December 17, 1991). The San Juan Low Offshore Airspace Area consists of Class E airspace from 5,500 feet MSL up to, but not including, FL 180 within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. The rule, however, did not affect the status of airspace at and above FL 180 within the San Juan domestic control area, which remains international airspace and wherein International Civil Aviation Organization (ICAO) oceanic ATC separation procedures in Annex 11 apply. As a result of the rapid growth of air traffic activity in the Bahamas and Caribbean areas, there is a need to designate additional airspace wherein domestic ATC procedures would be used to provide more efficient control of aircraft operations. This proposed action would designate such a high-altitude strata that would increase system capacity, enhance safety, and enable more efficient use of this airspace.

Additionally, the number of operational ground-based navigation aids (NAVAIDS) in the region has declined due to the loss of facilities caused by unprecedented storm damage, and the difficulty of replacing aging equipment at remote sites. Establishing the San Juan High Offshore Airspace Area would support the development of additional routes, not dependent on ground-based NAVAIDS, to supplement the current airway system.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish the San Juan High Offshore Airspace Area. The proposed area would consist of Class A airspace, extending upward from 18,000 MSL up to and including FL 600, within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. This action would facilitate the application of domestic ATC procedures within that airspace, thereby enhancing the flow of air traffic and increasing system capacity. In addition, this action would enhance safety by providing for the positive control of all aircraft operating in the area. The proposed action would also support the development of a more efficient route system in the Bahamas-Caribbean area and would enable airspace classification and ATC separation procedures to be consistently applied between Florida and Puerto Rico. Finally, the proposed modification would establish the same classification and operating rules that currently apply in adjacent airspace.

Offshore Airspace Area designations are published in paragraph 2003 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. This proposed rule therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

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

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

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

consistent with standards and practices utilized in its domestic jurisdiction.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 2003 Offshore Airspace Areas

* * * * *

San Juan High, PR [New]

Fernando Luis Ribas Dominicci Airport, PR (lat. 18°27′25″ N., long. 66°05′53″ W.)

That airspace extending upward from 18,000 feet MSL to and including FL 600 within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport.

Issued in Washington, DC, on January 14, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–1561 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Chapter I

Notice of Intent To Request Public Comments on Rules

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its systematic review of all current Federal Trade Commission (''Commission'') rules and guides, the Commission gives notice that it intends to request public comments on the rules and guides listed below during 1999. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the rules and guides; possible conflict between the rules and guides and state, local, or other federal laws or regulations; and the effect on the rules and guides of any technological, economic, or other industry changes. No Commission determination on the need for or the substance of a rule or guide should be inferred from the intent to publish requests for comments.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the contact person listed for each particular item.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of and solicit public comments on the following rules and guides during 1999:

(1) Guides for Advertising Allowances and Other Merchandising Payments and Services, 16 CFR Part 240.

Agency Contact: Neil Averitt, Federal Trade Commission, Bureau of Competition, Room H394, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–2885.

(2) Guides for the Dog and Cat Food Industry, 16 CFR 241.

Agency Contact: Jock Chung, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S4302, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–2984.

(3) Guides for the Law Book Industry, 16 CFR Part 256.

Agency Contact: Edwin Rodriguez, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S4302, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3147.

(4) Guide Concerning Fuel Economy Advertising for New Automobiles, 16 CFR Part 259.

Agency Contact: Larry Greene, Federal Trade Commission, Cleveland Regional Office, Eaton Center, Suite 200, 1111 Superior Avenue, Cleveland, OH 44114, (216) 263–3406.

(5) Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986, 16 CFR Part 307.

Agency Contact: Nancy Warder, Federal Trade Commission, Bureau of Consumer Protection, Division of Advertising Practices, Room S4002, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3048.

(6) Funeral Industry Practices Rule, 16 CFR Part 453.

Agency Contact: Mercedes Kelley, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, Room H238, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3665.

The Commission also has tentatively scheduled reviews of other rules and guides for 2000 through 2008. A copy of this tentative schedule is appended. The Commission may in its discretion modify or reorder the schedule in the future to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

APPENDIX—REGULATORY REVIEW; MODIFIED REVOLVING TEN-YEAR SCHEDULE

16 CFR part	Topic	Year to review
240	Guides for Advertising Allowances and Other Merchandising Payments and Services.	1999
241	Guides for the Dog and Cat Food Industry.	1999
256	Guides for the Law Book Industry.	1999
259	Guide Concerning Fuel Economy Advertising for New Automobiles.	1999
307	Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986.	1999
453	Funeral Industry Practices Rule.	1999
233	Guides Against Deceptive Pricing.	2000
238	Guides Against Bait Advertising.	2000
250	Guides for the Household Furniture Industry.	2000

APPENDIX—REGULATORY REVIEW; MODIFIED REVOLVING TEN-YEAR SCHEDULE—Continued

16 CFR part	Topic	Year to review
251	Guide Concerning Use of the Word ''Free'' and Similar Representations.	2000
310	Telemarketing Sales Rule.	2000
228	Tire Advertising and Labeling Guides.	2001
255	Guides Concerning Use of Endorsements and Testimonials in Advertising.	2001
424	Retail Food Store Advertising and Marketing Practices Rule.	2001
433	Preservation of Consumers' Claims and Defenses Rule.	2001
801	Hart-Scott-Rodino Coverage Rules (Mergers).	2001
802	Hart-Scott-Rodino Exemption Rules (Mergers).	2001
803	Hart-Scott-Rodino Transmittal Rules (Mergers).	2001
306	Automotive Fuel Ratings, Certification and Posting Rule.	2003
435	Mail or Telephone Order Merchandise Rule.	2003
600	Statements of General Policy or Interpretations under the Fair Credit Reporting Act.	2003
18	Guides for the Nursery Industry.	2004
305	Appliance Labeling Rule.	2004
410	TV Picture Tube Size Rule.	2004
500	Regulations under Section 4 of the Fair Packaging and Labeling Act (''FPLA'').	2004
501	Exemptions from Part 500 of the FPLA.	2004
502	Regulations under Section 5(c) of the FPLA.	2004
503	Statements of General Policy or Interpretations under the FPLA.	2004
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements.	2005
309	Labeling Requirements for Alternative Fuels and Alternatively Fueled Vehicles.	2005
311	Test Procedures and Labeling Standards for Recycled Oil.	2005
429	Cooling Off Rule	2005
444	Credit Practices Rule	2005
455	Used Car Rule	2005
24	Guides for Select Leather and Imitation Leather Products.	2006
23	Guides for the Jewelry, Precious Metals, and Pewter Industries.	2007
601	Summary of Consumer Rights, Notice of User Responsibilities, and Notice of Furnisher Responsibilities under the Fair Credit Reporting Act.	2007
254	Guides for Private Vocational and Home Study Schools.	2008
260	Guides for the Use of Environmental Marketing Claims.	2008
300	Rules and Regulations under the Wool Products Labeling Act of 1939.	2008
301	Rules and Regulations under the Fur Products Labeling Act.	2008
303	Rules and Regulations under the Textile Fiber Products Identification Act.	2008
304	Rules and Regulations under the Hobby Protection Act.	2008
425	Rule Concerning the Use of Negative Option Plans.	2008

[FR Doc. 99–1619 Filed 1–22–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–121806–97]

RIN 1545–AV84

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of **Federal Register**, the IRS is issuing temporary regulations relating to additions to, and deletions from, the list of items of information disclosed to the Bureau of the Census for use in certain statistical programs. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by February 24, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–121806–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–121806–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax—regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Jamie Bernstein, (202) 622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(j)(1) of the Internal Revenue Code, upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (''Bureau'') tax return information that is prescribed by Treasury regulations for the purpose of structuring censuses and national economic accounts and conducting related statistical activities. Section 301.6103(j)(1)–1 of the regulations provides an itemized description of the return information authorized to be disclosed for this purpose. Periodically,

the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

This document contains proposed amendments to the regulations authorizing Internal Revenue Service personnel to disclose additional items of return information that have been requested by the Secretary of Commerce, and to delete certain items of return information that are enumerated in the regulations but that the Secretary of Commerce has indicated are no longer needed.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulation and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information: The principal author of these regulations is Douglas Giblen, Office of the Associate Chief Counsel (International)(formerly of the Office of Assistant Chief Counsel (Disclosure Litigation)). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

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

Section 301.6103(j)(1)–1 also issued under 26 U.S.C. 6103(j)(1);* * *

Par. 2. Section 301.6103(j)(1)–1 is amended by:

1. Revising paragraphs (b)(3) and (b)(6)(i)(A).

2. Adding paragraph (b)(6)(iii).

The revisions and addition read as follows:

§ 301.6103(j)(1)–1 Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b) * * *

(3) [The text of this proposed paragraph (b)(3) is the same as the text of § 301.6103(j)(1)–1T (b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

(6)(i) * * *

(A) [The text of this proposed paragraph (b)(6)(i)(A) is the same as the text of § 301.6103(j)(1)–T(b)(6)(i)(A) published elsewhere in this issue of the **Federal Register**].

* * * * *

(iii) [The text of this proposed paragraph (b)(6)(iii) is the same as the text of § 301.6103(j)(1)–1T(b)(6)(iii) published elsewhere in this issue of the **Federal Register**].

* * * * *

Robert E. Wenzel,

Deputy Commissioner of the Internal Revenue.

[FR Doc. 99–1285 Filed 1–22–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–220–FOR]

Kentucky 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 Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky regulations pertaining to reclamation in lieu of cash payment of civil penalties. The amendment is intended to revise the Kentucky program as required by 30 CFR 917.16(c)(3).

DATES: If you submit written comments, they must be received by 4:00 p.m., [E.S.T.], February 24, 1999. If requested, a public hearing on the proposed amendment will be held on February 19, 1999. Requests to speak at the hearing must be received by 4:00 p.m., [E.S.T.], on February 9, 1999.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to William J. Kovacic, Field Office Director, at the address listed below.

You may review copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. *Telephone:* (606) 233–2894. *E-Mail:* bkovacic@osmre.gov

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. *Telephone:* (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2894.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated December 22, 1998 (Administrative Record No. KY–1449), Kentucky submitted a proposed amendment to its program at 405 KAR 7:097. Specifically, Kentucky proposes to authorize the cabinet to allow a permittee, person, or operator to perform in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution—instead of making cash payment of a civil penalty assessed under KRS 350.990. This regulation also establishes criteria and procedures to implement KRS 350.990(11). A written request must be filed to perform in-kind work. If authorized, the performer of the work must enter into a binding Civil Penalty Reclamation Agreement (Agreement) with the cabinet for work selected by the cabinet. No fees are required for the written request or the Agreement. Those who enter into an Agreement: must obtain legal right of entry to the work site; must maintain liability insurance coverage; will, in some cases, be required to obtain a performance bond; and must perform the work activities specified in the Agreement. If the in-kind work is not completed according to the Agreement, the full amount of the assessed civil penalty must be paid. Certain permittees, persons, or operators, certain civil penalties, and certain sites are ineligible for in-kind activities. Certain kinds of activities and costs are not authorized.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Your 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 Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.S.T.] on February 9, 1999. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

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**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

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 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 15, 1999.

Tim L. Dieringer,,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–1631 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–05–P

Notices

Federal Register
Vol. 64, No. 15
Monday, January 25, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 20, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured by having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: National Survey on Recreation and the Environment.

OMB Control Number: 0596–0127.

Summary of Collection: The National Survey on Recreation and the Environment (NSRE) 2000, which began in 1960 as the primary source of recreation data from the U.S. population, is the latest in a series of surveys conducted by the Forest Service (FS). This information is vital for federal land managing agencies to obtain an understanding of the outdoor recreation participation levels and preferences of the American people so that effective policy making, planning, and decision-making can occur. Information from the survey is shared with and relied upon by organizations outside the federal government including educational institutions, private sector companies, state agencies, and other governmental organizations as the fundamental source of outdoor recreation trend and demand data on a national scale. The survey will be administered using a statistically valid sampling methodology through computer-assisted telephone interviewing techniques.

Need and Use of the Information: The Forest Service will collect information nationally from the public to assess trends in recreation participation over the years since the survey was last conducted and to estimate demand for outdoor recreation among the U.S. population. In addition, the survey will collect information from the public on people's attitudes and values toward natural resources and their management. The information will be used by the Forest Service and other federal agencies to develop long-range strategic plans, adjust programs and activities to meet customer needs and expectations, and better manage federally owned lands.

Description of Respondents: Individuals or households.

Number of Respondents: 40,000.

Frequency of Responses: Reporting: Other (one time).

Total Burden Hours: 13,333.

Forest Service

Title: The Wildland-Urban Interface Series.

OMB Control Number: 0596–NEW.

Summary of Collection: Forest and Rangeland Renewable Resources Research Act of 1978 (Public Law 95–307) directs the Secretary of Agriculture to research the multiple uses and products, including recreation, of forests and rangelands to facilitate their most effective use. Study results will be provided to resource managers in the areas studied, as well as to managers across the United States addressing urban national forest, to enable more effective management of those areas. Results will also inform managers of broader community recreation patterns, interests, and resource concerns. A direct benefit to the public is anticipated through improvements in customer service, more informed recreation management decisions, and increased attention to the diverse customers served by the National Forests. Forest Service (FS) will collect information using a study provided to resource managers and a questionnaire given to potential respondents.

Need and Use of the Information: FS will collect information to assist resource managers in their effective management of recreation activities in the region studied and, in addition, the Wildland Recreation and Urban Culture Project will use the information to further expand its information base on visitor characteristics, communication, and mitigation of depreciative behaviors such as vandalism. Participants will be asked to answer a questionnaire on the following topics (1a) age, gender, and education; (1b) National Forest visitation history and patterns; (2) identification of leisure activities in which visitors participate; (3) how they heard about the area; (4a) how they would rate amenities; (4b) accessibility for a wide-range of individuals, including those with special needs; (5a) knowledge of natural resource and wilderness areas and policies regarding those areas; (5b) how closely visitors identify with the National Forest or recreation area; (6) preference about different management options (limit number of people on trails versus limit access to trails, increase levels of user knowledge by brochures, nature walk, signs versus require users to have taken an educational program; (7a) gain visitor's suggestions on different penalties for depreciative actions; (7b) personal and or group participation in environmentally responsible and

depreciative acts, as well as the extent to which visitors observe them; (8) experience of conflict within and between user groups and managing agency representatives. If the information is not collected resource managers will have to make visitor based decisions on very limited, potentially biased, or non-existent information.

Description of Repondents: Individuals or households.

Number of Respondents: 3,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 750.

National Food and Agriculture Council (NFAC)

Title: Customer Service Information Collections for USDA Service Centers 1999–2001.

OMB Control Number: New.

Summary of Collection: The National Food and Agriculture Council (NFAC), and partner agencies in the USDA Service Center, help the USDA meet the requirements of the President's Executive Order 12862, ''Setting Customer Service Standards,'' which requires agencies to annually ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' Improved customer service is the core mission of the USDA Service Centers and participating partner agencies, according to the Secretary. The Service Center Customer Service Team is requesting a generic clearance for customer service information collection activities. The Customer Service Team will collect information using telephone surveys, comment and complaint cards, structured interviews, focus groups and benchmarking studies.

Need and Use of the Information: The Customer Service Team will collect information to develop and publish customer service standards for USDA Service Centers; develop a feedback system for USDA Service Center customer complaints and comments; establish performance measures consistent with GPRA requirements for the information technology investments and the strategic plans of the USDA Service Center partner agencies; and support evaluations of proposed improvements in service and analyses of service delivery by significant demographic and social characteristics. NFAC and the USDA Service Center partner agencies plan to use this information to help meet their responsibilities under GPRA, to improve operations in the USDA Service Center by preserving helpful activities and implementing needed changes.

Description of Respondents: Individuals or households.

Number of Respondents: 56,970.

Frequency of Responses: Reporting: On occasion; Annually; Other: When need arises as determined by the managing and coordinating group Quality Customer Service Team.

Total Burden Hours: 11,180.

Nancy B. Sternberg,

Departmental Clearance Officer.

[FR Doc. 99–1616 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV99–997–1 NC]

Notice for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection in support of the Provisions Regulating the Quality of Domestically Produced Peanuts Handled by Persons Not Subject to the Marketing Agreement No. 146 based on changes in program requirements.

DATES: Comments on this notice must be received by March 26, 1999.

ADDITIONAL INFORMATION OR COMMENTS: Contact Dawana Johnson, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456, Telephone: (202) 720–1755 or Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Provisions Regulating the Quality of Domestically Produced Peanuts Handled by Person's Not Subject to the Peanut Marketing Agreement.

OMB Number: 0581–0163.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Under authority of the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), Peanut Marketing Agreement No. 146 and the Peanut Administrative Committee (Committee) were established by the Secretary in 1965 to minimize aflatoxin contamination in peanuts and peanut products. The Agreement was signed by a majority of domestic peanut handlers (signatory handlers). The Committee works with AMS in administering the Agreement.

Pub. L. 101–220, enacted December 12, 1989, amended section 608b of the Act to require that all handlers who have not signed the Agreement (non-signatory handlers) be subject to quality, handling, and inspection requirements to the same extent and manner as are required under the Agreement. Regulations to implement Pub. L. 101–220 were issued and made effective on December 4, 1990 (55 FR 49983). It is estimated that 5 percent of the domestic peanut crop is marketed by non-signatory handlers and the remainder of the crop is handled by signatory handlers.

The objective of the Agreement and the non-signatory handling regulations (7 CFR part 997) is to ensure that only wholesome peanuts enter edible market channels. Under both regulations, farmers stock peanuts with visible *Aspergillus flavus* mold (the principle source of aflatoxin) are required to be diverted to non-edible uses. Both regulations also provide that shelled peanuts meeting minimum outgoing quality requirements must be chemically analyzed for aflatoxin contamination.

Peanut handlers are business entities that buy raw peanuts from farmers and process them into shelled product (kernels) that is sold to manufacturers who make peanut butter and other peanut products. Under this information collection burden, peanut handlers are respondents and recordkeepers.

A proposed and final rulemaking process, which became effective in January 1997, dramatically reduced the number of information collection burden hours for all domestic peanut handlers. The number of forms required to be filed by non-signatory peanut handlers was reduced from 11 forms to only 2 forms. That action was taken to be consistent with reductions in the reporting requirements made to the Agreement regulations and applied to signatory peanut handlers. The information collection burden for signatory handlers (OMB No. 0581–0067) was revised and approved July 27, 1998. This information collection burden report registers similar reductions in the number of forms and information collection burden for non-signer handlers.

Information formerly needed from the 11 forms has been condensed into 2 forms that must be filed by non-signer

handlers. Some of the information formerly required on the 11 forms is no longer needed because certain non-signer regulations were terminated. That information had to do with restricted and unrestricted peanuts (terms no longer used in the regulations) and disposal of non-edible peanuts to certain outlets (no longer regulated and monitored). Using the 2 forms decreases the estimated total annual burden on handlers by 327 hours, from 591 to 264 hours. Also, the number of total annual responses supplied by handlers for the entire non-signer peanut information collection decreases from 1,500 to 792.

Handlers Monthly Report of Farmers Stock—Form FV–117, deals with each handler's shelled peanuts and what is done with those shelled peanuts to get them ready for sale to manufacturers. This report is filed monthly.

Monthly Report of Dispositions of Peanuts—Form FV–117–1, deals with information on each handler's acquisitions and dispositions of farmers stock peanuts. Farmers stock peanuts are raw, inshell peanuts delivered by farmers to peanut handlers. This report is also filed monthly.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours (15 minutes) per response.

Respondents: Peanut handlers who have not signed the peanut marketing Agreement.

Estimated Number of Respondents: 33.

Estimated Number of Responses per Respondent: 24.

Estimated Total Annual Burden on Respondents: 264 hrs.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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; (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 those who are to respond, including through the use of appropriate automated, electronic, and mechanical or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0163 and the Provisions Regulating The Quality Of Domestically Produced Peanuts Handled By Persons Not Subject To The Peanut Marketing Agreement (7 CFR Part 997) and be sent to USDA in care of Dawana Johnson at the address above. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in a final request for OMB approval. All comments will become a matter of public record.

Dated: January 19, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–1610 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–99–00–1]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announces a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: February 9, 1999, at 9:00 a.m. to 6:00 p.m.; February 10, 1999, from 9:00 a.m. to 6:00 p.m.; and February 11, 1999, from 9:00 a.m. to 6:00 p.m.

PLACE: U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Room 3501 South Building, Washington, D.C. 20250. Phone: (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Keith Jones, Program Manager, Room 2945 South Building, U.S. Department of Agriculture, AMS, Transportation and Marketing, National Organic Program, P.O. Box 96456, Washington, D.C. 20090–6456 Phone (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) Reqires the establishment of the NOSB. The purpose of the NOSB is to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects the implementation of OFPA. The NOSB met for the first time in Washington, D.C., in March 1992 and currently has six committees working on various aspects of the program. The committees are: Crops Standards; Processing; Labeling and Packaging; Livestock Standards; Accreditation; Materials; and International Issues. In August 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture and since that time has submitted 30 addenda to the recommendations and reviewed more than 170 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held October 27–29,1998, in Washington, DC. The Department of Agriculture (USDA) published its proposed rule in the **Federal Register** on December 16, 1997 (62 FR 65849). An extension of the comment period on the proposed rule was published in the **Federal Register** on February 9, 1998 (63 FR 6498–6499). The comment period was extended until April 30, 1998. On October 28, 1998, the USDA published for public comment three issue papers in the **Federal Register** (63 FR 57624–57626) The papers addressed certain issues raised during the National Organic Program's proposed rule comment period. The issue papers were: Issue paper 1. Livestock Confinement in Organic Production Systems; Issue Paper 2. The Use of Antibiotics and Parasiticides in Organic Livestock Production; and Paper 3. Termination of Certification by Private Certifiers. Comments received on these papers will be considered during the development of a revised National Organic Program proposed rule. The comment period for the issue papers closed December 14, 1998.

Purpose and Agenda

The principal purpose of this meeting is to provide an opportunity for the NOSB to receive committee reports from its standing and ad hoc committees and to engage working sessions to address issues resulting from the October 1998 NOSB meeting. These issues include, but are not limited to, the International Committee's proposed recommendation on Fumigation, the Livestock Committee's proposed recommendation on Wild Animals, the Accreditation Committee's proposed recommendation on Enforcement Actions, the Interdisciplinary Taskforce's proposal on processing principles and the NOSB's request for comment on criteria for the acceptance of materials used in processing. Additionally, the Agency will give a status report on the proposed rule and characterize for the NOSB public comment on the option papers. Copies of committee proposals can be requested from Ms. Karen Thomas, Room 2510 South Building, U.S. Department of Agriculture, AMS,

Transportation and Marketing, National Organic Program, P.O. Box 96456, Washington, D.C. 20090–6456, by phone at (202) 690–3655 or by accessing the NOP website at http://www.ams.usda.gov/nop after January 19, 1999.

Type of Meeting

All meetings will be open to the public. The NOSB has scheduled time for public input on February 9, 1999, from 1:30 p.m. until 5:00 p.m. Individuals and organizations wishing to make an oral presentation at the meeting should forward the request to Ms. Thomas at the above address or by FAX to (202) 205–7808 by close of business February 5, 1999. While persons wishing to make a presentation may sign up at the door, advance registration will ensure an opportunity to speak during that allotted time period and will help the NOSB to better manage the meeting and accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing, if possible. Written submissions may supplement the oral presentation with additional material. Attendees who do not wish to make an oral presentation are invited to submit written comments to the NOSB at the meeting or to Ms. Thomas after the meeting at the above address. All persons submitting written comments should provide 20 copies.

Dated: January 20, 1999.

Eileen S. Stommes,

Deputy Administrator, Transportation and Marketing.

[FR Doc. 99–1646 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Dietary Guidelines Advisory Committee Meeting

AGENCIES: U.S. Department of Agriculture and U.S. Department of Health and Human Services.

ACTION: Dietary Guidelines Advisory Committee: Notice of the second meeting; Opportunity for oral testimony at the meeting; and Opportunity to provide written comments.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) (a) provide notice of the second meeting of the Committee (b) solicit application for oral testimony, and (c) solicit written comments.

DATES: (1) The Committee will meet on March 8 to 10, 1999, from 9:00 a.m. to 6:00 p.m. on the first day, from 9:00 p.m. to 3:30 p.m. on the second day, and from 9:00 a.m to 4:30 p.m. on the third day. (2) Applications for oral testimony, to be presented on the morning of the first day, may be submitted by 5 p.m. e.s.t. February 24, 1999. (3) Written comments on the guidelines may be submitted by 5 p.m. e.s.t. on February 24, 1999, to ensure transmission to the Committee prior to this meeting.

FOR FURTHER INFORMATION CONTACT: Shanthy Bowman, Ph.D., USDA, Agricultural Research Service, Nutrient Data Laboratory, 4700 River Road, Unit 89, Riverdale, MD 20737, (301) 734–5640; Carole Davis, M.S., R.D., USDA Center for Nutrition Policy and Promotion, 1120 20th St., NW, Suite 200 North Lobby, Washington, DC 20036, (202) 418–2312; or Kathryn McMurry, M.S. or Linda Meyers, Ph.D., HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Ave., SW, Washington, DC 20201, (202) 205–4872.

SUPPLEMENTARY INFORMATION:

Dietary Guidelines Advisory Committee

The eleven-member Committee appointed by the Secretaries of the two Departments is chaired by Cutberto Garza, M.D., Ph.D., Cornell University, Ithaca, New York. Other members are Richard J. Deckelbaum, M.D., Columbia University, New York, New York; Johanna T. Dwyer, D.Sc., R.D., Tufts University, Boston, Massachusetts; Scott M. Grundy, M.D., Ph.D., University of Texas, Dallas, Texas; Rachel K. Johnson, Ph.D., R.D., University of Vermont, Burlington, Vermont; Shiriki K. Kumanyika, Ph.D., M.P.H., R.D., University of Illinois at Chicago, Chicago, Illinois; Alice H. Lichtenstein, D.Sc., Tufts University Center for Aging, Boston, Massachusetts; Suzanne P. Murphy, Ph.D., R.D., University of Hawaii, Honolulu, Hawaii; Meir J. Stampfer, M.D., Dr.P.H., Harvard School of Public Health, Boston, Massachusetts; Lesley Fels Tinker, Ph.D., R.D., University of Washington, Seattle, Washington; Roland L. Weinsier, M.D., Dr.P.H., University of Alabama at Birmingham, Birmingham, Alabama.

Committee's Task

The appointment of the Committee reflects the commitment by the Departments of Agriculture and Health and Human Services to provide sound and current dietary guidance to consumers. The National Nutrition Monitoring and Related Research Act of 1990 (Pub. L. No. 101–445) requires the Secretaries of USDA and HHS to publish the Dietary Guidelines for Americans at least every five years. The Dietary Guidelines Advisory Committee has decided a revision of the 1995 edition of Nutrition and Your Health: Dietary Guidelines for Americans is warranted, and will recommend revisions to the Secretaries for the year 2000 edition.

Announcement of Meeting

The Committee's second meeting will be March 8–10, 1999 from 9:00 a.m. to 6:00 p.m. on the first day, from 9:00 a.m. to 3:30 p.m. on the second day, and from 9:00 a.m to 4:30 p.m. on the third day. The meeting is open to the public. However, space is limited for all sessions. The agenda will include (a) presentations from invited experts, (b) oral testimony from preregistered people or groups, (c) discussion of drafts prepared by members, and (d) formulation of plans for future work of the Committee. Opportunity for oral public testimony will be provided on the morning of the first day. Please call Shanthy Bowman at (301) 734–5640 by 5:00 p.m. e.s.t. February 24, 1999, should you require a sign language interpreter.

Location of Meeting

The meeting will be held at the Waugh Auditorium located on the third floor of USDA's Economic Research Service, 1800 M Street NW, Washington DC, one block from Farragut North metro station and three blocks from the Farragut West metro station. Parking is available at local garages. Entry to the building is through the South Lobby Tower.

Oral Testimony

By this notice, the Committee is soliciting submission of applications for oral testimony from the public. Requests to testify, along with a written outline of the intended testimony not exceeding one page in length, should be submitted by 5:00 p.m. e.s.t. February 24, 1999 to Shanthy Bowman, Ph.D., at Department of Agriculture, Agricultural Research Service, Nutrient Data Laboratory, 4700 River Road, Unit 89, Riverdale, MD 20737. Presenters are required to disclose their affiliation and their source of funding to give oral testimony at the

meeting and limit their comments to three minutes.

Written Comment

By this notice, the Committee is soliciting submission of written comments, views, information and data pertinent to review of the Dietary Guidelines for Americans. Written comments will be accepted throughout the process. To be considered for the second meeting, comments should be submitted by 5:00 p.m. e.s.t. February 24, 1999. Comments should be sent to Shanthy Bowman, at Department of Agriculture, Agricultural Research Service, Nutrient Data Laboratory, 4700 River Road, Unit 89, Riverdale, MD 20737.

Dated: January 12, 1999.

Edward B. Knipling,

Associate Administrator, Agricultural Research Service, Department of Agriculture.

Dated: January 19, 1999.

Rajen Anand,

Executive Director, Center for Nutrition Policy and Promotion, Department of Agriculture.

Dated: January 15, 1999.

Linda Meyers,

Acting Director, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services.

[FR Doc. 99–1612 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

The Emergency Food Assistance Program; Availability of Commodities for Fiscal Year 1999

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased commodities that the Department expects to make available for donation to States for use in providing food assistance to the needy under the Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 1999. The commodities made available under this notice shall, at the discretion of the State, be distributed to organizations for use in preparing meals, and/or for distribution to households for home consumption.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Surplus Commodities

Surplus commodities donated for distribution under TEFAP are Commodity Credit Corporation (CCC) commodities determined to be available for donation by the Secretary of Agriculture under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (hereinafter referred to as section 416) and commodities purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (hereinafter referred to as section 32). The types of commodities typically made available under section 416 include dairy, grains, oils, and peanut products. The types of commodities purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices and fruits. Donations of surplus commodities were initiated in 1981 as part of the Department's efforts to reduce stockpiles of government-owned commodities, such as cheese, flour, butter, and cornmeal, which had been acquired under section 416. These donations responded to concern over the costs to taxpayers of storing large quantities of foods, while at the same time there were persons in need of food assistance. The authority to donate surplus commodities for distribution through TEFAP is currently codified in Section 202 of the Emergency Food Assistance Act (EFAA) of 1983 (7 U.S.C. 7502).

The supply of surplus commodities has been drastically reduced from the levels available in the early 1980s. These reductions are the result of changes in the agricultural price-support programs which have brought supply and demand into better balance, and accelerated donations and sales. However, this trend reversed itself beginning in FY 1997. In FY 1998, the Department purchased $108 million worth of surplus commodities. The large surpluses were the result of the reduction in foreign sales due primarily to the Asian economic downturn. The following surplus commodities were purchased for donation in FY 1998 but will be delivered in the first quarter of FY 1999, because they did not become available for purchase until late in the year: frozen beef roasts, canned salmon, canned applesauce, canned apple slices, canned cherries, frozen apricots, grapefruit juice, apple juice, dried figs, prune puree, dried prunes, raisins, walnut pieces, and instant nonfat dried milk. In addition to delivering these products for distribution in FY 1999, the Department anticipates that there will be sufficient quantities of nonfat dry milk available for donation under section 416, and salmon, pork, fresh apples and fresh grapefruit purchased under section 32, to support the donation of these commodities for distribution through TEFAP in FY 1999. While sufficient quantities of these commodities are anticipated to again be available in FY 1999 to support such donations, the Department would like to point out that commodity acquisitions are based on changing agricultural market conditions; therefore, the above commodities may not be available for donation in FY 1999, and additional types of surplus commodities may become available.

Purchased Commodities

Congress responded to the reduced availability of surplus commodities with section 104 of the Hunger Prevention Act of 1988, Pub. L. 100–435, which added sections 213 and 214 to the EFAA. Those sections require the Secretary to purchase commodities for distribution to States in addition to those surplus commodities which otherwise might be provided to States for distribution under TEFAP. Pursuant to section 871(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, Congress repealed the authorization of funds for food purchases under section 214. In addition, section 871(g) added a new section 27 to the Food Stamp Act of 1977 under which the Secretary is required to use $100 million from the funds made available to carry out the Food Stamp Act for each of FYs 1997 through 2002 to purchase a variety of nutritious and useful commodities and distribute the commodities to States for distribution through TEFAP. However, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, has limited to $90 million the amount of Food Stamp Program appropriations available in FY 1999 for the purchase of TEFAP commodities, although the $45 million administrative funding appropriation, as divided among the States, may be used, in whole or in part, at the discretion of each State, by USDA for the purchase of additional commodities for TEFAP.

For FY 1999, the Department anticipates purchasing the following commodities for distribution through TEFAP: peanut butter, roasted peanuts, rice, macaroni, spaghetti, grits, fortified cereal, bakery mix, egg mix, dehydrated

potatoes, corn syrup, vegetable oil, dry bagged beans, raisins, the following canned foods: apple juice, applesauce, peaches, pears, vegetarian beans, refried beans, green beans, potatoes, tomatoes, spaghetti sauce, tomato juice, corn, orange juice, grapefruit juice, pineapple juice, pork, tuna, beef, and chicken, as well as the following frozen foods: ground beef, ground turkey, and turkey roasts. The amounts of each item purchased will depend on the prices USDA must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of commodities or the non-availability of one or more types listed above. State officials will be responsible for determining how to allocate the commodities each State receives among eligible organizations. States have full discretion in determining the amount of commodities that will be made available to organizations for distribution to needy households for use in home-prepared meals or for providing prepared meals to the needy at congregate feeding sites.

Dated: January 12, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–1504 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–066N]

In-Distribution Inspection Pilot Test Project; Report

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is making available for comment a draft paper describing a project that will test the feasibility of using FSIS inspectors in food safety activities outside of federally inspected plants. This In-Distribution Inspection Pilot Test Project is part of the FSIS HACCP-Based Inspection Models Project.

DATES: To receive full consideration, comments should be received by February 24, 1999.

ADDRESSES: The document Report on the In-Distribution Inspection Pilot Test Project may be viewed at the FSIS Docket Room, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700. An electronic version of the document is available on-line at FSIS's homepage at http://www.fsis.usda.gov. Written comments on the document may be sent in triplicate to FSIS Docket Clerk, DOCKET #98–066N, Room 102 Cotton Annex Building, 300 12th Street, S.W., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Patricia F. Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION:

Background

The In-Distribution (ID) Inspection Pilot Test Project discussed in the report being made available is part of the HACCP-based Inspection Models Project. In a June 1997 **Federal Register** Notice, FSIS requested public comments on the design and development of new inspection models for livestock and poultry slaughter and processing in a HACCP environment (62 FR 31553). The notice summarized recommendations by the National Academy of Sciences and the General Accounting Office that FSIS reduce its reliance on organoleptic (sensory) inspection, shift to inspection systems based on risk, and redeploy its resources in a manner that better protects the public from food-borne illnesses. To accomplish these objectives, inspection models must be developed that incorporate inspection procedures consistent with the pathogen reduction and HACCP systems rule. The HACCP-Based Inspection Models Project is designed to develop new approaches to inspection in plants slaughtering young, healthy, and uniform animals.

The In-Distribution part of the Inspection Models Project explores the possibility of redeploying some inspection resources from these plants in ways that will enhance food safety protection all along the farm-to-table continuum. Under provisions of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS has authority to regulate the production, sale, transportation, and storage of meat and poultry food products. Traditionally, the Agency has assigned the great majority of its resources to inspection activities within livestock and poultry slaughter and processing plants. Consistent with its modernization and farm-to-table initiatives, FSIS intends to redistribute resources to more efficiently and effectively verify that the industry meets its responsibility to produce, store, and distribute safe and wholesome products. The In-Distribution Pilot Test will help the Agency determine the feasibility of significantly increasing the frequency of certain tasks that are now performed outside of federally inspected plants. The in-distribution pilots also will explore how new activities can address food safety hazards and other consumer protection issues, such as economic adulteration or improper labeling, in regard to the distribution of meat and poultry products out of plants into distribution channels, storage, retail food stores, restaurants, commercial kitchens, hotels, and other institutions.

The paper Report on the In-Distribution Inspection Pilot Test Project is intended to inform project participants and the public of the Agency's views on this subject. The paper is available for review at the location indicated above in **ADDRESSES.**

Done at Washington, DC, on: January 14, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–1614 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Cave Rock Management Direction, Lake Tahoe Basin Management Unit (LTBMU), Douglas County, NV

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to establish new management direction for the Cave Rock landform and its environs, a nonsignificant amendment to the Lake Tahoe Basin Management Unit's (LTBMU's) Land and Resource Management Plan (Forest Plan). Cave Rock is an important archaeological and ethnographic site that was first determined eligible to the National Register of Historic Places in August, 1996, as a ''traditional cultural property'' (TCP) stemming from the long association of the Washoe people with the site. In October, 1998, the Keeper of the National Register formally determined that Cave Rock was not only eligible as a TCP, but also as a historic transportation district and an archaeological site. Some modern uses of the rock may be adversely affecting the setting, feel, and association of the historic districts. The Cave Rock management direction will establish

appropriate uses of the national forest in the Cave Rock vicinity.

DATES: Agencies and the public are invited to participate at any stage of the process; however, the Forest Supervisor requests that individuals concerned with the scope of the analysis comment by March 1, 1999.

ADDRESSES: Written comments concerning the Draft EIS should be sent to the responsible official, Forest Supervisor, attention: Cave Rock, LTBMU, 870 Emerald Bay Road, Suite 1, South Lake Tahoe, California, 96150. Illustration of the Cave Rock area is available online at http://www.FS.FED.US/R5/TAHOE/GRAPHICS/PRES__ACTIONS/COMMITMENTS/CAVE__ROCK

FOR FURTHER INFORMATION CONTACT: Direct questions concerning the proposed action to Lisa O'Daly, Community Planner, at (530) 573–2669 or at the above address.

Decision To Be Made: The decision to be made for this EIS is whether to amend the Lake Tahoe Basin Land and Resource Management Plan to restrict human activity on the National Forest at Cave Rock in order to protect the national Register-eligible heritage resources. If so, to what degree should the property be protected and to what level should use be restricted?

Purpose and Need: The proposal's purpose is protect the Cave rock heritage resource and regulate uses there in a manner that, consistent with mandates and restrictions of law and regulation, preserves the physical and spiritual characteristics that make the property eligible to the National Register of Historic Places. As a property eligible to the National Register, the Forest Service has a responsibility to assess the appropriateness of activities occurring at Cave Rock. Action is needed at this time because some ongoing activities in the area may be adversely affecting the integrity of the National Register-eligible properties. In addition, any long-term continuation of existing use restrictions require a National Environmental Policy Act decision to implement. This EIS will document the Forest Supervisor's planning process for taking into account the effects of ongoing activities on the historic properties/sacred site.

Proposed Action: The proposed action includes the following elements: Amend the management direction found in the Lake Tahoe Basin Management Unit Land and Resource Management Plans' (LTBMU Forest Plan's) Roundhill Management Area. This amendment would be considered ''nonsignificant'' pursuant to the National Forest Management Act implementating regulations. Add as management area-specific standard and guidelines the following text and clarify the management area map—

Public Access, including rock climbing, is allowed on the National Forest at Cave Rock and will be managed to minimize conflicts and impacts to the TCP and other cultural and natural resources in the vicinity as follows:

—Manage National Forest lands at Cove Rock using the ''Maintenance'' management prescription (Prescription #9). This prescription applies only minimal management practices to lands that provide the scenic backdrop to Lake Tahoe. There will be almost no management practices designed to induce additional outputs or services.

—Recreation activities, outside the highway easement, will be nonmotorized.

—Allow installation of improvements, such as parking, sanitation, or access facilities, only for resource protection purposes, not for user comfort and convenience. (No such facilities are needed or proposed for development on the National Forest in the Cave Rock area as this time.)

Manage rock climbing in a manner that reduces the level of its effect to the Cave Rock TCP from that identified when the TCP was initially determined eligible to the National Register (1996). Some of the activities proposed below are required to achieve a baseline that will enable the new management direction to be effective.

—All modern graffiti, historic graffiti that does not contribute to historic districts, and rock work within the cave will be removed at the direction of the Forest Service archaeologist, in cooperation with designated representatives of the Washoe Tribe, where doing so does not physically damage Cave Rock.

• Prohibit installation of new climbing routes requiring placement of additional fixed anchors left in the rock. Prohibit climbing using artificial light.

• Eliminate existing routes when they are no longer used and where they may cause a rock to fall on the road. Accept the assistance offered by local climbers at the 1998 collaboration meetings in removing certain routes.

(a) The initial program of route removal includes: (1) all routes to the left (north) of ''Bone Crusher,'' including the route which traverses over the top of southbound Highway 50's tunnel and ''Acapulco,'' (2) ''Trash Dog,'' (3) ''Ton of Bricks,'' and (4) any other bolts to the right of ''Asylum'' in the friable rock above Highway 50. The rappel anchors at the top of the first pitch of Trash Dog should be retained, as they are used to complete the route ''Pipeline.'' Rappel anchors needed to remove the above-described fixed anchors will also be retained.

(b) Work with the climbing community to camoflage existing brightly-colored slings and shiny carabiners to blend with the natural colors of the rock. Encourage climbers to replace this equipment as routes are used and during voluntary efforts towards this purpose. If brightly colored slings remain after six months following the official adoption of this new management direction, it will be an indicator that the routes are not being used and the routes will be removed.

• Bolts and other fixed anchors may only be removed and replaced as part of route maintenance activities. In the interest of climber safety, the Forest Service will work with the climbing community and Washoe Tribe representatives regarding development of route maintenance guidelines. When climbers notice that a bolt or other fixed anchor has become unsafe, they must submit a written plan to the Forest Service requesting permission to replace the fixed anchor. The request must include a plan for replacement, detailing: the route and location of equipment to be replaced, the type of equipment to be replaced and proposed replacement equipment (e.g., replace existing shiny bolt with a powder-coated bolt), and an explanation of the method of replacement. The Forest Service then assesses whether the proposal uses the appropriate technology to camoflage equipment, and will either accept the proposal as described or make recommendations to the requestor before granting permission to replace it. The agency will not second guess technology related to climber safety.

• Commercial activities will not be authorized within the Cave Rock TCP.

SUPPLEMENTARY INFORMATION: This EIS is being prepared to establish management direction to address effects from recreational and other activities on a traditional cultural property (TCP) known as Cave Rock. Cave Rock was determined eligible to the National Register of Historic Places for its association with the history, beliefs, practices, and traditions of the Washoe Tribe of California and Nevada. The Forest Service came to this determination in 1996, and the Nevada State Historic Preservation Officer (SHPO) and Advisory Council on Historic preservation concurred on the determination. It was formally determined eligible in October 1998 by the Keeper of the National Register, who at that time also determined Cave Rock eligible as a historic transportation district and archaeological site.

A series of short-term closure orders prohibiting damage and defacement of Cave Rock, specifically including in the definition the installation of any new fixed climbing hardware, have been issued since May of 1997 by the Forest Supervisor of the LTBMU to address potential adverse effects to the historic property.

Cave Rock is not only a property eligible to the National Register, but it is also a sacred site to the Washoe Tribe of California and Nevada. Many members of the Washoe Tribe object to human presence at Cave Rock and believe that only special people, Washoe spiritual elders, should be there. It is an area traditionally avoided

by other tribal members. In addition, Cave Rock has become recognized as a unique rock climbing resource, as its southwest exposure, ready access, and magnificent views are valued highly within the climbing community. It offers the only high level sport climbing site in the Lake Tahoe region and its environs, accessible year-round, and it is internationally renown for its overhanging routes of the greatest difficulty.

The LTBMU needs to develop new management direction for that part of the National Forest within the Cave Rock area to protect the TCP and other historic districts and regulate uses there in a manner that, consistent with law and regulation, preserves the physical and spiritual characteristics that make the property eligible to the National Register of Historic Places. The plan would also provide for public access consistent with Federal responsibilities to the Washoe Tribe. As a property eligible to the National Register of Historic Places, the Forest Service has a responsibility to assess the appropriateness of activities occurring at Cave Rock. Section 106 of the National Historic Preservation Act (NHPA) requires agencies to ''take into account'' the effects of their actions on historic properties, and to allow the Advisory Council on Historic Preservation to comment on those actions.

The ''no action'' alternative would allow continuation of current management direction following the expiration of the current closure order in December 1998. The types of activities conducted on Cave Rock in recent years would continue without Forest Service interference or regulation. Expiration of the current closure order would enable climbers to install new bolts to create new routes.

Any additional alternatives to be considered, either in detail or eliminated from detailed study, would be created in response to significant issues raised during the public scoping process. The Forest Service conducted six months of collaboration meetings with stakeholders between January and May, 1998. Through these meetings, the following concerns were identified:

Cave Rock is a Washoe sacred site—a church—that should be designated a National Monument and not allowed to be defaced and devalued by rock climbing. Climbers at Cave Rock are an objectionable example of the Washoe Tribe being excluded from the Tahoe Basin and their heritage. Climbers should climb elsewhere. Graffiti and concrete in the cave should be removed. Even further, that all use of Cave Rock should be prohibited in honor of the Washoe tradition of avoidance of the area except by those special Washoe spiritual leaders who are ''born to Cave Rock.'' Any closure should affect all user groups and not single out just one; that all activities desecrate Cave Rock; climbing is equal with these other activities. And finally, that Cave Rock should be returned to the Washoe Tribe to enable their reconnection to the lands that they lost.

Conversely, additional concerns were raised that Cave Rock is public land that should be available to all, to enjoy and learn about other cultures, in a way that accommodates the needs of different groups; a place where users respect the values of others. if a site is designated on the National Register, the Forest Service should ensure that the public can visit. Further, some people expressed that the highway/highway tunnel have impacted Cave Rock so dramatically that it is incorrect to assume that the historic property retains integrity.

Scoping letters have been sent to all those who expressed an interest in the Cave Rock planning process since 1996. The mailing list includes over 140 individuals and agencies. The scoping letter will also be posed in the LTBMU Web Page. Government-to-government consultation is continuing with the Washoe Tribe. A drop-in public workshop, to be announced in the Tahoe Daily Tribune and in the scoping letter, will be held on February 25, 1999, at the Kahle Community Center (236 Kingsbury Grade in Stateline, Nevada) between the hours of 3:00 pm and 7:30 pm. Written comments and suggestions postmarked by March 1, 1999, as well as any oral comments received, will be addressed in the draft EIS.

Implementation of the management proposal would not require any permits or licenses from any other agency. Consultation with the Nevada State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) is required. Preliminary consultation has already occurred with the U.S. Fish and Wildlife Service.

The decision will be made by Lake Tahoe Basin Management Unit Forest Supervisor, as the Forest Service is the lead agency under NEPA. There is no other joint lead agency nor cooperating agencies under NEPA.

The draft EIS is anticipated to be filed with the Environmental Protection Agency and made available to the public for comment in June, 1999. The final EIS and its Record of Decision is expected in October, 1999. The decision will be appealable under Forest Service regulations found at 36 CFR 217.

The comment period for the draft EIS will be at least 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435, U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Circuit, 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: January 13, 1999.

Juan Palma,

Forest Supervisor.

[FR Doc. 99–1583 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Egg, Chicken, and Turkey Surveys.

DATES: Comments on this notice must be received by March 31, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Egg, Chicken, and Turkey Surveys.

OMB Number: 0535–0004.

Expiration Date of Approval: May 31, 1999.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Egg, Chicken, and Turkey Program obtains basic poultry statistics from voluntary cooperators throughout the Nation. The data are used to prepare and issue current State and national estimates. Statistics are published on placement of pullet chicks for hatchery supply flocks, hatching reports for broiler-type, egg-type, and turkey eggs, number of layers on hand, total table egg production, non-federally inspected poultry slaughter, and production, disposition, and income estimates for eggs, chickens, and turkeys. Non-federally inspected poultry slaughter data are obtained from State Departments of Agriculture.

This statistical information issued by producers, processors, feed dealers, and others in the marketing and supply channels as a basis for production and marketing decision. Government agencies use these estimates to evaluate poultry product supplies. The information is an important consideration in government purchases for the school lunch program and in formulation of export-import policy. The Egg, Chicken, and Turkey Surveys have approval from OMB for a 3-year period. NASS intends to request that the surveys be approved for another 3 years.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 7,100.

Estimated Total Annual Burden on Respondents: 4,145 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

COMMENTS: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., January 11, 1999.

Rich Allen,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 99–1613 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Mill Creek Watershed, PA

AGENCY: USDA—Natural Resources Conservation Service, DOA.

ACTION: ''Notice of a Finding of No Significant Impact''.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR, Part 1500); and the Natural Resources Conservation Service (formerly the Soil Conservation Service) Guidelines (7 CFR, Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mill Creek Watershed, Clarion and Jefferson Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Oertly, State Conservationist, USDA-Natural Resources Conservation Service, One Credit Union Place, Suite 340, Harrisburg, Pennsylvania 17110–2993, telephone (717) 237–2202; fax (717) 237–2239.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Janet L. Oertly, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for water quality improvement. The planned works of improvement involve fifty-eight treatment sites that are the source of ground and surface water pollution. Treatment of these sites will involve the installation of waterways, diversions, and passive treatment systems.

The ''Notice of a Finding of No Significant Impact'' (FONSI) has been forwarded to the U.S. Environmental Protection Agency. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The environmental assessment

and basic data may be reviewed by contacting Janet L. Oertly.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

[FR Doc. 99–1597 Filed 1–22–99; 8:45 am]

BILLING CODE 3410–16–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 has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with our regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: January 25, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with 19 CFR 351.213(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than December 31, 1999.

	Period to be reviewed
Antidumping Duty Proceedings	
Canada: Elemental Sulphur A–122–047	12/1/97–11/30/98
Husky Oil Limited	
Petrosul International	
India: Certain Stainless Steel Wire Rod A–533–808	12/1/97–11/30/98
Panchmahal Steel Limited	
Viraji Alloys Ltd.	
Japan: Polychloroprene Rubber A–588–046	12/1/97–11/30/98
Denki Kagaku Kogyo Kabushiki Kaisha	
Tosoh Corporations	
Mexico: Porcelain-On-Steel Cooking Ware A–201–504	12/1/97–11/30/98
Cinsa, S.A. de C.V.	
Esmaltactiones de Norte America, S.A. de C.V.	
Republic of Korea: Welded ASTM A–312 Stainless Steel Pipe A–580–810	12/1/97–11/30/98
SeAH Steel	
Taiwan: Welded ASTM A–312 Stainless Steel Pipe A–583–815	12/1/97–11/30/98
Ta Chen Stainless Steel Pipe	
The People's Republic of China: Silicomanganese [1] A–570–828	12/1/97–11/30/98
Guangxi Bayi Ferroalloy Works	
Sichuan Emei Ferroalloy Import and Export Co., Ltd	
The People's Republic of China: Porcelein-on-Steel Cooking Ware [2] A–570–506	12/1/97–11/30/98
Clover Enamelware Enterprises Ltd./Lucky Enamelware Factory Limited	
Countervailing Duty Proceedings:	
None.	
Suspension Agreements:	
None.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of silicomanganese from the People's Republic of China who have not qualified for a separate rate are deemed to be coverted 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 porcelain-on-steel cooking ware from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: January 19, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–1641 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–408–046]

Sugar From the European Community: Extension of Time Limit for Preliminary Results of Five-Year Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of five-year (''sunset'') review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the sunset review on the countervailing duty order on sugar from the European Community. Based on adequate responses from domestic and respondent interested parties, the Department is conducting a full sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy. As a result of this extension, the Department intends to issue its preliminary results not later than April 19, 1999.

EFFECTIVE DATE: January 25, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230; telephone: (202) 482–6397, or (202) 482–1560 respectively.

SUPPLEMENTARY INFORMATION:

Extension of Preliminary Results

The Department has determined that the sunset review of the countervailing duty order on sugar from the European Community is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. The Department is extending the time limit for completion of the preliminary results of this review until not later than April 19, 1999, in accordance with section 751(c)(5)(B) of the Act. The final results of this review will, therefore, be due not later than August 27, 1999.

Dated: January 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–1642 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Stainless Steel Plate From Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 25, 1999.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping order on stainless steel plate from Sweden covering the period June 1, 1997 through May 31, 1998.

FOR FURTHER INFORMATION CONTACT: Jonathon Lyons or Nithya Nagarajan, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–0374 or 482–4243, respectively.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department may extend the deadline for completion of an administrative review if its determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that is not practicable to complete the review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa (January 11, 1999).

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until June 30, 1999.

Dated: January 14, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–1510 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–085]

Sugar and Syrups From Canada: Extension of Time Limit for Preliminary Results of Five-Year Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of five-year (''sunset'') review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the sunset review on the antidumping duty order on sugar and syrups from Canada. Based on adequate responses from domestic and respondent interested parties, the Department is conducting a full sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping. As a result of this extension, the Department intends to issue its preliminary results not later than April 19, 1999.

EFFECTIVE DATE: January 25, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230; telephone: (202) 482–6397, or (202) 482–1560 respectively.

Extension of Preliminary Results

The Department has determined that the sunset review of the antidumping duty order on sugar and syrups from Canada is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). *See* section 751(c)(6)(C) of the Act. The Department is extending the time limit for completion of the preliminary results of this review until not later than April 19,

1999, in accordance with section 751(c)(5)(B) of the Act. The final results of this review will, therefore, be due not later than August 27, 1999.

Dated: January 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–1511 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Jessie W. Taylor From an Objection by South Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On December 28, 1998, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Mr. Jessie W. Taylor (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to fill wetlands to construct a commercial business on the property. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with the State's federally approved Coastal Management Program (CMP). The State of South Carolina's coastal management agency reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA) 16 U.S.C. 1456(c)(3)(A).

On March 11, 1996, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed project is not consistent with the enforceable policies contained in the State's coastal management program. Under CZMA section 307 (c)(3)(A) and 15 CFR 930.131, the State's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the State and interested Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121: First, the proposed project furthers one or more of the competing national objectives or purposes of the CZMA by minimally contributing to the national interest in economic development of the coastal zone. Second, the proposed project, including the Appellant's mitigation measure, will have minimal individual and cumulative adverse effects on coastal wetlands. These minimal adverse coastal effects based on this record are not substantial enough to outweigh the activity's minimal contribution to the national interest in economic development of the coastal zone. Third, the proposed activity will not violate the requirements of the Clean Water Act or the Clean Air Act. Fourth, there is no reasonable alternative available to the Appellant that would permit the activity to be conducted in a manner consistent with the State's coastal management program. Accordingly, the proposed project is consistent with the objectives or purposes of the CZMA. Because the Appellant's proposed project satisfied all of the requirements of Ground I, the Secretary overrode the State's objection to the Appellant's consistency certification. Consequently, the proposed project may be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

Karl Gleaves, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713–2967.

Dated: January 12, 1999.

Monica Medina,

General Counsel.

[FR Doc. 99–1598 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Stamp for Certain Textile Products Produced or Manufactured in the Republic of Maldives

January 19, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa stamp.

EFFECTIVE DATE: January 27, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

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.

Effective on January 27, 1999, a new export visa stamp will be required for shipments of textile products, produced or manufactured in Maldives and exported from Maldives on or after December 10, 1998. The new stamp reflects the name change of ''CUSTOMS MALDIVES'' to ''MALDIVES CUSTOMS SERVICE'' but is otherwise unchanged. There will be a grace period from December 10, 1998 through February 28, 1999, during which products exported from Maldives may be accompanied by either the old or new export visa stamp. Products exported from Maldives on or after March 1, 1999 must be accompanied by the new export visa stamp.

A facsimile of the new visa stamp is on file at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., room 3104, Washington, DC.

See 47 FR 36879, published on August 24, 1982.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 19, 1999.

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 August 18, 1982, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain cotton, wool and man-made fiber apparel, produced or manufactured in Maldives for which the Government of the Republic of Maldives has not issued an appropriate export visa.

Effective on January 27, 1999, you are directed to amend further the directive dated August 18, 1982 to provide for the use of a new export visa stamp issued by the Government of the Republic of Maldives to accompany shipments of textile products, produced or manufactured in Maldives and exported from Maldives on or after December 10, 1998. This new visa stamp reflects the name change of ''CUSTOMS MALDIVES'' to ''MALDIVES CUSTOMS SERVICE'' but is otherwise unchanged.

Textile products exported from Maldives during the period December 10, 1998 through February 28, 1999 may be accompanied by either the old or new export visa stamp. Products exported from Maldives on or after

March 1, 1999 must be accompanied by the new export visa stamp.

A facsimile of the new visa stamp is enclosed with this letter.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–1532 Filed 1–22–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Cantor Financial Futures Exchange, Inc. for Designation as a Contract Market in Flexible Coupon U.S. Treasury Bond and 10-Year, 5-Year and 2-Year U.S. Treasury Note Futures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed terms and conditions for applications for contract market designation.

SUMMARY: The Cantor Financial Futures Exchange, Inc. (CFFE or Exchange) has applied for designation as a contract market in flexible coupon U.S. Treasury bond and flexible coupon 10-year, 5-year and 2-year U.S. Treasury note futures. The proposals were submitted under the Commission's 45-day Fast Track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before February 9, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary @cftc.gov. Reference should be made to the CFFE flexible coupon U.S. Treasury bond and 10-year, 5-year and 2-year U.S. treasury note futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581, telephone (202) 418–5278. Facsimile number: (202) 418–5527. Electronic mail: tleahy@cftc.gov.

SUPPLEMENTARY INFORMATION: The proposed designation applications were submitted pursuant to the Commission's Fast Track procedures for streamlining the review of futures contract rule amendments and new contract approvals (62 FR 10434). Under those procedures, the proposals, absent any contrary action by the Commission, may be deemed approved at the close of business on March 1, 1999, 45 days after receipt of the proposals. In view of the limited review period provided under the Fast Track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the proposed terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at 222.cftc.gov under ''What's New & Pending''.

Other materials submitted by the CFFE in support of the proposals may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposals, or with respect to other materials submitted by the CFFE, should send other comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 19, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–1582 Filed 1–22–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered will include a discussion of an initiative to examine labor relations training, and labor-management partnership affecting the Department's civilian workforce and other topics related to the enhancement of Labor-Management partnerships throughout DoD.

DATES: The meeting is to be held February 23, 1999, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by February 16, 1999, in order to be considered at the February 23 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address show below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd., Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: January 19, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–1564 Filed 1–22–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Panel on Commercialization and Globalization in the U.S. Defense Establishment

AGENCY: Department of Defense, Defense Policy Board Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The Defense Policy Board Panel on Commercialization and Globalization in the U.S. Defense Establishment met in closed session at the Pentagon on January 13, 1999, from 0800 to 1600. As a subcommittee of the Defense Policy Board, the Panel will be preparing findings for deliberation by the Defense Policy Board and therefore is exempt from coverage of the Federal Advisory Committee Act, as permitted by DoDD 5105.4(D)(3)(h). Nonetheless, a determination has been made to close this meeting and publish its schedule in the **Federal Register.** The notice for this meeting was delayed due to the need to finalize the panel's schedule and membership, which was not achieved in time to permit prior notification.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Panel will hold classified discussions on national security matters, focusing on assessing commercialization and globalization activities of the Department of Defense.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that this meeting concerns matters listed in 5 U.S.C. § 552B(c)(1)(1982), and that accordingly this meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Contact CDR Randy Lovdahl, Defense Policy Board Advisory Committee, on (703) 697–4557.

Dated: January 14, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–1566 Filed 1–22–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Information Technology Advisory Committee (Formerly the Presidential Advisory Committee on High Performance Computing and Communications, information Technology, and the Next Generation Internet)

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the President's Information Technology Advisory Committee. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act, (Pub. L. 92–463).

DATES: February 17, 1999.

ADDRESSES: NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

PROPOSED SCHEDULE AND AGENDA: The President's Information Technology Advisory Committee (PITAC) will meet in open session from approximately 8:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:00 p.m. on February 17, 1999. This meeting will include discussions on PITAC's final report to the President, including reports from PITAC panels on: socio-economic and workforce issues; high-end computing; software; scalable infrastructure; modes of research and funding; and management. Time will also be allocated during the meeting for public comments by individuals and organizations.

FOR FURTHER INFORMATION CONTACT: The National Coordination Office for Computing, Information, and Communications provides information about this Committee on its web site at: http://www.ccic.gov; it can also be reached at (703) 306–4722. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: January 12, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–1565 Filed 1–22–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for the Real Property Master Plan, Fort Sill, OK

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: This announces the intention of the U.S. Army Field Artillery Center and Fort Sill, Fort Sill, Oklahoma, to prepare an Environmental Impact Statement (EIS) in support of revisions to the installation's Real Property Master Plan (RPMP). The purpose is to evaluate the environmental impacts associated with the RPMP's implementation.

ADDRESSES: Written comments may be forwarded to the U.S. Army Corps of Engineers, ATTN: CESWT–PE–E (J. Randolph), P.O. Box 61, Tulsa, Oklahoma 74121–0061.

FOR FURTHER INFORMATION CONTACT: Mr.Bob Kerr, Directorate of Environmental Quality, U.S. Army Field Artillery Center and Fort Sill, at 580–442–3409.

SUPPLEMENTARY INFORMATION: The Fort Sill RPMP has the potential to significantly impact certain natural, economic, social, and cultural resources of the Fort Sill community. The study area for environmental analysis will be the entire Fort Sill installation. The objective is to provide a comprehensive and programmatic EIS which will serve as a planning tool, a public information source, and a reference for mitigation tracking.

Alternatives may consist of alternate locations for specific projects, partial implementation of the specific project, or other modification of the specific project. The alternatives will be developed during preparation of the draft EIS (DEIS) as a result of public input and of environmental analysis of the proposals within the plan.

Significant Issues: The Fort Sill reservation contains approximately 94,221 acres of land. Some of this land serves as potential habitat for protected species of wildlife. Of the areas within the installation that have been surveyed to date for cultural resources, 832 properties have been identified and recorded. Nearly all of the current and proposed RPMP projects are sited within the 6,015 acre cantonment area, where the majority of the installation's historic buildings are located.

The significant issues the EIS will analyze include the following:

1. Development of a large deployment marshaling area near an existing railhead facility: Whereby, new railroad tracks, loading docks, switching facilities, hardstand areas, and fencing would be developed.

2. Redesignation of land use: Whereby, land use zoning would be redesignated to provide for the construction of new and expansion of existing motor pool areas.

3. Probable construction projects: Whereby, the following projects would be completed: (1) new multiple launch rocket system (MLRS) range firing points in the training areas; (2) a liquid fuel facility; (3) a unit movements facility; and (4) a con-tingency warehouse.

Public scoping meetings will be held in the vicinity of Fort Sill to facilitate input to the EIS process by citizens and organizations. The date and time of these meetings will be announced to the general media and will be at times and locations convenient to the public. To be considered in the Draft EIS, comments and suggestions should be received not later than 15 days following the public scoping meeting.

Dated: January 14, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA(I,L&E).

[FR Doc. 99–1544 Filed 1–22–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a Computer Matching Program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The Department of Defense (DoD), as the matching agency under the Privacy Act, is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between the Department of the Treasury and DoD that their records are being matched by computer. The record subjects are delinquent debtors of the Bureau of the Public Debt, Department of the Treasury, who are current or former Federal employees receiving any Federal salary or benefit payments and who are indebted or delinquent in their repayment of debts to the United States Government under certain programs administered by the Public Debt.

DATES: This proposed action will become effective February 24, 1999 and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Department of the Treasury and the Defense Manpower Data Center (DMDC) have concluded an agreement to conduct a computer matching program. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal Government so that the Bureau can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between the Department of the Treasury and DMDC is available to the public upon request. Requests should be submitted to the address caption above or to the Debt Collection Officer, Bureau of Public Debt, Hintgen Building, Room 114, P.O. Box 1328, Parkersburg, WV 26106–1328.

Set forth below is the notice of the establishment of the computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989, at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on January 12, 1999, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 19, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

COMPUTER MATCHING PROGRAM BETWEEN THE DEPARTMENT OF THE TREASURY/BUREAU OF PUBLIC DEBT, AND THE DEFENSE MANPOWER DATA CENTER AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION.

A. *Participating agencies:* Participants in this computer matching program are the Bureau of Public Debt, Department of the Treasury and the Defense Manpower Data Center (DMDC), Department of Defense (DoD). The Bureau of Public Debt is the source agency, i.e., the agency disclosing the records for the purpose of the match. DMDC is the specific recipient or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of the match is to identify and locate any matched Federal personnel, employed, serving or retired, who owe delinquent debts to the Federal Government under certain programs administered by the Bureau of Public Debt. The Bureau will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982, as amended, when voluntary payment is not forthcoming. These collection efforts will include requests by the Bureau of the military service/employing agency in the case of military personnel (either active, reserve, or retired) and current non-postal civilian employees, and to the Office of Personnel Management in the case of retired non-postal civilian employees to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Public Law 97–365), as amended by the Debt Collection Improvement Act of 1996 (Public Law 104-134, section

31001); 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 135, Under Secretary of Defense (Comptroller) Section 101(l) of Executive Order 12731; 4 CFR 101.1-105.3, Federal Claims Collection Standards; 5 CFR 550.1101 550.1108 Collection by Offset from Indebted Government Employees (OPM) and 31 CFR Part 5, Subparts B and D (Department of Treasury).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, from which records will be disclosed for the purpose of this computer match are as follows:

1. The Bureau of Public Debt will use personal data from the following record systems for the match:

A. Treasury/BPD.001, entitled 'Human Resources and Administrative Records,' last published in the Federal Register at 63 FR 69936, December 17, 1998.

B. Treasury/BPD.002, entitled 'United States Savings Type Securities,' last published in the Federal Register at 63 FR 69938, December 17, 1998.

C. Treasury/BPD.003, entitled 'United States Securities (Other than Savings Type Securities),' last published in the Federal Register at 63 FR 69940, December 17, 1998.

D. Treasury/DO.002, entitled 'Treasury Integrated Management Information System (TIMIS),' last published in the Federal Register at 63 FR 69719, December 17, 1998.

E. Treasury/DO.210, entitled 'Treasury Integrated Financial Management and Revenue System,' last published in the Federal Register at 63 FR 69741, December 17, 1998.

F. Treasury/DO.211, entitled 'Telephone Call Detail Records,' last published in the Federal Register at 63 FR 69743, December 17, 1998.

2. DOD will use personal data from the record system identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Database,' last published in the Federal Register at 61 FR 32779, June 25, 1996.

E. *Description of computer matching program:* The Bureau of Public Debt, as the source agency, will provide DMDC with an electronic file which contains the names of delinquent debtors in programs the Bureau administers. Upon receipt of the electronic file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the Bureau's file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB and the Treasury Department, consists of employment records of non-postal Federal employees and military members, active and retired. The 'hits' or matches will be furnished to the Bureau. The Bureau is responsible for verifying and determining that the data on the DMDC reply tape file are consistent with the Bureau's source file and for resolving any discrepancies or inconsistencies on an individual basis. The Bureau will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file provided by the Bureau of Public Debt will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for each debtor on approximately 2000 delinquent debtors. The electronic file provided by DMDC will contain an individual's name, SSN, military service or employing agency and current work or home address.

The DMDC computer database file contains approximately 4.8 million records of active duty and retired military members, including Reserve and Guard, and approximately 3.5 million records of active and retired non-postal Federal civilian employees.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If the mandatory 30 day period for public comment has expired and if no objections are raised by either Congress of the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange of data at a mutually agreeable time on an annual basis. By agreement between the Department of the Treasury and DoD, the matching program will be in effect and continue for 18 months with an option to extend for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

H. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 99–1567 Filed 1–22–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Waukegan Harbor, Lake County, Illinois as Part of the Comprehensive Dredging Management Plan (CDMP)

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Chicago District maintains Waukegan Harbor, a Federally authorized, commercial deep-draft navigation project on Lake Michigan. Maintenance dredging has not been performed on inner portions of the harbor since 1971, due to elevated levels of contaminants in the sediment, particularly polychlorinated biphenyls (PCBs) and lack of an acceptable disposal site for confinement of these sediments. Sediment in the outermost portion of the Federal Channel beyond the breakwater, is clean, does not require confined disposal and has been dredged routinely since completion of the harbor.

The Chicago District has been working closely with the Illinois Environmental Protection Agency (IEPA), the U.S. Environmental Protection Agency (USEPA), The Waukegan Port District, and the Waukegan Citizen's Advisory Group (CAG) to develop a Comprehensive Dredging Management Plan for Waukengan Harbor. The plan has three primary objectives: (1) re-establish a regular maintenance dredging program for the inner harbor area; (2) deepen the navigation channels to accommodate more economical, deeper draft vessels; and (3) clean-up all contaminated unconsolidated sediment within the harbor. Approximately 550,000 cubic yards of sediments need to be removed from the harbor to meet these objectives. The EIS will evaluate sediment removal, transport, and disposal and management alternatives developed as part of the Waukegan Harbor CDMP.

FOR FURTHER INFORMATION CONTACT: Dr. Phil Moy, EIS Coordinator (312) 353–6400 extension 2021 or Ms. Joan Albert, Project Manager, (312) 353–6400 extension 2004; U.S. Army Corps of Engineers, Chicago District; 111 North

Canal Street; Chicago, Illinois 60606–7206.

SUPPLEMENTARY INFORMATION:

1. Background

Prior to 1969, sediment dredged from the Federal Channel was placed at an open-lake location. The discovery of elevated levels of contaminants has prohibited maintenance dredging and authorized expansion and deepening of the Federal Channel. Due to the lack of maintenance dredging, channel depth in some parts of the harbor has been reduced by as much as ten feet.

Due to the presence of PCBs in the sediment, Waukegan Harbor was designated as one of the Great Lake's Areas of Concern in 1981. State are required to prepare a Remedial Action Plan (RAP) for Great Lakes Areas of Concerns. The Waukegan Citizen's Advisory Group has been actively involved in the RAP process with the IEPA.

The PCB contamination originated in discharges primarily attributed to the Outboard Marine Corporation (OMC). Under the Federal Superfund authority, the USEPA and OMC developed a plan to cleanup the most severely PCB-contaminated sediment (>50 parts per million (ppm)); the cleanup was complete in 1993. Prior to completion of the cleanup, the maximum PCB concentration in the Federal Channel was 33.5 ppm. Today the maximum concentration of PCBs in the Federal Channel is 10.9, with an average of about 3.4 ppm.

2. Alternatives

The EIS will consider the potential impacts of alternatives for dredging and disposal of contaminated sediment removed from the inner areas of the harbor. These will include various means of dredging and sediment transport to the proposed disposal sites. Alternatives for deepening and ongoing maintenance of the Federal Channel will also be evaluated. The EIS will evaluate management alternatives for clean sediment dredged from the approach channel.

Current laws and environmental policies require that contaminated dredged material be confined or receive special treatment. Contaminated sediment can be placed at an approved commercial landfill or in a confined disposal facility (CDF) constructed for the harbor. Over 15 potential CDF sites for the Waukegan Harbor sediment were evaluated in a 1984 Study. Though several of the sites met the economic, technical, and environmental standards, lack of a nonFederal project sponsor or public support prevented the plan from oving forward to approval and implementation.

One of the original sites, a 17-acre, in-lake location south of Waukegan Harbor remains under consideration. Through cooperative efforts of the Waukegan CAG, and Federal and State agencies, a new upland site has been identified for consideration: an existing 33-acre industrial lagoon on the Johns-Manville property two miles north of the harbor.

It is anticipated that once the sediment cleanup is complete, new sediment that accumulates in the harbor would not require confined disposal. Therefore, any CDF constructed for the harbor cleanup would be capped and closed upon completion of the project.

3. Scoping Process

As part of the EIS process, a public scoping meeting will be held early in 1999. Public participation is an important part of the environmental analysis by providing assistance in determining the scope of issues to be addressed and identifying the significant issues of the proposed actions. Federal, State, and local resources agencies, Native American groups and concerned interest groups/individuals are encouraged to participate in this process. Time and location of the scoping meeting will be widely publicized through fliers, announcements and news releases. Those wishing to provide information or data they feel should be included or considered in the Environmental Impact Statement should furnish the information by writing to the points of contact indicated above or by attending the scoping meeting.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 99–1570 Filed 1–22–99; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF ENERGY

Golden Field Office; Hydrogen Technology Innovation

AGENCY: Office of Energy Efficiency and Renewable Energy, Golden Field Office, DOE.

ACTION: Notice of Supplemental Announcement (07) to the Broad Based Solicitation for Submission of Financial Assistance Applications Involving Research, Development, and Demonstration for Renewable Energy and Energy Efficiency Technologies, DE–PS36–99GO10383.

SUMMARY: The Hydrogen Program of the Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE) is issuing a Supplemental Announcement to EERE's Broad Based Solicitation for Submission of Financial Assistance Applications Involving Research, Development and Demonstration, DE–PS36–99GO10383, dated November 9, 1998. Under this Supplemental Announcement, DOE is seeking Phase I research and development (R&D) proposals that can advance hydrogen production, storage, and utilization technologies. The objective of Phase I is to develop detailed R&D plans to validate the proposed hydrogen concept, along with necessary preliminary R&D and the development of other supporting documentation.

Awards under this Supplemental Announcement will be Cooperative Agreements for Phase I research with a term of up to 12 months. Subject to funding availability, the total DOE funding available under this Supplemental Announcement will be $650,000, with individual awards not to exceed $150,000 of DOE funding.

All information regarding the Supplemental Announcement will be posted on the DOE Golden Field Office Home page at the address identified below.

DATES: DOE expects to issue the Supplemental Announcement on January 19, 1999. The closing date of the Supplemental Announcement is February 25, 1999.

ADDRESSES: The Supplemental Announcement will be posted on the DOE Golden Field Office Home Page at http://www.eren.doe.gov/golden/solicit.htm. It is DOE's intention not to issue hard copies of the Supplemental Announcement.

FOR FURTHER INFORMATION CONTACT: John Motz, Contract Specialist, at 303–275–4737, e-mail john__motz@nrel.gov, or Doug Hooker, Project Officer, at 303–275–4780, e-mail doug__hooker@nrel.gov.

Issued in Golden, Colorado, on January 19, 1999.

Dated: January 14, 1999.

Ruth E. Adams,

Contracting Officer, Golden Field Office.

[FR Doc. 99–1600 Filed 1–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–46–000]

Algonquin Gas Transmission Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed EMI-Tiverton Transportation Project and Request for Comments on Environmental Issues

January 19, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the proposed EMI-Tiverton Transportation Project to deliver natural gas to a gas fired electric generating facility to be constructed near Tiverton, Rhode Island.[1] This project would involve uprating the pipeline pressure of Algonquin's mainline pipeline from 750 to 900 Pounds per Square Inch Gauge (PSIG) Maximum Allowable Operating Pressure (MAOP) between Burrillville, Rhode Island and Mendon, Massachusetts. It would include the replacement of approximately 2.3 miles of various diameter pipeline, the construction of a new meter station at Tiverton, Rhode Island, and the uprating of turbine compressors at the Chaplin Compressor Station in Chaplin, Connecticut. 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. The application 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.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. 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. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Algonquin Gas Transmission Company (Algonquin) wants to expand the capacity of its facilities in Rhode Island and Massachusetts to provide up to 46,000 Dekatherms per day (Dth/d) of service to Tiverton Power Associates Limited Partnership's (Tiverton) natural gas-fired electric generation facility being constructed in Tiverton, Rhode Island. Algonquin seeks authorization to:

- Uprate pressure of approximately 20 miles of Agonquin's mainline pipeline from 750 to 900 PSIG MAOP.
- Replace 7,710 feet of 30-inch-diameter pipeline beginning east of Albee Road in Uxbridge, Massachusetts, to west of Hill Street in Millville, Massachusetts (between MP 9.85 and MP 11.31);
- Replacement of 1,520 feet of 30-inch-diameter pipeline between Sherman Road in Burrillville, Rhode Island, and Douglas Pike in Uxbridge, Massachusetts (between milepost [MP] 5.19 and MP 5.48);
- Replace 2,211 feet of the 10-inch-diameter G–13 Pipeline west of Thayer Road in Mendon, Massachusetts (between MP 14.86 and MP 15.28);
- Construct a 8-inch tap, new regulator, approximately 545 feet of 10-inch-diameter tie-in, and meter station on the Tiverton power plant site in Tiverton, Rhode Island.

Uprate the horsepower of two Solar Turbines Incorporated Taurus 70S turbines at the Chaplin Compressor Station in Chaplin, Connecticut, from 6,500 horsepower (hp) to 6,950 hp each;

- Replace numerous short lengths of 30-inch diameter pipeline at: Cemetery Road in Uxbridge, Massachusetts (near MP 5.93); at two crossings of King Street in Uxbridge, Massachusetts (near 5.93 and MP 6.35); at Chester Street in Uxbridge, Massachusetts (near MP 7.94); at Albee Road in Uxbridge, Massachusetts (near MP 9.75); at Mendon Street in Blackstone, Massachusetts (near MP 12.25); at Thayer Road in Mendon, Massachusetts (near MP 15.37).
- Install a regulator at Valve 38A–2 (Ocean State Tap) located west of Douglas Pike in Burrillville, Rhode Island (near MP 5.41);
- Remove and replace Mainline Valve 39–2 located east of Kempton Road in Millville, Massachusetts (near MP 10.41);
- Install a new mainline regulator valve upstream of the G–1 Tap along the 30-inch-diameter loop west of Thayer Street in Mendon, Massachusetts (near MP 15.28); and

2. The location of the project facilities is shown in appendix.

Land Requirements for Construction

The proposed pipeline replacement sections would require the use of Algonquin's existing rights-of-way and at some locations require an additional 20-foot-wide temporary work space to facilitate construction. The total lands necessary for the project will be approximately 36 acres.

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 the proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and Soils.
- Water Resources, Fisheries, and Wetlands.
- Vegetation and Wildlife.
- Endangered and Threatened Species.
- Public Safety.
- Land Use.
- Cultural Resources.
- Air Quality and Noise.

[1] Algonquin Gas Transmission Company'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, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource 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 below.

Currrently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Algonquin. This preliminary list of issues may be changed based on your comments and our analysis.

- Seven waterbodies and thirteen wetlands would be crossed by the project.
- Approximately 4.0 acres of upland forest would be cleared.
- The new meter station would be constructed within the watershed for Stafford Pond, a Special Resource Protection Water for Rhode Island.

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, alternatives to the proposal (including alternative locations), 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. CP99–46–000; and
- Mail your comments so that they will be received in Washington, DC on or before February 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.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. 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. 99–1536 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–151–000]

ANR Pipeline Company; Notice of Application

January 19, 1999.

Take notice that on January 12, 1999, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP99–151–000 an application pursuant to Section 7(c) of the Commission's Regulations under the Natural Gas Act for authorization associated with a pipeline replacement project in Porter County, Indiana, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to use temporary work space and limited additional right-of-way to perform the replacement of 1.63 mile segments of both its 22-inch main line and 30-inch loop line with heavier wall pipe to continue to meet the DOT safety requirements in the affected area of Porter County, Indiana. ANR states that the replacement will not alter the associated pipeline's capacity, and that there will be no interruptions of service as a result of the replacement project because ANR will be able to flow volumes through parallel facilities. It is also stated that the cost of the project including the replacement performed under Section 2.55(b) of the regulations is about $4,494,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1999, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of

Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–1539 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–149–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

January 19, 1999.

Take notice that on January 12, 1999, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed a request with the Commission in Docket No. CP99–149–000, pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon certain inactive delivery facilities authorized in blanket certificate issued in Docket No. CP82–430–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon by removal a 2-inch tap, meter station and approximately 21 feet of 2-inch pipeline formerly serving Georgia Pacific Corporation (Georgia Pacific) an end user, in Marion County, Mississippi. Koch Gateway states that these facilities were originally installed to provide natural gas service to Georgia Pacific's chipping mill and dry kiln near Columbia, Mississippi. Koch Gateway further states that Georgia Pacific has converted to propane service as its alternate source of energy and has requested Koch Gateway to permanently disconnect the natural gas service at this location.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 99–1537 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP99–150–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

January 19, 1999.

Take notice that on January 12, 1999, NorAm Gas Transmission Company (NGT), 1111 Louisiana, Houston, Texas 77002–5231, filed in Docket No. CP99–150–000 a request pursuant to Sections 157.205 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to abandon, construct, and operate certain facilities in Arkansas under NGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection

NGT specifically requests authority to (1) abandon a 6-inch tap and relocate the existing skid mounted meter station located on Line LM–2 to a new location on Line BT–1; and (2) construct and operate a 2-inch tap on Line BT–1 and 380 feet of 4-inch diameter pipe (line BT–20) to continue to provide reliable service to Reynolds Metals Company (Reynolds). The estimated volumes to be delivered to this tap are approximately 442,000 Dth annually and 1,450 Dth on a peak day. The facilities will be constructed at an estimated cost of $6,700 and Reynolds will reimburse NGT all of the construction costs.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–1538 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP92–202–000]

PNM Gas Services, a Division of Public Service Company of New Mexico; Notice Reflecting Change in Name

January 19, 1999.

On January 28, 1997, PNM Gas Services, a Division of Public Service Company of New Mexico (PNM Gas Services) (formerly known as Gas Company of New Mexico) filed an application with the Commission to redesignate the name on the certificates of public convenience and necessity issued in the above-captioned proceeding from Gas Company of New Mexico, a Division of Public Service Company of New Mexico (GCNM) to PNM Gas Services, a Division of Public Service Company of New Mexico. That redesignation will allow the certificates to accurately identify the entity holding them. No substantive changes in ownership, corporate structure or domicile, or jurisdictional operations are involved.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 9,

1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–1534 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–248–010 and CP96–249–010]

Portland Natural Gas Transmission System; Notice of Amendment to Initial FERC Gas Tariff

January 19, 1999.

Take notice that on January 13, 1999, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheets:

Substitute Original Sheet No. 3
Substitute Original Sheet No. 301
Substitute Original Sheet No. 303
Substitute Original Sheet No. 323
Substitute Original Sheet No. 349
Substitute Original Sheet No. 351
Substitute Original Sheet No. 352
Substitute Original Sheet No. 366
Substitute Original Sheet No. 380
Substitute Original Sheet No. 600

PNGTS proposes to place the above tariff sheets, amending its December 11, 1998 tariff filing, into effect on the expected in-service date of its pipeline, February 11, 1999. PNGTS states that these amended tariff sheets will more fully implement the Gas Industry Board Standards, provide expiration dates for all contracts listed in the Index of Shippers, and make a correction to the Preliminary Statement.

PNGTS states that copies of this filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings as well as PNGTS customers and interested state commissions. However, PNGTS states that 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. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–1535 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–57–000, et al.]

Magellan Cogeneration, Inc., et al.; Electric Rate and Corporate Regulation Filings

January 15, 1999.

Take notice that the following filings have been made with the Commission:

1. Magellan Cogeneration Inc.

[Docket No. EG99–57–000]

On January 11, 1999, Magellan Cogeneration Inc. (MCI) filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

MCI will acquire a 63 MW eligible facility located in Rosario, Cavite, the Philippines. MCI states that, following the close of the acquisition, it will be engaged directly and exclusively in the business of owning and/or operating all or part of an eligible facility (as defined in Section 32(a)(1) of the Public Utility Holding Company Act); selling electricity at wholesale to the National Power Corporation of the Philippines and at wholesale Cavite Export Processing Zone Authority, a government corporation operating under the laws of the Philippines; and, possibly, selling electricity at retail to customers none of which will be located within the United States.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. San Diego Gas & Electric Company, Cabrillo Power I LLC, and Cabrillo Power II LLC

[Docket No. EC99–26–000]

Take notice that on January 12, 1999, San Diego Gas & Electric Company (SDG&E), Cabrillo Power I LLC (Cabrillo I) and Cabrillo Power II LLC (Cabrillo II) tendered for filing pursuant to Section 203 of the Federal Power Act, an application for Commission approval to effect assign two jurisdictional Reliability Must-Run Agreements (the RMR Agreements). The RMR Agreements, between SDG&E and the California Independent System Operator Corporation relate to the operation of SDG&E's Encina Generating Station (the Encina station) and SDG&E, Cabrillo I and Cabrillo II have requested that the Commission approve the assignments on or before February 28, 1999.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

[Docket Nos. EC96–19–047 and ER96–1663–049]

Take notice that on January 8, 1999, the California Independent System Operator Corporation tendered for filing amendments to its Bylaws in connection with the Commission's November 24, 1998 order, 85 FERC ¶ 61,263 (1998).

Copies of the filing were served upon all the parties in the above-captioned proceedings.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Harbor Cogeneration Company

[Docket No. EG99–58–000]

On January 13, 1999, Harbor Cogeneration Company filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Harbor Cogeneration is a general partnership formed under the laws of the State of California for the primary purpose of owning and operating a cogeneration facility located in the Wilmington Oil Field in Los Angeles County, California, near the city of Long Beach. The business offices of Harbor Cogeneration are located at 1075 Noel Road, Wheeling, Illinois.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Coastal Power Panama Investor, S.A.

[Docket No. EG99–59–000]

Take notice that on January 13, 1999, Coastal Power Panama Investor, S.A. (Applicant), Dresdner Bank Tower, Ninth Floor, 50th Street, Panama City, P.O. Box 8376, Panama 7, Republic of Panama, filed with the Federal Energy Regulatory Commission an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

Applicant, a Panamanian sociedad anonima, intends to own beneficial interests in certain power generating facilities in Panama. These facilities will consist of approximately a 300 MW hydroelectric power generating facility in Chiriqui province, Panama.

Comment date: February 5, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Long Beach Generation LLC

[Docket No. ER98–2537–001]

Take notice that on January 11, 1999, Long Beach Generation LLC (Long Beach), tendered for filing a supplement to the compliance refund report that it had filed for approval in the above-referenced docket on December 30, 1998.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Storm Lake Power Partners II LLC

[Docket No. ER99–1228–000]

Take notice that on January 11, 1999, Storm Lake Power Partners II LLC (Storm Lake II), tendered for filing its initial Rate Schedule FERC No. 2, governing sales of electric energy and capacity at market-based rates. The filing was made to replace the Application filed on January 8, 1999 in the above-referenced docket. Storm Lake II is developing a wind-powered generation facility in Buena Vista County, Iowa. Following construction of the facility, Storm Lake II will make sales of capacity and energy at market-based rates to IES Utilities, Inc. (IES) pursuant to an Alternative Energy Production Electric Service Agreement (the Power Purchase Agreement or PPA).

The PPA was originally executed by IES and Northern Alternative Energy Allendorf L.L.C. (NAEA) on May 14, 1997. NAEA assigned the PPA to Storm Lake II pursuant to an agreement dated November 19, 1998.

Copies of the filing were served upon IES, Storm Lake II's jurisdictional customer.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company

[Docket No. ER99–1230–000]

Take notice that on January 11, 1999, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with South Carolina Public Service Authority and GPU Energy under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the unexecuted Agreements originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Western Resources, Inc.

[Docket No. ER99–1231–000]

Take notice that on January 11, 1999, Western Resources, Inc., tendered for filing agreements between Western Resources and Aquila Power Corporation, ConAgra Energy Services, Inc., and Wisconsin Electric Power Company. Western Resources states that the purpose of the agreements is to permit the customers to take service under Western Resources' market-based power sales tariff on file with the Commission.

The agreements are proposed to become effective December 17, 1998, January 1, 1999, and December 7, 1998.

Copies of the filing were served upon Aquila Power Corporation, ConAgra Energy Services, Inc., Wisconsin Electric Power Company, and the Kansas Corporation Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER99–1232–000]

Take notice that on January 11, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with New Energy Ventures, Inc.

Wisconsin Electric respectfully requests an effective date of January 8, 1999, to allow for economic transactions.

Copies of the filing have been served on New Energy Ventures, Inc., the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER99–1233–000]

Take notice that on January 11, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 10–1, to add Allegheny Energy, DTE CoEnergy, DTE Edison America, Enserch Energy Services, Inc., Exelon Energy, First Energy Services, Green Mountain Energy Resources, L.L.C., New Energy Ventures, Nicole Energy Services, Penn Power Energy, Inc., PP&L EnergyPlus Company, PSEG Energy Technologies, Strategic Energy Ltd., West Penn Power Company, and Worley & Obetz, Inc., to Allegheny Power's Open Access Transmission Service Tariff.

The proposed effective date under the agreements is January 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER99–1234–000]

Take notice that on January 11, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, an Agreement dated October 15, 1998 with Consolidated Edison Solutions, Inc. (Con Edison Solutions) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of January 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Con Edison Solutions and to the Pennsylvania Public Utility Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER99–1235–000]

Take notice that on January 11, 1999, PECO Energy Company (PECO) tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, an Agreement dated November 20, 1998 with NEV East, L.L.C. (NEV East), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of January 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to NEV East and to the Pennsylvania Public Utility Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER99–1236–000]

Take notice that on January 11, 1999, Florida Power Corporation (Florida Power), tendered for filing a service agreement for Network Contract Demand Transmission Service and a Network Operating Agreement between itself and Seminole Electric Cooperative, Inc., pursuant to Florida Power's open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on January 1, 1999.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas And Electric Co./ Kentucky Utilities Company

[Docket No. ER99–1237–000]

Take notice that on January 11, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Firm Point-To-Point Transmission Service between LG&E/ KU and Strategic Energy Ltd., under LG&E/KU's Open Access Transmission Tariff.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas And Electric Co. and Kentucky Utilities Company

[Docket No. ER99–1238–000]

Take notice that on January 11, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing an executed Service Agreement for Non-Firm Point-To-Point Transmission Service between LG&E/ KU and Strategic Energy Ltd., under LG&E/KU's Open Access Transmission Tariff.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota) and Northern States Power Company and (Wisconsin)

[Docket No. ER99–1239–000]

Take notice that on January 11, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing six Firm Point-to-Point Transmission Service Agreements between NSP and NSP Wholesale Energy Marketing.

NSP requests that the Commission accept the six agreements effective January 1, 1999, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Rochester Gas and Electric Corporation

[Docket No. ER99–1240–000]

Take notice that on January 11, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and FPL Energy Services, Inc. (Transmission Customer), for service under RG&E's open access transmission tariff. Specifically dealing with the Retail ''Access Program'' under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of January 1, 1999, for the FPL Energy Services, Inc., Service Agreement.

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Rochester Gas and Electric Corporation

[Docket No. ER99–1241–000]

Take notice that on January 11, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and FPL Energy Services, Inc. (Transmission Customer), for service under RG&E's open access transmission tariff. Specifically dealing with the ''Pilot Retail Access Program'' under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of January 1, 1999, for the FPL Energy Services, Inc., Service Agreement.

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. NP Energy Inc.

[Docket No. ER99–1242–000]

Take notice that on January 11, 1999, NP Energy Inc. (NP Energy), a broker and marketer of electric power, filed a notice of change in status relating to an agreement for the acquisition by Duke Energy Trading and Marketing, L.L.C. (DETM), of all of the common stock of NP Energy Inc. NP Energy also filed a change in its rate schedule, precluding NP Energy from selling power to, or selling power purchased from, the franchised electric utility affiliates of DETM.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. PECO Energy Company

[Docket No. ER99–1243–000]

Take notice that on January 12, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Agreement dated November 19, 1998 with Borough of Ephrata, Pennsylvania (Ephrata) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of February 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Middletown and to the Pennsylvania Public Utility Commission.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER99–1244–000]

Take notice that on January 12, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Agreement dated December 22, 1998 with Borough of Middletown, Pennsylvania (Middletown) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of January 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Middletown and

to the Pennsylvania Public Utility Commission.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Allegheny Power Service Corp. on behalf of Monongahela Power Company, Potomac Edison Company and West Penn Power Company

[Docket No. ER99–1245–000]

Take notice that on January 12, 1999, Allegheny Power Service Corporation (Allegheny Power), tendered for filing notice that the Allegheny Power's Pro Forma Open Access Transmission Service Tariff shall be amended as of the date of filing to conform to NERC's generic tariff amendment included as Attachment B in Docket No. EL99–52–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Ameren Services Company

[Docket No. ER99–1246–000]

Take notice that on January 12, 1999, Ameren Services Company (Ameren), tendered for filing Service Agreements for Market Based Rate Power Sales between Ameren and American Municipal Power—Ohio, Inc., and El Paso Power Services Company. Ameren asserts that the purpose of the Agreements is to permit Ameren to make sales of capacity and energy at market based rates to the parties pursuant to Ameren's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Arizona Public Service Company

[Docket No. ER99–1247–000]

Take notice that on January 12, 1999, Arizona Public Service Company (APS), tendered for filing Umbrella Service Agreements to provide Short-Term Firm Point-to-Point Transmission Service to Aquila Power Corporation and Public Service Company of New Mexico, and Short-Term Firm and Non-Firm Point-to-Point Transmission Service to Merrill Lynch Capital Services, Inc., under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Aquila Power Corporation, Public Service Company of New Mexico, Merrill Lynch Capital Services, Inc., the Arizona Corporation Commission and the New Mexico Public Regulation Commission.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Harbor Cogeneration Company

[Docket No. ER99–1248–000]

Take notice that on January 12, 1999, Harbor Cogeneration Company (Harbor Cogeneration), tendered for filing an initial rate schedule to sell power and certain ancillary services at market-based rates and for certain waivers of the Commission's filing and reporting requirements.

Harbor Cogeneration requests waiver of the 60-day notice requirement to permit the Harbor Cogeneration Rate Schedule to become effective as a rate schedule as of January 13, 1999.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. NGE Generation, Inc.

[Docket No. ER99–1249–000]

Take notice that on January 11, 1999, NGE Generation, Inc. (NGE Gen), tendered for filing pursuant to Section 35.15 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.15, a notice of cancellation (Cancellation) of Rate Schedule FERC No. 35.6 (Rate Schedule) between NGE Gen and El Paso Energy Power Services Company (El Paso).

NGE Gen requests that the Cancellation be deemed effective as of January 12, 1999. To the extent required to give effect to the Cancellation, NGE Gen requests waiver of the notice requirements pursuant to Section 35.15 of the Commission's Regulations, 18 CFR 35.15.

NGE Gen served copies of the filing upon the New York State Public Service Commission and El Paso.

Comment date: January 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Storm Lake Power Partners II LLC

[Docket No. ER99–1252–000]

Take notice that on January 12, 1999, Storm Lake Power Partners II LLC (Storm Lake II), tendered for filing proposed changes to its Rate Schedule FERC No. 1. Storm Lake II is developing a wind-powered generation facility in Buena Vista and Cherokeye Counties, Iowa. Following construction of the facility, Storm Lake II will make sales of capacity and energy at market-based rates to IES Utilities, Inc. (IES), pursuant to an Alternative Energy Production Electric Services Agreement (the Power Purchase Agreement or PPA) that the Commission accepted for filing as Rate Schedule FERC No. 1 in Iowa Power Partners I, L.L.C., 81 FERC ¶ 61,058 (1997).

The proposed rate schedule changes amend the PPA to reflect a decrease in the maximum quantity under the PPA from to 84.75 MW to 75.75 MW, contingent upon the Commission's acceptance for filing of Storm Lake II's Rate Schedule FERC No. 2, which is pending in Docket No. ER99–1228 and to increase the rate under the PPA due to increased interconnection costs. Storm Lake II also filed an amendment to its interconnection agreement with IES.

Copies of the filing were served upon IES, Storm Lake II's jurisdictional customer.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. MidAmerican Energy Company

[Docket No. ER99–1253–000]

Take notice that on January 12, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a Firm Transmission Service Agreement with Ameren Services Company, dated December 14, 1998, and a Non-Firm Transmission Service Agreement with Ameren, dated December 14, 1998, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of December 14, 1998, for the Agreements with Ameren, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on Ameren, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Nevada Power Company

[Docket No. ER99–1265–000]

Take notice that on January 8, 1998, Nevada Power Company (NPC), as one of the Operating Agents for the Navajo Project Western Transmission System, tendered for filing on behalf of the Navajo Project Participants the following amendments:

1. Amendment No. 5 to the Navajo Project Co-Tenancy Agreement

2. Amendment No. 1 to the Navajo Project Western Transmission System Operating Agreement

These Amendments bring the Navajo Project Agreements up-to-date regarding the current ownership, cost responsibility and configuration of two Navajo Project facilities, namely the McCullough 500 kV Switchyard and the McCullough Substation Common Facilities.

NPC requests an effective date no later than sixty (60) days after the date the Amendments are filed.

A copy of this filing has been served on Arizona Public Service Company, the United States Bureau of Reclamation, Salt River Project Agricultural Improvement and Power District, the Department of Water and Power of the City of Los Angeles, Tucson Electric Power Company, the Arizona Corporation Commission, the Public Utilities Commission of Nevada, and the Bureau of Consumer Protection Utility Consumer's Advocate of Nevada.

Comment date: January 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–1533 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL98–7–000]

Technical Conference on Year 2000 Issues for the Oil and Natural Gas Sector; Notice of Technical Conference

January 19, 1999.

Take notice that the Federal Energy Regulatory Commission (FERC) is sponsoring a technical conference to be held on Thursday, February 18, at 9:00 a.m., in the Commission Meeting Room at 888 First Street, NE, Washington, DC 20426. This conference is being held as an outreach for the President's Council on Year 2000 Conversion (Council), which designated FERC as the lead agency for the oil and gas sector of its Energy Working Group. The conference will be hosted by the Natural Gas Council (NGC) and American Petroleum Institute (API). All interested persons are invited to attend.

The second report in a series of quarterly assessments of Y2K readiness efforts will be presented by the industry associations that are part of the Council's oil and gas sector, from the December survey which was distributed by the industry associations to individual companies. Survey results will be compiled and aggregated by industry associations and umbrella organizations (such as NGC, API, and Gas Industry Standards Board) so that individual company responses remain anonymous. This conference will focus on promoting awareness of Year 2000 issues and coordinating information sharing on testing and solutions among companies in the oil and natural gas industries rather than internal solutions of individual companies.

The oil and gas sector group has developed a Website that is linked to the Council's Website (www.y2k.gov), where the results and other related information will be posted and made available to the public.

A more detailed agenda will be published before the conference. The public may participate during question and answer periods, but no witness panels will be established. Written comments are welcome at any time and should reference Docket No. PL98–7–000. For additional information, please contact Donna La May at (202) 501–2341 or by electronic mail at ''donna.lamay@ferc.fed.us.''

The Capitol Connection will broadcast the conference live via satellite for a fee. For more information about the broadcast, please contact Shirley Al-Jarani or Julia Morelli at the Capitol Connection at (703) 993–3100 no later than February 15, 1999. In addition, National Narrowcast Network's Hearing-On-the-Line service covers all FERC meetings live by telephone so that interested persons can listen at their desks, from their homes, or from any phone, without special equipment. Billing is based on time on-line. Call (202) 966–2211 for further details. Videotapes of the conference will be available for a fee by calling VISCOM at (703) 715–7999.

David P. Boergers,

Secretary.

[FR Doc. 99–1595 Filed 1–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

January 20, 1999.

THE FOLLOWING NOTICE OF MEETING IS PUBLISHED PURSUANT TO SECTION 3(A) OF THE GOVERNMENT IN THE SUNSHINE ACT (PUB. L. NO. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: JANUARY 27, 1999, 10:00 A.M.

PLACE: ROOM 2C, 888 FIRST STREET, N.E., WASHINGTON, D.C. 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: AGENDA.

NOTE—ITEMS LISTED ON THE AGENDA MAY BE DELETED WITHOUT FURTHER NOTICE.

CONTACT PERSON FOR MORE INFORMATION: DAVID P. BOERGERS, SECRETARY, TELEPHONE (202) 208–0400, FOR A RECORDING LISTING ITEMS STRICKEN FROM OR ADDED TO THE MEETING, CALL (202) 208–1627.

THIS IS A LIST OF MATTERS TO BE CONSIDERED BY THE COMMISSION. IT DOES NOT INCLUDE A LISTING OF ALL PAPERS RELEVANT TO THE ITEMS ON THE AGENDA; HOWEVER, ALL PUBLIC DOCUMENTS MAY BE EXAMINED IN THE REFERENCE AND INFORMATION CENTER.

CONSENT AGENDA—HYDRO; 712TH MEETING—JANUARY 27, 1999; REGULAR MEETING (10:00 A.M.)

CAH–1.

DOCKET # P–2016, 037, CITY OF TACOMA, WASHINGTON

CAH–2.

DOCKET # P–2916, 033, EAST BAY MUNICIPAL UTILITY DISTRICT
CAH–3.
DOCKET # HB69–93–7, 004, WISCONSIN ELECTRIC POWER COMPANY
OTHER #S HB69–93–7, 005, REPAP WISCONSIN, INC.
HB69–93–7, 006, KAUKAUNA ELECTRIC & WATER DEPARTMENT
CAH–4.
DOCKET # P–3195, 069, SAYLES HYDRO ASSOCIATES
CAH–5.
DOCKET # P–11286, 008, CITY OF ABBEVILLE, SOUTH CAROLINA
CAH–6.
DOCKET # P–11402, 023, CITY OF CRYSTAL FALLS, MICHIGAN
CAH–7.
DOCKET # P–405, 043, SUSQUEHANNA POWER COMPANY AND PEPCO ENERGY POWER COMPANY

CONSENT AGENDA—ELECTRIC

CAE–1.
DOCKET # ER99–783, 000, SOUTHWEST POWER POOL, INC.

CAE–2.

DOCKET # ER99–826, 000, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–3.
DOCKET # ER99–897, 000, CENTRAL POWER & LIGHT COMPANY, WEST TEXAS UTILITIES COMPANY, PUBLIC SERVICE COMPANY OF OKLAHOMA AND SOUTH-WESTERN ELECTRIC POWER CO.

CAE–4.

DOCKET # ER99–845, 000, PUGET SOUND ENERGY, INC.

CAE–5.

DOCKET # ER99–854, 000, AUTOMATED POWER EXCHANGE, INC.

CAE–6.

DOCKET # ER99–363, 000, SOUTHERN COMPANY SERVICES, INC.
OTHER #S EL99–27, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–374, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–423, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–424, 000, SOUTHERN COMPANY SERVICES, INC.
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ER99–434, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–435, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–447, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–448, 000, SOUTHERN COMPANY SERVICES, INC.
ER99–796, 000, SOUTHERN COMPANY SERVICES, INC.
CAE–7.
DOCKET# ER99–791, 000, GRAYLING GENERATING STATION LIMITED PARTNERSHIP
CAE–8.
DOCKET# ER99–806, 000, GENESEE POWER STATION LIMITED PARTNERSHIP
CAE–9.
OMITTED
CAE–10.
DOCKET# ER99–852, 000, EDISON MISSION MARKETING & TRADING, INC.
CAE–11.
DOCKET# ER98–3921, 001, ROCHESTER GAS AND ELECTRIC CORPORATION
OTHER#S ER98–3922, 001, ROCHESTER GAS AND ELECTRIC CORPORATION
CAE–12.
DOCKET# ER97–1523, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
OTHER#S ER97–4234, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
OA97–470, 000, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND LONG ISLAND LIGHTING COMPANY, ET AL.
CAE–13.
DOCKET# ER98–3177, 000, SOUTHWESTERN ELECTRIC POWER COMPANY
OTHER#S EL98–63, 000, SOUTHWESTERN ELECTRIC POWER COMPANY
EL98–63, 001, SOUTHWESTERN ELECTRIC POWER COMPANY
ER98–3177, 001, SOUTHWESTERN ELECTRIC POWER COMPANY
CAE–14.
DOCKET# ER98–4510, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND ORANGE AND ROCKLAND UTILITIES, INC.
CAE–15.
DOCKET# EC98–62, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND ORANGE AND ROCKLAND UTILITIES, INC.
CAE–16.
DOCKET# EL96–49, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY
OTHER#S EL96–49, 003, CAMBRIDGE ELECTRIC LIGHT COMPANY
EL96–49, 004, CAMBRIDGE ELECTRIC LIGHT COMPANY
OA96–178, 000, CAMBRIDGE ELECTRIC LIGHT COMPANY
CAE–17. OMITTED
CAE–18. OMITTED
CAE–19.
DOCKET# EL99–11, 000, VASTAR POWER MARKETING, INC.
OTHER#S ER99–961, 000, VASTAR POWER MARKETING, INC.
CAE–20.
DOCKET# EL99–10, 000, CITY OF LAS CRUCES, NEW MEXICO V. EL PASO ELECTRIC COMPANY
CAE–21.
DOCKET# EL99–5, 000, THE POTOMAC EDISON COMPANY, WEST PENN POWER COMPANY, MONONGAHELA POWER COMPANY AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.
CAE–22.
DOCKET# ER93–413, 002, PACIFIC GAS AND ELECTRIC COMPANY
CAE–23.
DOCKET# RM95–9, 003, OPEN ACCESS SAME-TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT
CAE–24.
DOCKET# OA97–271, 002, AMEREN SERVICES COMPANY, CENTRAL ILLINOIS PUBLIC SERVICE COMPANY AND UNION ELECTRIC COMPANY
OTHER#S OA97–196, 002, CENTRAL VERMONT PUBLIC SERVICE CORPORATION AND CONNECTICUT VALLEY ELECTRIC COMPANY, INC.
OA97–308, 002, SOUTHERN INDIANA GAS AND ELECTRIC COMPANY
OA97–398, 002, SOUTHERN COMPANY SERVICES, ALABAMA POWER COMPANY, GEORGIA POWER COMPANY AND GULF POWER COMPANY, ET AL.
OA97–416, 002, SOUTH CAROLINA ELECTRIC AND GAS COMPANY
OA97–416, 003, SOUTH CAROLINA ELECTRIC AND GAS COMPANY
OA97–450, 002, DUKE POWER COMPANY AND NANTAHALA POWER AND LIGHT COMPANY
OA97–450, 003, DUKE POWER COMPANY AND NANTAHALA POWER AND LIGHT COMPANY
OA97–461, 002, TAMPA ELECTRIC COMPANY
OA97–510, 002, AMEREN SERVICES COMPANY, CENTRAL ILLINOIS PUBLIC SERVICE COMPANY AND UNION ELECTRIC COMPANY

CONSENT AGENDA—GAS AND OIL

CAG–1.
DOCKET# RP96–389, 004, COLUMBIA GULF TRANSMISSION COMPANY
CAG–2.
DOCKET# RP99–184, 000, ANR PIPELINE COMPANY
CAG–3.
DOCKET# RP99–188, 000, EQUITRANS, L.P.
CAG–4.
DOCKET# RP99–195, 000, EQUITRANS, L.P.
CAG–5.
DOCKET# RP99–194, 000, WILLIAMS GAS PIPELINES CENTRAL, INC

OTHER#S RP89–183, 084, WILLIAMS GAS PIPELINES CENTRAL, INC
CAG–6.
OMITTED
CAG–7.
DOCKET# PR98–7, 000, CRANBERRY PIPELINE CORPORATION
OTHER#S PR98–7, 001, CRANBERRY PIPELINE CORPORATION
CAG–8.
DOCKET# RP98–140, 002, TENNESSEE GAS PIPELINE COMPANY
CAG–9.
DOCKET# RP99–159, 000, SOUTHERN NATURAL GAS COMPANY
OTHER#S RP99–159, 001, SOUTHERN NATURAL GAS COMPANY
CAG–10.
DOCKET# RP98–391, 000, COLORADO INTERSTATE GAS COMPANY
OTHER#S RP98–391, 001, COLORADO INTERSTATE GAS COMPANY
CAG–11.
DOCKET# RP99–152, 000, TRAILBLAZER PIPELINE COMPANY
CAG–12.
DOCKET# SA98–2, 001, CLX ENERGY, INC.
CAG–13.
DOCKET# RM96–1, 010, STANDARDS FOR BUSINESS PRACTICES OF INTERSTATE NATURAL GAS PIPELINES
CAG–14.
DOCKET# RP98–426, 003, COLUMBIA GAS TRANSMISSION CORPORATION
OTHER#S RP98–426, 002, COLUMBIA GAS TRANSMISSION CORPORATION
CAG–15.
DOCKET# RP98–427, 002, COLUMBIA GULF TRANSMISSION COMPANY
OTHER#S RP98–427, 001, COLUMBIA GULF TRANSMISSION COMPANY
CAG–16.
DOCKET# RP97–375, 007, WYOMING INTERSTATE COMPANY, LTD.
CAG–17.
DOCKET# RP98–40, 011, PANHANDLE EASTERN PIPE LINE COMPANY
OTHER#S GP98–6, 002, ANADARKO PETROLEUM CORPORATION
GP98–7, 002, OXY USA, INC.
GP98–9, 002, AMOCO PRODUCTION COMPANY
CAG–18.
DOCKET# RP99–35, 001, NORTHERN NATURAL GAS COMPANY
CAG–19.
DOCKET# RP98–140, 003, TENNESSEE GAS PIPELINE COMPANY
CAG–20.
DOCKET# RS92–12, 014, WILLIAMS NATURAL GAS COMPANY
OTHER#S RP93–171, 002, WILLIAMS GAS PIPELINES CENTRAL, INC.
CAG–21.
DOCKET# IS98–284, 000, BP TRANSPORTATION (ALASKA) INC.
OTHER#S IS98–285, 000, BP TRANSPORTATION (ALASKA) INC.
CAG–22.
DOCKET# MG99–1, 000, TRUNKLINE GAS COMPANY
OTHER#S MG99–2, 000, TRUNKLINE LNG COMPANY
MG99–3, 000, SOUTHWEST GAS STORAGE COMPANY
MG99–4, 000, PANHANDLE EASTERN PIPE LINE COMPANY
CAG–23.
DOCKET# MG98–14, 001, KANSAS PIPELINE COMPANY
CAG–24.
DOCKET# MG99–5, 000, DESTIN PIPELINE COMPANY, L.L.C.
CAG–25.
DOCKET# CP96–153, 005,, SOUTHERN NATURAL GAS COMPANY
CAG–26.
DOCKET# CP96–796, 001, MANTA RAY OFFSHORE GATHERING COMPANY, L.L.C.
CAG–27.
DOCKET# CP97–724, 001, NORAM GAS TRANSMISSION COMPANY
CAG–28.
DOCKET# CP98–159, 001, PHELPS DODGE CORPORATION V. EL PASO NATURAL GAS COMPANY
CAG–29.
DOCKET# CP98–628, 000, SEA ROBIN PIPELINE COMPANY
CAG–30.
DOCKET# CP98–702, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
CAG–31.
OMITTED

HYDRO AGENDA

H–1.
RESERVED

ELECTRIC AGENDA

E–1.
RESERVED

OIL AND GAS AGENDA

I.
PIPELINE RATE MATTERS
PR–1.
RESERVED
II.
PIPELINE CERTIFICATE MATTERS
PC–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 99–1719 Filed 1–21–99; 12:37 pm]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

January 13, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing efforts to reduce paperwork burdens invites the general public and other Federal agencies to take this oppportunity to comment on the following information collections, 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 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 estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 26, 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 Commission, Room 1–A804, 445 12th Street, SW, 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: 3060–0280.

Title: Section 90.633 (f) & (g) Conventional Systems Loading Requirement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State or local government; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 15.

Estimated Time per Response: 40 mins. (avg.).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 10 hours.

Total Annual Costs: $2,964.

Needs and Uses: Section 90.633 (f) and (g) provide for the authorization of wide area or ribbon systems upon an appropriate showing of need. The information is used to determine if such systems should be authorized, thus maintaining spectrum efficiency.

OMB Control Number: 3060–0307.

Title: Amendment to Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, First Report and Order, Eighth Report and Order,

and Second Further Notice of Proposed Rulemaking.

Form Number: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business and other for-profit.

Number of Respondents: 12,195.

Estimated Time per Response: 0.5 to 5.0 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirements.

Total Annual Burden: 17,254 hours.

Total Annual Costs: $6,496.

Needs and Uses: The FCC requires certain information from licensees in order to determine whether they should be granted or in the case of 800 MHz Specialized Mobile radio licensees retain authority for additional time to construct their radio facilities. The Commission requires information to determine how licensees' radio facilities have been modified; it also requires a demonstration that licensees have provided notification of intent to relate certain incumbent licensees. Furthermore, the Commission requires information about prospective licensees in order to determine whether such licensees are entitled to special provisions as small businesses.

OMB Control Number: 3060–0475.

Title: Entry Criteria—Section 90–713.

Form Number: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 33.

Estimated Time per Response: 25 hours.

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 842 hours.

Total Annual Costs: $0.

Needs and Uses: Section 90.713 of the Commission's rules requires applicants for nationwide systems in the 220–222 MHz bands to certify that they have an actual presence necessitating internal communications capacity in the 70 or more markets identified in the application. The data will be used to determine the eligibility of the applicant to hold a radio station authorization. Commission licensing personnel will use the data for rulemaking proceedings and field engineers will use the data for enforcement purposes.

OMB Control Number: 3060–0702.

Title: Amendment of Part 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap; Amendment of the Commission's Cellular PCS Cross-Ownership Rule.

Form Number: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business or other for-profit; individuals or households; not-for-profit institutions; and state, local and tribal government.

Number of respondents: 6,000.

Estimated Time per Response: 13 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirements.

Total Annual Burden: 77,817 hours.

Total Annual Costs: $17,075.

Needs and Uses: The information collected will be used by the Commission to determine whether the applicant is legally, technically, and financially qualified to bid in the broadband PCS auctions and hold a broadband PCS license. Without such information the Commission could not determine whether to issue the license to the successful applicant and therefore fulfill its statutory responsiblities in accordance with the Communications Act of 1934, as amended.

OMB Control Number: 3060–0834.

Title: Reconsideration of Rules and Policies for the 220–222 MHz Radio Service, PR 89–552, GN 93–252, PR 93–253.

Form Numbers: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business and other for-profit entities; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 3,005.

Estimated Time per Response: 0.5 to 12.0 hours.

Frequency of Response: Recordkeeping; On occasion reporting requirements; Third Party disclosure.

Total Annual Burden: 44,850 hours.

Total Annual Costs: $0.

Needs and Uses: The information collected will be used by the Commission to verify licensee compliance with Commission rules and regulations; to ensure the integrity of the 220 MHz service; and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934.

OMB Control Number: 3060–0861.

Title: Goodman/Chan Receivership Licensees.

Form Number: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business and other for-profit entities; Individuals or households; Not-for-profit institutions; State, Local, or Tribal Governments.

Number of Respondents: 6,000.

Estimated Time per Response: 3 hours.

Frequency of Response: On occasion reporting requirments.

Total Annual Burden: 18,000 hours.

Total Annual Costs: $0.

Needs and Uses: The information collected will be used by the Commission to distinguish transfers and assignment requests filed by Goodman/Chan Receivership licensees or similiarly situated licensees from other requestors. The information will be used to ensure that only these licensees benefit from this Commission action and to also ensure that the transfer or assignment is in the public interest.

OMB Control Number: 3060–0868.

Title: Construction of Grandfathered Multilateration Locating Monitoring Service (LMS) Sites.

Form Number: N/A.

Type of Review: Extension to a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 10.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 10 hours.

Total Annual Costs: $0.

Needs and Uses: The information collected will be used by the Commission to provide due diligence and valuation data needed by potential bidders in the upcoming LMS auction.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–1599 Filed 1–22–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Hearing

January 20, 1999.

AGENCY: Federal Communications Commission

SUNSHINE ACT HEARING: Notice of the First Hearing In A Proposed Series of Hearings about Telephone Service For Indians On Reservations and Request For Comment From the General Public About Issues Relevant To That Subject.

TIME AND DATE: 8:00 a.m. to 12:30 p.m on January 29, 1999.

PLACE: The Indian Pueblo Cultural Center, 2401 12th Street, N.W., Albuquerque, New Mexico.

STATUS: Chairman William Kennard and Commissioner Gloria Tristani of the FCC will hold a hearing in which representatives of Indian Tribes and Pueblos, officials of the state of New

Mexico, and executives from telecommunications service providers will testify and present other evidence concerning the level of telephone service available to Indians on reservations. The hearing will be open to the general public. The Commission requests that all interested parties submit comment on all testimony and evidence received in the hearing, and on all issues arising therein and relevant thereto, including, but not exclusively, the cost of telephone service to remote, low-population areas, the extent and quality of telephone service on reservations, and governmental jurisdiction and sovereignty issues. The Commission requests submission of written comment on all such issues on or before March 31, 1999. See BO Docket No. 99–11.

MATTERS TO BE CONSIDERED. In comparison to other Americans, Indians on reservations have less access even to basic telephone service. The lack of telephone service limits the opportunities available to Indians on reservations. In particular, their access to medical care in emergencies is limited; they cannot reach prospective employers quickly and easily; and they cannot take advantage of commercial, educational, and other information available on the Internet. The FCC seeks to examine the causes for the low level of service and to determine what actions it might take to improve access to telephone service on Indian reservations.

FOR FURTHER INFORMATION CONTACT: Eric Jensen, at (202) 418–0990, e–mail ejensen@fcc.gov, of the Office of Communications Business Opportunities, and Bill Kehoe, at (202) 418–7122, e-mail bkehoe@fcc.gov, in the Common Carrier Bureau.

Federal Communications Commission.

Eric Jensen,

Deputy Director, Office of Communications Business Opportunities.

[FR Doc. 99–1704 Filed 1–21–99; 11:38 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

Announcing an Open Meeting of the Board

TIME AND DATE: 1:00 P.M., Wednesday, January 27, 1999.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC: .

- Report: FHLBank's Investments and Mission Character of FHLBanks Balance Sheets.
- Proposed Rule: Allocation of Joint and Several Liability on Consolidated Obligations.
- Expansion of the Affordable Multi-Family Participation Program of the Federal Home Loan Bank of Atlanta.
- Final Rule: Revisions to the Freedom of Information Act Regulation.
- Resolution Appointing FHLBank Directors.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–1690 Filed 1–21–99; 11:45 am]

BILLING CODE 6725–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposal(s).

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before March 26, 1999.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of

the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

1. Report title: Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation

Agency form number: FR H-5

OMB control number: 7100-0261

Frequency:

Aggregate report: Quarterly

Policy Statement: on occasion

Reporters: State Member Banks

Annual reporting hours: 20,100 hours

Estimated average hours per response:

Aggregate report: 5 hours

Policy statement: 20 hours

Number of respondents:

Aggregate report: 989

Policy Statement: 16

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1828(o)). Since the Federal Reserve does not collect this information, confidentiality under the Freedom of Information Act (FOIA) is generally not an issue.

Abstract: This information collection is a recordkeeping requirement contained in the Board's Regulation H (12 CFR 208.51) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). It requires state member banks to adopt and maintain a written real estate lending policy. Also, banks must identify their loans in excess of the supervisory loan-to-value limits and report (at least quarterly) the aggregate amount of the loans to the bank's board of directors.

Regulatory Flexibility Act Analysis: Pursuant to section 605(b) of the Regution Flexibility Act (RFA) (5 U.S.C. 605(b)) the Federal Reserve hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Board of Governors of the Federal Reserve System, January 19, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–1550 Filed 1–22–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting:

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Privacy and Confidentiality.

Time and Date: 1:00 p.m.–4:00 p.m., February 2, 1999.

Place: Room 405A. Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: At this meeting the Subcommittee will hear updates from staff on projects involving Medicaid managed care data and the health data needs of the U.S. insular areas; engage in a group discussion on issues relating to the collection of socio-economic status data and implications for analysis; discuss the work plan for the Quality Work Group; and attend to other business as required.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Gail Horlick, M.S.W., J.D., Lead Staff Person for the NCVHS Subcommittee on Privacy and Confidentiality, Office of Research and Demonstrations, Health Care Financing Administration, MS–C4–13–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, telephone (410)–786–6620; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NBCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs,* where an agenda for the meeting will be posted when available.

Dated: January 19, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–1525 Filed 1–22–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security, Workgroup on Computer-based Patient Records.

Time and Date: 4:00 p.m. to 6:30 p.m., February 2, 1999.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: At this meeting the Work Group will continue to develop its work plan; plan for hearings on computerized medical records in March and April, and attend to other business as required.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from J. Michael Fitzmaurice, Ph.D., Agency for Health Care Policy and Research, 2101 East Jefferson Street, #602, Rockville, MD 20852, phone: 301–594–1483, x1052; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs,* where an agenda for the meeting will be posted when available.

Dated: January 19, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–1526 Filed 1–22–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 1:00 p.m.–4:00 p.m., February 2, 1999.

Place: Room 405A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: At this meeting the Subcommittee will hear updates from staff on projects involving Medicaid managed care data and the health data needs of the U.S. insular areas; engage in a group discussion on issues relating to the collection on socio-economic status data and implications for analysis; discuss the work plan for the Quality Work Group; and attend to other business as required.

Notice: In the interest of security, the Department has instituted stringent

procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Carolyn Rimes, Lead Staff Person for the NCVHS Subcommittee on Special Populations, Office of Research and Demonstrations, Health Care Financing Administration, MS–C4–13–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, telephone (410)–786–6620; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs,* where an agenda for the meeting will be posted when available.

Dated: January 19, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–1527 Filed 1–22–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0052]

Bayer Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bayer Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of completely hydrolyzed tetrapolymer of divinyl benzene, ethyl vinyl benzene, acrylonitrile, and 1,7-octadiene for use in treating aqueous sugar solutions and beverage water.

FOR FURTHER INFORMATION CONTACT: Paulette M. Gaynor, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3079.

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 9A4640) has been filed by Bayer Corp., c/o ENVIRON Corp., 4350 North Fairfax Dr., suite 300, Arlington, VA 22203. The petition proposes to amend the food additive regulations in § 173.25 *Ion-exchange resins* (21 CFR 173.25) to provide for the safe use of completely hydrolyzed tetrapolymer of divinyl benzene, ethyl vinyl benzene, acrylonitrile, and 1,7-octadiene for use in treating aqueous sugar solutions and beverage water.

The agency has determined under 21 CFR 25.32(j) 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 28, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–1523 Filed 1–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

FDA In Vitro Diagnostic Products; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA), Los Angeles District Office, in cooperation with the Orange County Regulatory Affairs Discussion Group (OCRA) is announcing the following public workshop: FDA In Vitro Diagnostic (IVD) Products. The workshop will address issues related to the manufacture of IVD products by Southern California and Arizona IVD manufacturers.

Date and Time: The workshop will be held on Tuesday, February 2, 1999, 8:15 a.m. to 5:30 p.m.

Location: The workshop will be held at the Food and Drug Administration, Los Angeles District Office, 19900 MacArthur Blvd., suite 300, Irvine, CA 92612.

Contact: Michael O. Stokke, Supervisory Consumer Safety Officer, Food and Drug Administration, 19900 MacArthur Blvd., suite 300, Irvine, CA 92612, 949–798–7790, FAX 949–798–7771, e-mail ''mstokke@ora.fda.gov'', or Ken Michael, OCRA Programs Chair, 619–487–5676, FAX 619–485–0829.

Registration: Send registration information (including name, title, firm name, address, telephone, fax number, and fee) to OCRA, FDA IVD Products Workshop, 5405 Alton Pkwy., suite 5A–624, Irvine, CA 92604, by Monday, January 25, 1999. There is a $100 registration fee payable to OCRA (address above) for the workshop. The fee will cover actual expenses including refreshments, materials, and speaker expenses. The workshop will continue through lunch, which will be provided. Due to space limitations, attendance is limited to 200 persons, and only 1 person per organization may attend. If space is still available, additional persons from the same organization may be admitted.

If you need special accommodations due to a disability, please contact Michael O. Stokke at least 7 days in advance.

Dated: January 15, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–1522 Filed 1–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1999.

Name: National Advisory Council on Migrant Health.

Date and Time: February 19, 1999; 9:00 a.m.–5:00 p.m, February 20, 1999; 9:00 a.m.–5:00 p.m.

Place: St. James Hotel, 950 24th Street, NW, Washington, DC 20037, Phone: (202) 457–0500, FAX: (202) 466–6984.

The meeting is open to the public.

Agenda: This will be a meeting of the Council. The agenda includes an overview of general Council business activities and priorities. Topics of discussion will include the State Children's Health Insurance Program, Worker Protection Standards, the collaboration possibilities with other migrant health advocates organizations, and the 1999 NACMH Recommendations. In addition, the Council will be reviewing nominations for Council membership for terms beginning in November 1999.

Anyone requiring information regarding the subject Council should contact Susan Hagler, Migrant Health Program, staff support to the National Advisory Council on Migrant Health, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East West-Highway, Bethesda, Maryland 20814, Telephone 301/594–4302.

Agenda items are subject to change as priorities dictate.

Dated: January 19, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–1568 Filed 1–22–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1999.

Name: National Advisory Committee on Rural Health.

Date and Time: February 7, 1999; 6:30 p.m., February 8–9, 1999; 8:30 a.m.–5:00 p.m., February 10, 1999; 8:30 a.m.–11:30 a.m.

Place: The Latham Hotel, Georgetown, 300 M Street, NW, Washington, DC 20007, Phone: (202) 726–5000, FAX: (202) 342–1800.

Agenda: The plenary session on Monday morning February 8, at 8:30 a.m., will include welcoming remarks from the HRSA Administrator and presentations on Medicare wage index. After lunch there will be a presentation on the rural public health infrastructure project. Late afternoon the Committee will begin formulating recommendations.

Tuesday's meeting will begin with regulatory and legislative updates, followed by Rural Research Center and Rural Hospital Flexibility program updates. After lunch, a presentation on rural health care and quality will be followed by remarks from the Director of the Office of Rural Health Policy. Late afternoon the Committee will continue discussion on recommendations.

The final plenary session will be convened on Wednesday, February 10, at 8:30 a.m. During this session the Committee will conclude discussions on recommendations and discuss the next meeting's agenda and future meeting dates and places. The meeting will be adjourned at 11:30 a.m.

Anyone requiring information regarding the subject Committee should contact Wayne W. Myers, M.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835; FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Sandi Lyles or Lilly Smetana, Office of Rural Health Policy, (301) 443–0835.

Agenda items are subject to change as priorities dictate.

Dated: January 19, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–1569 Filed 1–22–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Survey of Substance Abuse Treatment Providers as Information Customers

New—Clinicians in the field of substance abuse treatment are increasingly turning to information products and services in managing the care of their patients, accessing new knowledge about treatment, and organizing their management systems. This study will help SAMHSA's Center for Substance Abuse Treatment (CSAT) to be better able to synthesize and disseminate knowledge by providing a representative assessment of the information products and services that currently exist in the substance abuse treatment industry.

Program directors and clinicians will be surveyed in a brief telephone interview asking about their perceptions of information products and services that are currently being used, and their perceived need or interest in such new or improved products being developed and made available. The instrument that will be used to survey the providers and clinical staff will include a series of questions around a taxonomy and list of information products and services that are or might be used in the substance abuse treatment provider industry. A nationally representative target sample of 275 facilities will be drawn, and interviews will be completed with program facility directors and clinical staff. The estimated annualized burden for a one-year data collection period is summarized below.

	Number of respondents	Number of responses/ respondent	Average burden/ response (hr.)	Total burden hours
Facility Directors	206	1	.33	68
Clinical Staff	350	1	.25	88
Total				156

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 14, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–1548 Filed 1–22–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Supplemental Grant Award to the Research Triangle Institute in North Carolina

AGENCY: Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMHSA), DHHS.

ACTION: Planned supplemental grant award to the Cooperative Agreement for an HIV/AIDS High-Risk Behavior Prevention/Intervention Model for Young Adults/Adolescents and Women Coordinating Center.

SUMMARY: This notice is to provide information to the public concerning a planned supplemental award by CMHS/SAMHSA to an existing grant to the Research Triangle Institute (RTI). This award will provide additional support for the HIV/AIDS High-Risk Coordinating Center in order to assist seven existing study sites to increase the number of eligible individuals who can participate in the intervention studies under way at each site, and to provide each study site with the capacity to include the use of biological markers as an outcome measure in the study protocol as part of the model protocol, and to centrally coordinate data collection and analysis of these measures. Upon receipt of a satisfactory application that is recommended for approval by an Initial Review Group and the CMHS National Advisory Council, up to $750,000 in Federal funds may be awarded to this organization each year over the remaining project period of the existing HIV/AIDS High Risk Coordinating Center grant which is scheduled to end on August 31, 2001.

This is not a formal request for applications. Grant funds may only be provided to the organization named above.

Authority/Justification: This grant will be made under the authority of Section 520A of the Public Health Service Act, as amended (42 U.S.C. 290bb–32).

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.125. The purpose of the HIV/AIDS High-Risk Program is to develop and test, through a series of pilot studies, a single model for a brief/short-term prevention/intervention protocol, based on what is currently known, to encourage and enable adolescents/women who engage in high-risk behaviors associated with HIV/AIDS transmission to change these behaviors. In FY 1997, the Research Triangle Institute (RTI) competed successfully to be the coordinating center to assist the study sites in developing/implementing a single model for a brief/short-term prevention/intervention protocol, using state-of-the-art methodology. However, CMHS subsequently determined that the development/implementation of a state-of-the-art intervention model will require additional participants at the individual sites and the use of biological markers as outcome measures. The purpose of this supplemental award is to fund the additional coordination, personnel, data collection and data management for the increased sample and the inclusion of biological markers as an outcome measure. RTI will build upon the expertise gained by the coordinating center during the first two years of the study, to develop and implement these additionally aspects of the program. The supplemental work is inextricably linked to the current activities that RTI is already performing for the AIDS High-Risk Program.

For the above reasons, only an application from the Research Triangle Institute will be considered for this program.

FOR FURTHER INFORMATION CONTACT: Barbara J. Silver, Ph.D., Director of HIV/AIDS Prevention/Education Program, Office of the Associate Director for Medical Affairs, CMHS, SAMHSA, 5600 Fishers Lane, Room 15–81, Rockville, MD 20857; (301) 443–7817.

Dated: January 18, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–1524 Filed 1–22–99; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–010–07–1020–00–241A]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Northwest Colorado Resource Advisory Council will be held on Wednesday, February 24, 1999, at the Upper Colorado Environmental Plant Center in Meeker, Colorado.

DATE: Wednesday, February 24, 1999.

ADDRESSES: For further information, contact David Atkins, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3074.

SUPPLEMENTARY INFORMATION: The Northwest Resource Advisory Council will meet on February 24, 1999, at the Upper Colorado Environmental Plant Center, 5538 County Road 4, Meeker, Colorado. The meeting will start at 9 a.m. and include discussions of the fire program and the proposed statewide recreation guidelines.

The meeting is open to the public. Interested persons may make oral statements at the meetings or submit written statements following the meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of council meetings are maintained in both the Grand Junction and Craig District Offices. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: January 15, 1999.

Mark T. Morse,

District Manager, Craig and Grand Junction Districts.

[FR Doc. 99–1546 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–05; N–63021 and N–63022]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a Fire Station and Public Park.

Mount Diablo Meridian, Nevada

Fire Station

T. 19S. R. 60E.
Sec. 21 NE¼ NE¼ SE½ NE¼ 2.5 acres

Park Site

T. 19S. R. 60E.
Sec. 21 NW¼ SE¼ NE¼. W½ NE¼ SE¼ NE¼, SE¼ NE¼ SE¼ NE¼ 17.5 acres.

Containing 20 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe, and will be subject to:

An easement 50 feet in width along the East boundary, 30 feet in width along the West boundary, and 30 feet in width along the North boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, 4765 Vegas Dr., Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a Fire Station and Public Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Fire Station and Public Park.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 15, 1999.

Rex Wells,

Assistant Field Office Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 99–1591 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–040–1430–01; UTU–76672]

Realty Action; Recreation and Public Purposes Act Classification; Utah

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The following public land, located in Washington County, Utah near the community of St. George, has been examined and found suitable for classification for lease or conveyance to Washington County under the provision of the Recreation and Public Purposes Act. As amended (43 U.S.C. 869 *et. seq.*):

Salt Lake Meridian, Utah

T. 42 S., R. 14 W.,
Sec. 4, Lots 6, 7, and 8,
Sec. 9, W½NE¼, E½NW¼, E½SW¼, SE¼SW¼SW¼, SE¼

Containing 512.53 acres, more or less.

SUPPLEMENTARY INFORMATION: Washington County proposes to use the land to construct, operate and maintain a shooting range. The land is not needed for Federal purposes. Leasing or conveying title to the affected public land is consistent with current BLM land use planning and would be in the public interest.

The lease or patent, when issued, would be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for power line purposes granted to PacifiCorp and UAMPS by right-of-ways U–43523, U–71178 and U–72772.

5. Those rights for natural gas line purposes granted to Questar by right-of-way U–62308.

6. Those rights for water line purposes granted to St. George City by right-of-way U–60051.

7. Those rights for fiber optic line purposes granted to U.S. West Communications by right-of-way U–72755.

8. Those rights for highway purposes granted to Utah Department of Transportation by right-of-way U094803.

Detailed information concerning this action is available at the office of the Bureau of Land Management, St. George Field Office, 345 E. Riverside Drive, St. George, Utah 84790. Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for leasing or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed classification, leasing or conveyance of the land to the Field Office Manager, St. George Field Office.

Classification Comments

Interested parties may submit comments involving the suitability of the lands for a shooting range facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the County's application, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for shooting range purposes.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: January 8, 1999.

James D. Crisp,

Field Office Manager.

[FR Doc. 99–1596 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Eastern Gulf of Mexico, Oil and Gas Lease Sale 181

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Call for Interest and Information (Call) and Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS).

Call for Interest and Information

The MMS is issuing this Call pursuant to the Outer Continental Shelf (OCS) Lands Act as amended (43 U.S.C. 1331–1356, (1994)), and the regulations issued thereunder (30 CFR Part 256).

Purpose of Call

The purpose of this Call is to ask for an indication of interest by potential bidders and to gather information from all potentially affected parties about possible oil and gas leasing, exploration, development, and production in the area available for leasing consideration for Sale 181 in the Eastern Gulf of Mexico (EGOM). This Call is not a preliminary decision to lease in the Sale 181 area. It is the initial information-gathering step in a 3-year prelease decisionmaking process. The area available for leasing consideration in Sale 181 and the tentative schedule for the steps in the process leading to a final decision on the sale are described below.

Tentative Sale 181 Schedule

The following is a list of planned presale process steps and related tentative dates applicable to proposed Sale 181:

Process step	Tentative completion date
Call/NOI	January 1999.
Comments due on Call/NOI	March 1999.
Area Identification	June 1999
Draft EIS	August 2000.
Public Hearings	September 2000.
Final EIS	June 2001
Proposed Notice of Sale & CZM Consistency Determination	July 2001.
Final Notice of Sale	October 2001.
Bid Opening/Reading	December 2001.

Please note that the MMS is considering changing the proposed Sale 181 bid opening/reading from December 2001 to March 2002, and holding it in conjunction with proposed Central GOM Sale 182. These proposed sales would be planned and held as two separate sales, but holding the sales sequentially on the same day in the same location might be beneficial to MMS and prospective bidders due to the commonality of potential oil and gas plays and related exploration and development issues. All interested parties are requested to consider this proposed Sale 181 schedule change and include any comments on this matter along with the following specific requested information.

Description of Call Area

The area of this Call covers a small portion of the EGOM Planning Area offshore Alabama and the Florida Panhandle. It includes 1,033 blocks covering 5.949 million acres (see attached map). This is the area identified as available for leasing consideration for Sale 181 in the 1997–2002 OCS OIL AND Gas Leasing Program. During development of the 5-Year Program, the MMS consulted with the States of Alabama and Florida and was responsive to their concerns in identifying the Sale 181 area. The MMS considers all of this area to have potential for the discovery of accumulations of hydrocarbons. None of the EGOM outside the Sale 181 area is available for leasing in this 5-year program. In addition, in a June 1998 announcement, the President withdrew from leasing until 2012 numerous areas of the OCS, including all of the EGOM outside the area identified as available for leasing consideration for Sale 181. A ''Call for Information Map'' depicting the Sale 181 area on a block-by-block basis is available without charge from the MMS Gulf of Mexico Public Information Unit (see last paragraph of this Call).

Currently 39 blocks covering 224,640 acres are under lease (this figure may change before the sale if any of the leases become expired, relinquished, or terminated). Eight wells have been drilled in the Sale 181 area. At this time there are plans to develop two areas: Destin Dome Blocks 1 and 2 (four wells from two surface locations; and DeSoto Canyon Blocks 133 and 177 (two wells in each block). Both of these areas are along the western boundary of the sale area and may be associated with well-developed areas of the Central Gulf of Mexico Planning Area.

The Department of Defense makes use of much of the EGOM, including the proposed sale area. The Navy conducts various training missions for both ships and aircraft, and the Air Force conducts aircraft training missions as well as the testing of various weapons from nearby Eglin Air Force Base and associated facilities in Florida. Coordination between the Department of Defense and the MMS is ongoing to minimize conflicts.

Instructions to Potential Bidders in Responding to Call

Potential bidders are requested to indicate interest in any or all of the acreage within the boundaries of the Call area that they wish to have included in EGOM OCS Lease Sale 181. Respondents should rank areas in which they express interest according to priority of their interest (e.g., priority 1 [high], 2 [medium], or 3 [low]). Respondents should be specific in indicating blocks by priority; blanket nominations (such as nominating the entire Call area as high priority) are not useful and may be ignored in the MMS analysis of industry interest. Also, areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 [low]. Responses may be provided in textual block listings (by Official Protraction Diagram designations) or graphically along block boundaries on the ''Call for Information Map'' or on Official Protraction Diagrams (which may be purchased from the MMS Gulf of Mexico Public Information Unit). Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record.

Instructions to all Interested Parties in Responding to Call

Comments are sought from all interested parties about particular environmental, geologic, and socioeconomic conditions or conflicts, or other information that might bear upon the potential oil and gas leasing, exploration, development, and production activities from proposed EGOM Sale 181. Comments are also sought on possible conflicts between potential future OCS oil and gas activities that may result from the proposed sale and State Coastal Management Programs (CMPs). If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list blocks or outline the subject area on the ''Call for Information Map'' mentioned above. Please submit responses to this Call in envelopes labeled ''Response to the Call for Interest and Information for Proposed Eastern Gulf of Mexico OCS Lease Sale 181,'' addressed to the Regional Supervisor, Leasing and Environment (MS 5400), Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394. Responses to this Call must be received no later than 60 days following publication of this document in the **Federal Register**.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to assess industry interest and to identify areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use of conflicts will be considered in the analysis of environmental conditions in and near the Call area and to develop alternatives and mitigating measures to lessen potential environmental impacts and ensure safe operations. And, third, comments may be used to assess potential conflicts between offshore oil and gas activities and a State CMP.

Existing EGOM Information

The MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on tentatively scheduled lease sales. An extensive environmental studies program has been underway in the Gulf of Mexico since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. Two documents are available from the MMS Gulf of Mexico Region Public Information Unit:

- Listing of available EGOM Study Reports (with information for ordering copies).
- Technical Summaries from Selected Environmental Studies of the Northeastern Gulf of Mexico, MMS 96–0025, 1996.

Obtaining EGOM Information

The documents and the large-sized ''Call for Information Map'' mentioned above are available from:

Gulf of Mexico Public Information Unit, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone: (504) 736–2519 or (800) 200–GULF.

In addition, a wealth of information concerning the EGOM, the MMS studies program, and the MMS is available on the Internet at: http://www.mms.gov. Also, many documents may be obtained through the MMS 24-hour Fax-on-Demand service: (202) 219–1703.

Notice of Intent To Prepare an Environmental Impact Statement—Purpose of Notice of Intent

The MMS intends to prepare an EIS on OCS Lease Sale 181. This sale is tentatively scheduled for 2001 and will cover Federal waters offshore the States of Alabama and Florida. The NOI also announces the scoping process we will use for this EIS. Throughout the scoping process, you have the opportunity to help us determine the scope of the Draft EIS, the significant issues to be addressed, and alternatives to be considered.

Our EIS will evaluate the potential environmental effects of leasing, exploration, and development of the blocks identified through the Area Identification procedure. Alternatives to the proposal that we may consider are to delay, cancel, or modify the sale.

What is Scoping?

Scoping is an open and early process for determining the scope of the EIS and for identifying significant issues related to a proposed action. Scoping also provides you an opportunity to identify additional alternatives to the proposed action. As MMS prepares for public scoping meetings on the EIS for OCS Lease Sale 181, we will distribute additional information and will advertise details of the actual dates, times, and facilities for the meetings in local media.

The National Environmental Policy Act process ends with MMS preparing a Final EIS and making a decision on the proposed action and alternatives. There are many opportunities for you to influence the EIS. You may provide comments.

- During the 60-day period after this NOI is published;
- During public scoping meetings;
- While we accept written scoping comments (We will consider comments received during the scoping process in preparing of the Draft EIS.); and
- During a 60-day comment period after publication of the Draft EIS; and
- During public hearings on the Draft EIS (We will address comments received during the public hearing process in the Final EIS.).

We anticipate completing the EIS in about two and one-half years. At the end of this process, the decisionmaker will have a document that assesses the impacts of the lease sale proposal and the alternatives to use in making an informed decision.

How To Submit Comments

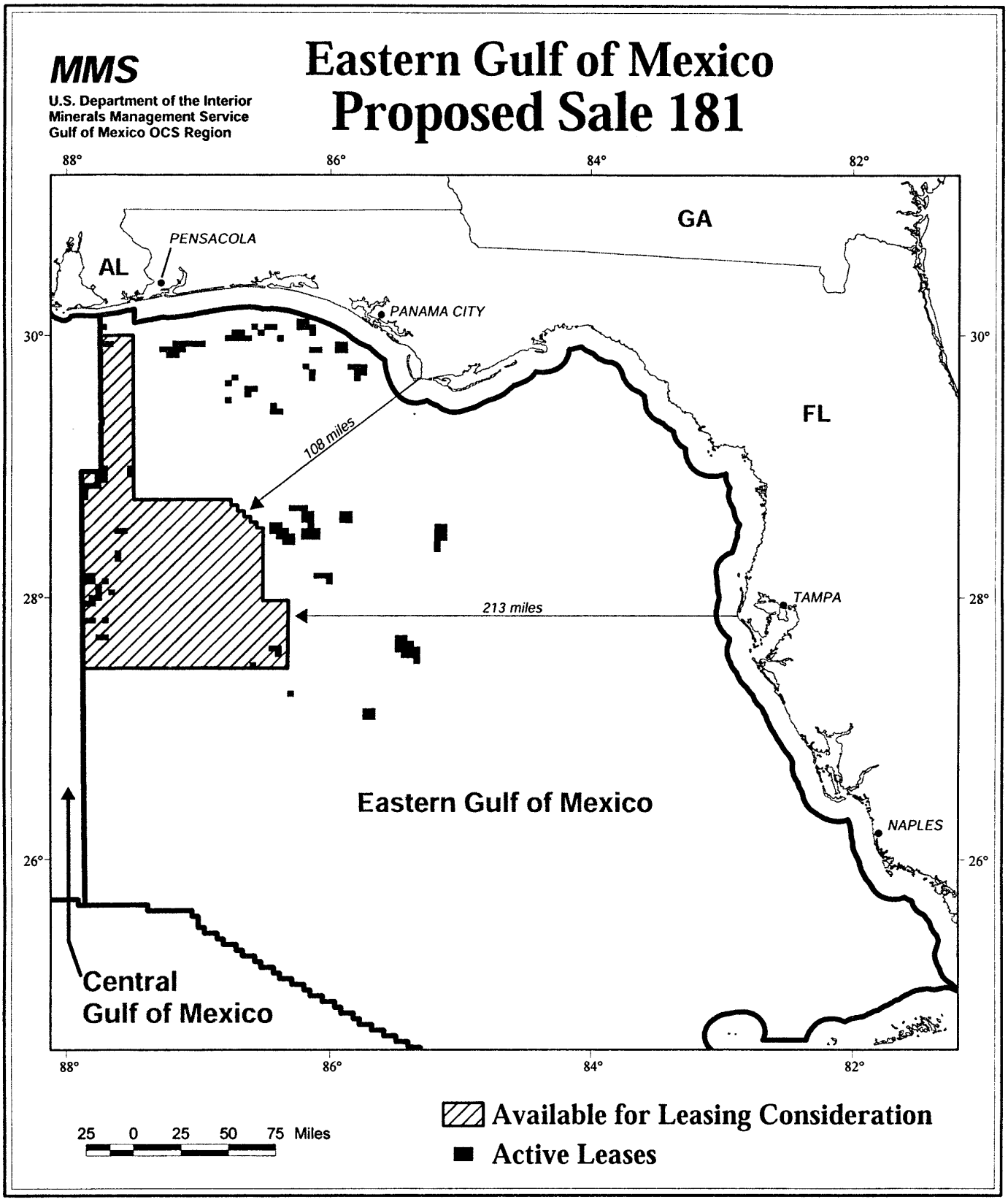
Please send your written comments on the scope of the EIS, significant issues to be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment (MS 5400), Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394. The deadline for your submission is 60 days after this NOI is published. Clearly label your comments, ''Comments on the NOI to Prepare an EIS on the proposed 2001 Lease Sale in the Eastern Gulf of Mexico.''

Dated: January 13, 1999.

Cynthia Quarterman,

Director, Minerals Management Service.

BILLING CODE 4310–MR–M



[FR Doc. 99–1601 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

National Park Service

60 Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: The National Park Service (NPS) is proposing in 1999 and 2000 to conduct social science research related to (1) advancing the Money Generation Model, (2) developing and advancing social carrying capacity methodologies, (3) developing and advancing the Visitor Experience and Resource (VERP) Protection Framework, (4) developing and conducting an NPS national survey of the American Public, and (5) evaluating the effect of the NPS Fee Demonstration Program on backcountry users in selected national parks. Each research project will require a specific combination of mail, phone, and/or on-site surveys of visitors and/or the general public to identify characteristics, use patterns, expectations, preferences and perceptions that are relevant to the individual research projects.

	Estimated number of	
	Responses	Burden hours
1. Advancing the Money Generation Model Survey	500	85
2. Development and Advancement of Social Carrying Capacity Methodologies	500	170
3. Development and Advancement of the Visitor Experience and Resource Protection (VERP) Framework	500	170
4. NPS National Survey of the American Public	1400	470
5. Effect of NPS Fee Demonstration Program on Selected National Parks	600	100
Total	3500	995

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service is soliciting comments on the need for gathering the information in the proposed surveys. The NPS also is asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

The NPS goals in conducting surveys associated with these research projects are to incorporate survey information into the development of state-of-the-art social science tools to be used by NPS managers (Projects 1–3), into the development of NPS policies (Project 4), and into evaluating the impacts of increased and additional fees on national park visitors.

DATES: Public comments will be accepted on or before March 26, 1999.

Send comments to: Jean McKendry, Ph.D., NPS Social Science Program, 1849 C Street, NW (3127) Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jean McKendry. Voice: 202–219–8894, Email: <*jeanm@uidaho.edu*>.

SUPPLEMENTARY INFORMATION:

Titles: 1. Advancing the Money Generation Model.

2. Development and Advancement of Social Carrying Capacity Methodologies.

3. Development and Advancement of the Visitor Experience and Resource Protection (VERP) Framework.

4. NPS National Survey of the American Public.

5. Effect of Fee Demonstration Program on Backcountry Users in Selected National Parks.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of Request: Request for new clearance.

Description of need: The National Park Service needs information to incorporate into the development of state-of-the-art social science tools to be used by NPS managers (Projects 1–3), into the development of NPS policies (Project 4), and into evaluating the impacts of increased and additional fees on national park visitors (Project 5).

Automated data collection: At the present time, there is no automated way to gather this information, since it includes asking visitors and/or the general public to identify characteristics, use patterns, expectations, preferences and perceptions that are relevant to the individual research projects.

Description of respondents: A sample of individuals who visit various units of the National Park System and individuals who do not visit units of the National Park System.

Estimated average number of respondents: 500 (Money Generation Model); 500 (Social Carrying Capacity); 500 (VERP); 1400 (Survey of American Public); 600 (Fees Demo Project and Backcountry Users).

Estimated average number of responses: Each respondent will respond only one time, so the number of respondents will be the same as the number of respondents.

Estimated average burden hours per response: 10 minutes (Money General Model); 20 minutes (Social Carrying Capacity); 20 minutes (VERP); 20 minutes (Survey of American Public); 10 minutes (Fees Demo Project and Backcountry Users).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 85 hours (Money Generation Model); 17 hours (Social Carrying Capacity); 170 hours (VERP); 470 hours (Survey of American Public); 100 hours (Fees Demo Project and Backcountry Users).

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc 99–1540 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Cuyahoga Valley National Recreation Area, OH

AGENCY: National Park Service, Interior.

ACTION: Notice of boundary revision, Cuyahoga Valley National Recreation Area.

SUMMARY: Minor revision to the boundaries of Cuyahoga Valley National Recreation Area. The National Park Service has determined that a boundary revision is necessary for Cuyahoga Valley National Recreation Area as referred to in 16 U.S.C. 460ff–1(a).

FOR FURTHER INFORMATION CONTACT: Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141, or by telephone at 440–546–5903.

SUPPLEMENTARY INFORMATON: The Cuyahoga Valley National Recreation Area was established by the Act of December 27, 1974 (Public Law 93–555, 16 U.S.C. 460ff). This act as amended, authorizes the Secretary of the Interior to make minor revisions to the boundaries of Cuyahoga Valley National Recreation Area. This is accomplished by first advising, in writing, the Senate Committee on Energy and Natural Resources and the House of Representatives Committee on Resources of the United States Congress, and second, by publishing a revised drawing or other boundary description in the **Federal Register**.

This boundary revision adds 327 acres, more or less, of privately owned land to the 33,000-acre park. This revision, in turn, allows for Federal acquisition of the property. Such acquisition is necessary and critical for eliminating the threat of development of a large-scale commercial retail complex on this property.

The National Park Service has prepared a map identified as ''Boundary Map, Cuyahoga Valley National Recreation Area,'' bearing drawing number 80062 and dated April 21, 1998. This map generally depicts the specific real property to be added to the park through this revision. Copies of this map are on file and available for inspection at the following three locations: The Department of the Interior, National Park Service, Lands Resources Divisions, 1849 ''C'' Street, Washington, D.C. 20240; the Midwest Region (RDO–POE/L), 1709 Jackson Street, Omaha, Nebraska 68102; and Cuyahoga Valley National Recreation Area, at the address given above.

Dated: January 11, 1999.

William W. Schenk,

Regional Director, Midwest Region.

Owner: Richfield Properties Company
Cuyahoga Valley National Recreation Area
Area: 326.68 Acres
Date: July 28, 1998
Revised: January 6, 1999

Tract 108–05

Parcel 1

Situated in the Township of Richfield and Township of Boston, County of Summit, State of Ohio, and known as being parts of Lots 1 and 5, Tract 6, and Lots 4 and 5, Tract 5, in Richfield Township, and Tract 7, Boston Township and more fully bounded and described as follows:

Beginning at a marked stone in the north line of said Lot 1, Tract 6, said point being south 88°33′01″ west, a distance of 345.41 feet from the northeast corner of said Lot 1, Tract 6;

Thence, continuing south 88°33′01″ west, along the northerly line of said Lot 1, Tract 6, a distance of 1482.54 feet to an iron pin at the southeast corner of lands now or formerly in the name of F. and L. Thalman, as recorded in Volume 1324, Page 209 of the Summit County Record of Deeds;

Thence, north 00°03′01″ east, a distance of 943.36 feet to an iron pin set in the southerly limited access right of way line of the Ohio Turnpike;

Thence, southeasterly along the southerly limited access right of way line of the said Ohio Turnpike, and passing over a line common to Richfield Township and Boston Township, the arc of a curve to the left whose central angle is 10°56′25″, radius is 11,894.30 feet, tangent is 1,139.03 feet, chord is 2,267.69 feet, chord bearing is south 68°54′16.5″ east, a distance of 2,271.14 feet to an iron pin at the intersection of the limited access right of way line of Interstate 271;

Thence, along the limited access right of way line of said Interstate 271, the following described courses:

Thence south 66°36′53″ east, a distance of 615.88 feet to an iron pin;

Thence, south 21°56′10″ west, a distance of 540.52 feet to an iron pin;

Thence, south 16°42′34″ west, a distance of 1679.09 feet to an iron pin;

Thence, south 24°40′46″ west, passing over the said line common to Richfield Township and Boston Township, a distance of 316.15 feet to an iron pin in the northerly line of the original alignment of State Route 303, 60 feet wide;

Thence, north 83°29′16″ west, along the north line of lands now or formerly owned by the State of Ohio as recorded in Deed Volume 5524, Page 863 of the Summit County Record of Deeds and the north right of way line of State Route 303, a distance of 149.96 feet to an iron pin;

Thence, south 83°14′49″ west, along the north line of said State of Ohio lands and the north right of way line of State Route 303, a distance of 181.73 feet to an iron pin.

Thence, north 1°12′07″ west, a distance of 2556.57 feet to the place of beginning of the parcel herein described and containing 68.6960 acres of land, more or less, 42.0852 acres in Boston Township, 26.6108 acres in Richfield Township, but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Parcel 2

Situated in the Township of Richfield and the Township of Boston, County of Summit and State of Ohio and known as being part of original Richfield Township, Tract 5, Lot No. 4 and part of the original Boston Township, Tract 7, and more fully described as follows:

Beginning at a monument at the centerline of Boston Mills Road and the east line of Richfield Township and the west line of Boston Township;

Thence, south 1°29′19″ east, along the east line of lands now or formerly owned by L.A. and B.J. Krysinski as recorded in Deed Volume 1555, Page 171 of the Summit County Record of Deeds, a distance of 590.31 feet to an iron pin and to the true place of beginning of the parcel herein described:

Thence, continuing south 1°29′19″ east, along the west line of lands now or formerly owned by the United States of America as recorded in O.R. 2372, Page 1020 of the Summit County Record of Deeds a distance of 726.28 feet to an iron pin on the north right of way line of the Ohio Turnpike;

Thence along the north right of way line of the Ohio Turnpike and the arc of a curve to the right whose central angle is 7°37′54″, radius is 11,344.30 feet, tangent is 756.63 feet, chord is 1509.90 feet, chord bears north 68°16′33″ west, an arc distance of 1511.02 feet to an iron pin on lands now or formerly owned by D. and J. Toronski as recorded in Permanent Parcel No. 4802112 of the Summit County Record of Deeds;

Thence north 74°18′47″ east, along the south line of said D. and J. Toronski lands and lands now or formerly owned by J.J. and R.D. Golubski as recorded in Deed Volume 6856, Page 63 of the Summit County Record of Deeds a distance of 529.45 feet to an iron pin;

Thence north 88°25′35″ east, along the south line of said J.J. and R.D. Golubski lands and along the south line of lands now or formerly owned by C. and A. Markiewicz as recorded in Deed Volume 1858, page 778 of the Summit County Record of Deeds, and the south line of said L.A. and B.J. Krysinski lands a distance of 874.40 feet to the true place of beginning of the lands herein described and containing 13.4455 acres of land, 13.2628 acres of land in Richfield Township and 0.1827 acres of land in Boston Township, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by John J. Knecht, Registered Surveyor No.4548 in November, 1998.

Parcel 3

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being part of Lot 1 & 5, Tract 6 in Richfield Township and more fully bounded and described as follows:

Beginning at a marked stone in the north line of said Lot 1, Tract 6, said point being south 88°33′01″ west, a distance of 345.41 feet from the northeast corner of said Lot 1, Tract 6;

Thence, south 1°12′07″ east, a distance of 2514.37 feet to an iron pin on the north right of way line of State Route 303;

Thence, south 85°37′20″ west, along the north right of way line of State Route 303 a distance of 105.20 feet to a point;

Thence, along the north right of way line of State Route 303 and the arc of a curve to the left whose central angle is 5°00′00″ , radius is 2904.79 feet; tangent is 126.83 feet; chord is 253.41 feet; chord bears south 83°07′20″ west, an arc distance of 253.49 feet to an iron pin;

Thence, south 80°37′20″ west, along the north right of way line of State Route 303 a distance of 95.00 feet to an iron pin;

Thence, south 33°08′25″ west, along the north right of way line of State Route 303 a distance of 92.62 feet to an iron pin;

Thence, along the north right of way line of State Route 303 and the arc of a curve to the left whose central angle is 3°29′47″, radius is 3869.72 feet; tangent is 118.11 feet; chord is 236.11 feet, chord bears south 84°11′34″ west an arc distance of 236.15 feet to an iron pin;

Thence, south 84°10′47″ west, along the north right of way line of State Route 303 a distance of 20.50 feet to an iron pin;

Thence, along the north right of way line of State Route 303 and the arc of a curve to the left whose central angle is 4°12′35″; radius is 3869.72 feet; tangent is 142.23 feet; chord is 284.26 feet; chord bears south 81°55′23″ west an arc distance of 284.32 feet to an iron pin;

Thence, south 79°49′05″ west, along the north right of way line of State Route 303 a distance of 732.63 feet to an iron pin on the east line of lands now or formerly owned by D.O. Emmett as recorded in Permanent Parcel No. 4800164 of the Summit County Record; iron pin set 60.90 feet from the center line of State Route 303;

Thence, north 0°03′45″ west along said D.O. Emmett lands a distance of 2797.38 feet to an iron pin on the north line of Lot 1, Tract 6;

Thence, north 88°33′01″ east, along the north line of Lot 1, Tract 6 a distance of 1709.53 feet to the place of beginning of the parcel herein described and containing 105.8847 acres, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Excepting from the preceding description the following parcel of land (Exception 1):

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being a part of Lot 1, Tract 6 in Richfield Township, and more fully described as follows:

Beginning at a marked stone in the North line of said Lot 1, Tract 6, said point being South 88°33′01″ West, a distance of 345.4 feet from the Northeast corner of said Lot 1, Tract 6;

Thence, North 90°00′00″ West, a distance of 323.56 feet to a point;

Thence, South 00°00′00″ East, a distance of 423.14 feet to a point and the true place of beginning of the lands herein described:

Thence, continuing South 00°00′00″ East, a distance of 200.00 feet to a point;

Thence, continuing North 90°00′00″ West, a distance of 200.00 feet to a point;

Thence, North 00°00′00″ East, a distance of 200.00 feet to a point;

Thence, North 90°00′00″ East, a distance of 200.00 feet to the true place of beginning, and containing an area of 40,000 square feet 0.9183 acres.

Said Parcel contains 104.9664 acres.

Parcel 4

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being part of Lot 5 in Tract 5 and part of Lot 2 and Lot 6 in Tract 6 and more fully bounded and described as follows:

Beginning at the centerline of Black Road, CH 169 and Streetsboro Rd, State Route 303;

Thence, north 81°16′33″ east, along the center line of Streetsboro Road, State Route 303 a distance of 862.41 feet to a point.

Thence, north 81°14′24″ east, along the centerline of Streetsboro Road, State Route 303 a distance of 862.33 feet to the true place of beginning of the parcel herein described;

Thence, north 5°26′36″ west, along the west line of lands now or formerly owned by Richfield Properties Co. as recorded in Permanent Parcel No. 4800020 of the Summit County Record of Deeds a distance of 367.10 feet to an iron pin; witness an iron pin 30.04 feet from the center line of Streetsboro Rd. State Route 303;

Thence, south 83°18′24″ west, along the north line of said Richfield Properties Co. and lands now or formerly owned by P.L & L. Londrico as recorded in Permanent Parcel No. 4800174 of the Summit County Record of Deeds a distance of 303.00 feet to an iron pin;

Thence, north 1°27′33″ west, along the east line of said P.L. & L. Londrico lands a distance of 2652.18 feet to a point on the tract line between Tract 5 & 6 and a tree;

Thence, north 88°45′21″ east, along the tract line of Tract 5 & 6 a distance of 80.05 feet to the lot corner of Lot 5, Tract 5 and the southeast corner of original Lot 1 of Holeski Subdivision as recorded in Plat Book 107, Page 49 of the Summit County Record of Plats and an iron pin;

Thence, north 0°03′09″ east, along the lot line of Lot 5, Tract 5 and the east line of said Holeski Subdivision a distance of 1100.88 feet to an iron pin on the south line of lands now or formerly owned by Hansen Family Partnership as recorded in Deed Volume 2386, Page 1220 of the Summit County Record of Deeds;

Thence, north 88°39′01″ east, along the south line of said Hansen Family Partnership lands a distance of 1183.55 feet to an iron pin on the south line of the Ohio Turnpike said point being 250.00 feet from the center line of the said Ohio Turnpike at Station 143+93.03;

Thence, along the south line of the Ohio Turnpike 250.00 feet southerly from the center line of the Ohio Turnpike and the arc of a curve to the left whose central angle is 0°30′41″; radius is 17,438.74 feet; tangent is 77.81 feet; chord is 155.62 feet; chord bearing south 62°05′26″ east an arc length of 155.62 feet to an iron pin, a point of compound curvature at Station 145+46.42;

Thence, continuing along the south line of the Ohio Turnpike 250.00 feet south of the center line of the Ohio Turnpike and the arc of a curve to the left whose central angle is 0°01′03″; radius is 11,924.30 feet; tangent is 1.83 feet; chord is 3.66 feet; chord bears south 62°21′08″ east an arc distance of 3.66 feet to an iron pin;

Thence, north 27°38′10″ east, along the Ohio Turnpike right of way a distance of 30.00 feet to an iron pin 220.00 feet south of the centerline of the Ohio Turnpike;

Thence, continuing along the south line of the Ohio Turnpike 220.00 feet from the center line of the Ohio Turnpike and the arc of a curve to the left whose central angle is 1°04′14″' radius is 11,894.30 feet; tangent is 111.13 feet; chord is 222.26 feet; chord bears south 62°53′25″ east an arc distance of 222.26 feet to an iron pin;

Thence, south 0°03′01″ west, a distance of 943.36 feet to an iron pin on the lot line between Tract 5 & Tract 6;

Thence, south 88°33′01″ west, along a line between Tract 5 & Tract 6, and the north line of lands now or formerly owned by D.O. Emmett as recorded in Permanent Parcel No. 4800164 of the Summit County Record of Deeds, a distance of 644.15 feet to an iron pin at the northwest corner of Tract 6 Lot 1;

Thence, south 88°45′21″ west, along a line between Tract 5 & Tract 6 along the north line of said D.O. Emmett lands a distance of 593.94 feet to an iron pin;

Thence, south 1°26′46″ east, along the west line of said D.O. Emmett lands a distance of 2719.43 feet to an iron pin;

Thence, north 82°23′01″ east, along the south line of said D.O. Emmett lands a distance of 197.00 feet to an iron pin on the west line of lands now or formerly owned by E. Crushing as recorded in Permanent Parcel No. 4800583 of the Summit County Record of Deeds;

Thence, south 2°30′14″ east, along the west line of said E. Crushing lands a distance of 259.42 feet to a point on the center line of Streetsboro Road State Route 303, witness an iron pin set 30.18 feet from the center line of Streetsboro Road State Route 303;

Thence, south 81°14′24″ west, along the center line of Streetsboro Road State Route 303 a distance of 253.10 feet to the true place of beginning of the parcel herein described and containing 63.0561 acres of land, 38.3491 acres in Lot 5, Tract 5 and 24.7070 acres in Lot 2 and Lot 6, Tract 6, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Parcel 5

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being part of Lots 5 and 9, Tract 6 in said Township and more fully bounded and described as follows:

Beginning at the intersection of the original Streetsboro Road (S.R.303) in Richfield Township with the east line of the said Richfield Township, said point also being in the center line of Major Road (T.R.172) extended northerly;

Thence, south 80°58′33″ west, along the original center line of the said S.R. 303 and passing over a State Highway monument at 855.65 feet, a distance of 950.40 feet to a point;

Thence, south 0°54′42″ east, along the west line of lands now or formerly owned by K.F. Farms Limited as recorded in Permanent Parcel No. 4900014 and 4900015 of the Summit County Record of Deeds; a distance of 400.00 feet to a lead monument and the true place of beginning of the parcel herein described:

Thence, continuing south 0°54′42″ east, along the west line of said K.F. Farms Limited lands, a distance of 1632.15 feet to an iron pipe in the northerly limited access right of way line of Interstate 271 as recorded in Plat Book 68, Pages 5–14 of the Summit County Record of Plats;

Thence, southwesterly along the said northerly limited access right of way the following three courses and distances:

South 33°22′27″ west, a distance of 448.75 feet to an iron pipe set at an angle point;

Thence, south 43°54′44″ west, a distance of 475.91 feet to an iron pipe set at an angle point;

Thence, south 52°01′57″ west, a distance of 744.82 feet to an iron pipe set at an angle point; Thence, north 0°51′41″ west, along the easterly line of lands now or formerly in the name of the K.F. Farms by Permanent Parcel No. 4801622, a distance of 1371.10 feet to an iron pipe set in the southwesterly corner of lands now or formerly in the name of J.J. and M.J. Bistricky, as recorded in Deed Volume 5114, Page 567 of the Summit County Record of Deeds;

Thence north 89°08′19″ east, a distance of 242.00 feet to an iron pipe in the southeasterly corner of the said Bistricky lands;

Thence, north 0°51′41″ west, along the east line of said Bistricky lands, a distance of 1684.71 feet to a point in the center line of the said State Route 303 passing over an iron pin set 30.31 feet from the center line of State Route 303;

Thence, north 80°58′33″ east, along the center line of the said State Route 303, a distance of 599.65 feet to a point;

Thence, south 09°01′27″ east, a distance of 30.00 feet to an iron pipe in the south right of way line of the said State Route 303, as recorded in Plat Book 68, Pages 5–14 of the Summit County Record of Plats;

Thence, south 79°02′29″ east, along the southerly right of way line of the said State Route 303, a distance of 58.52 feet to an iron pipe at an angle point;

Thence, north 80°58′33″ east, continuing along the said southerly right of way line of State Route 303, a distance of 65.70 feet to an iron pipe at the northwesterly corner of the lands now or formerly owned by C.R. Mantechi as recorded in Permanent Parcel No. 4800669 of the Summit County Record of Deeds;

Thence, south 0°54′42″ east, along the west line of said C.R. Mantechi lands, a distance of 349.49 feet to an iron pipe;

Thence, north 80°58′33″ east, along the south line of said C.R. Mantechi lands, a distance of 220.00 feet to the true place of beginning of the parcel herein described, and containing 59.359 acres of land, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Parcel 6

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being part of the original Tract 5, Lot No. 6, Richfield Township and also being all of Lots 4 & 5 and part of Lot 1 in the Holeski Subdivision as recorded in Plat book 107, Page 49–53 of the Summit County Record of Plats with said part of Lot 1 being more fully bounded and described as follows:

Beginning at a lead monument on the east right of way line of Black Road and the north line of the said Holeski Subdivision;

Thence, north 88°38′09″ east, along the north line of the said Holeski Subdivision and the north line of Lot 1 a distance of 1471.44 feet to an iron pin;

Thence, south 0°03′09″ west, along the east line of said Holeski Subdivision and the east line of Lot 1, a distance of 714.85 feet to an iron pin;

Thence, north 61°15′01″ west, a distance of 45.59 feet to an iron pin;

Thence, south 88°45′21″ west, a distance of 293.70 feet to an iron pin on the northeast corner of Lot 7;

Thence, north 1°35′25″ west, along the east line of Lot 4 a distance of 320.00 feet to a point; thence, continuing north 1°35′25″ west along the east line of Lot 2 a distance of 321.15 feet to an iron pin at the northeast corner of Lot 2;

Thence, south 88°38′09″ west, along the north line of Lot 2 a distance of 1118.08 feet to the east right of way line of Black Road and an iron pin;

Thence, north 1°23′35″ west, along the east right of way line of Black Road a distance of 50.00 feet to a lead monument and the place of beginning of the parcel herein described and containing 15.3619 acres more or less, 6.7498 acres in Lot 1, 4.7560 acres in Lot 4 and 3.8561 acres in Lot 5, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Parcel 7

Situated in the Township of Richfield, County of Summit, State of Ohio and known as being part of the original Richfield Township Lot No. 6, Tract 6 and more fully bounded and described as follows:

Beginning at the center line intersection of Black Road and Streetsboro Road, State Route 303;

Thence, north 81°16′33″ east, along the center line of Streetsboro Road, State Route 303 a distance of 862.41 feet to a point;

Thence, north 81°14′24″ east, along the centerline of Streetsboro Road, State Route 303 a distance of 652.33 feet to a point and the true place of beginning of the parcel herein described;

Thence, north 5°26′36″ west, along the east line of lands now or formerly owned by P.L. & L. Londrico as recorded in Permanent Parcel Record No. 4800174 of the Summit County Record of Deeds a distance of 374.67 feet to an iron pin; witness an iron pin set 30.04 feet from the center line of Streetsboro Road, State Route 303;

Thence, north 83°18′24″ east, a distance of 209.73 feet to an iron pin;

Thence, south 5°26′36″ east, a distance of 367.10 feet to a point on the center line of Streetsboro Road, State Route 303; witness an iron pin set 30.04 feet from the center line of Streetsboro Road, State Route 303;

Thence, south 81°14′24″ west, along the center line of Streetsboro Road, State Route 303 a distance of 210.00 feet to the true place of beginning of the parcel herein described and containing 1.7875 acres of land, more or less but subject to all legal highways, easements and restrictions of record, as surveyed by J.J. Knecht, Registered Surveyor No. 4548 in November, 1998.

Owner: Board of Commissioners (Summit County)

Cuyahoga Valley National Recreation Area

Area: 0.92 of an acre

Date: December 23, 1998.

Tract 108–06

Situated in the Township of Richfield, County of Summit, State of Ohio and known being part of Lot 1, Tract 6 in Richfield Township and more fully described as follows:

Beginning at a marked stone in the North line of said Lot 1, Tract 6, said point being South 88 degrees 33 minutes 01 seconds West, a distance of 345.4 feet from the Northeast corner of said Lot 1, Tract 6;

Thence, North 90 degrees 00 minutes, 00 seconds West, a distance of 323.56 feet to a point;

Thence, South 00 degrees 00 minutes 00 seconds East, a distance of 423.14 feet to a point and the true place of beginning of the lands herein described;

Thence, continuing South 00 degrees 00 minutes 00 seconds East, a distance of 200.00 feet to a point;

Thence, North 90 degrees 00 minutes 00 seconds West, a distance of 200.00 feet to a point;

Thence, North 00 degrees 00 minutes 00 seconds East, a distance of 200.00 feet to a point;

Thence North 90 degrees 00 minutes 00 seconds East, a distance of 200.00 feet to the true place of beginning, and containing an area 40,000 square feet (0.9183 acres).

[FR Doc. 99–1541 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the twenty-eighth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The public meeting will be held on January 21, 1999, from 7:00 p.m. to 9:00 p.m.

LOCATION: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-committee Reports, General Management Plan, Federal Consistency Projects Within the Gettysburg Battlefield Historic District, Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT:

John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: January 12, 1999.

John A. Latschar,

Superintendent.

[FR Doc. 99–1542 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Yakima River Basin Water Enhancement Project, Yakima, WA, INT–FES 99–3

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of final programmatic environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation) has prepared a final programmatic environmental impact statement (PEIS) for implementing provisions of Phase 2 of the Yakima River Basin Water Enhancement Project (Enhancement Project). The purpose of the Enhancement Project is to meet the competing water needs of the Yakima River basin, including the protection, mitigation, and enhancement of fish and wildlife resources and improvement of the reliability of the water supply for irrigation, through improved water conservation and management and other appropriate means.

DATES: A decision will not be made on the proposed action shall at least 30 days after this notice of availability of the final PEIS is published in the **Federal Register.** Soon after the 30-day waiting period, Reclamation will complete a Record of Decision, identifying the action that will be taken and discussing all factors leading to the decision.

ADDRESSES: A copy of the final PEIS may be obtained without charge from the following location:

- Bureau of Reclamation, Upper Columbia Area Office, 1917 Marsh Road, Yakima, Washington 98907

FOR FURTHER INFORMATION CONTACT: John Tiedeman, Environmental Specialist, at the above address or at 509–575–5848.

SUPPLEMENTARY INFORMATION: The final PEIS evaluates the effects of Title XII of the Enhancement Project legislation. The provisions and measures of the Enhancement Project legislation form the parameters and the methods for achieving the protection, mitigation, and enhancement of fish and wildlife through improved water management, instream flows, water quality, the creation and enhancement of wetlands, and improved reliability of irrigation water supplies. Central to this legislation is the Yakima River Basin Water Conservation Program which attempts to balance competing demands on the basin's water supply. This voluntary program will reduce demands on the available water supply by promoting conservation measures to improve the efficiency of water delivery and use, instream flows for fish and wildlife, and the reliability of the irrigation water supply.

Specific measures that will be implemented depend upon proposals contained in the water conservation plans, feasibility investigations of measures selected for consideration, and program criteria. Consequently, the final PEIS is a broad scope document to provide ''umbrella'' coverage for implementing the Enhancement Project with subsequent tiering for NEPA compliance of specific follow-on actions as appropriate.

Six alternatives, including no action, were evaluated in the final PEIS. The no action alternative is presented as the most likely future condition that could be expected without the implementation of additional Title XII provisions beyond the currently established riverflows, which includes the new operational criteria required by the legislation. This alternative provided the basis for impact comparisons. Five action alternatives presented the implementation of all elements of the Enhancement Project at different levels of implementation of project components. The preferred and environmentally preferred alternative is Alternative 2A, which includes all provisions of Title XII, and which would provide for the implementation of water conservation measures throughout the basin, rather than concentrating in specific areas.

Beneficial impacts of the project are considered to be enhanced water quality, increased streamflow, and overall reinforcement of fish and wildlife habitat, as well as an increase in the reliability of irrigation water supplies.

Dated: January 7, 1999.

Steven R. Clark,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 99–1602 Filed 1–22–99; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–403]

Assessment of the Economic Effects on the United States of China's Accession to the WTO

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and notice of opportunity to submit comments.

EFFECTIVE DATE: January 19, 1999.

SUMMARY: Following receipt on December 21, 1998, of a request under sec. 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) from the United States Trade Representative (USTR), the U.S. International Trade Commission (the Commission) instituted investigation No. 332–403, Assessment of the Economic Effects on the United States of China's Accession to the WTO. The Commission plans to submit its report to the USTR by June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Arona Butcher, Office of Economics, (202–205–3301) or James Stamps, Office of Economics (202–205–3227). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

As requested by the USTR, the Commission will provide in its report an assessment of the probable economic effects on the United States of China's accession to the World Trade Organization (WTO). As requested, the Commission will conduct a comparative static analysis. The analysis will be based on actual trade and related economic variables from a recent representative, historical period. It will reflect, to the extent possible, how those trade and related economic variables would have appeared in that same period had China been a member of the WTO with all adjustments made that would result from China's lowering and binding its tariffs, accepting the disciplines on non-tariff barriers, and complying with the WTO.

As requested, the Commission will report on standard U.S. economic variables. These will include (1) aggregate exports and imports with

China and the world, employment, average labor productivity, average labor compensation, and gross domestic product, and (2) changes in U.S. trade, investment, output, and employment at the sectoral level and changes in consumer prices of various affected goods and services. The Commission will also provide a profile of China's trade and investment patterns and will estimate or discuss, to the extent possible, the effect of WTO accession on China's pattern of trade, rate of economic growth, and internal economic reform process.

With regard to Chinese tariff reductions, the Commission will make two assessments: it will consider a 25 percent and a 50 percent across-the-board cut in Chinese tariff rates, with each tariff reduction taken in turn from two sets of base rates'from China's 1992 tariff rates and from China's 1996 tariff rates (or the most recent feasible year if 1996 data are not available).

As requested, the Commission will seek to assess changes in U.S. trade, U.S. foreign investment, and the U.S. domestic economy resulting from certain non-tariff aspects of a possible accession agreement. The Commission will provide a quantitative assessment of the following to the extent possible, or a qualitative assessment where either data or methodological limitations preclude quantitative estimates:

1. The elimination of China's WTO-inconsistent licensing, quota, and tendering requirements;
2. A comparison of the current trade situation with China to the institution of tariff rate quotas as part of an accession package on the following agricultural products: corn, cotton, oilseeds, rice, sugar, vegetable oils, wheat, wool, and wool tops;
3. The elimination of China's trade-related investment measures such as export performance requirements, local content, and trade and foreign exchange balancing;
4. Market openings in the following Chinese service sectors: distribution (including Commission agents, wholesaling, retailing, and franchising); financial services (including insurance); telecommunications (including basic and value-added services); tourism and travel; land-based air courier services; business services including professional services, consultancy and advertising; and business services auxiliary to distribution such as rental and leasing of equipment, maintenance and repair, packaging, storage, and warehousing;
5. An analysis of the effect of China's compliance with WTO rules on or affecting transparency, national treatment, judicial review, state trading, offset, and protection and transfer of technology;
6. The effect of the removal of U.S. quantitative restrictions on textile and apparel imports on all WTO members relative to the inclusion of China, in the context of the U.S. bilateral agreements on textiles and apparel with China; and
7. Any other change in the conditions of trade with China that is a result of accession and likely to materially affect U.S. trade and investment flows.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW, Washington, DC 20436, beginning at 9:30 am on February 23, 1999 (and 24th, if needed). All persons will have the right to appear by counsel or in person, to present testimony, and to be heard. Requests to appear at the public hearing should be filed in writing with the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436, on or before noon February 12, 1999. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is noon February 12, 1999. The deadline for filing posthearing briefs or statements is March 9, 1999. Any confidential business information included in such briefs or statements or to be submitted at the hearing must be submitted in accordance with the procedures set forth in section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). In the event that, as of the close of business on February 12, 1999, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after February 12, 1999, to determine whether the hearing will be held.

Written Submissions

U.S. firms and other interested persons are invited to submit written statements concerning any of the matters to be addressed in the report. The Commission is especially interested in receiving:

1. Information regarding the likely economic effects of a 25 percent or a 50 percent reduction in current Chinese tariff rates on the interests of specific U.S. firms, industries, investors, consumers, or groups of workers;
2. A list of Chinese non-tariff barriers ranked according to the degree of concern to the interests of specific U.S. firms, industries, investors, consumers, or groups of workers; and
3. Quantitative estimates (in percentage terms, if possible) of the current economic effects of Chinese non-tariff barriers, and estimates of the potential economic effects on U.S. exports, employment, and investment of reducing or eliminating these non-tariff barriers.

Commercial or financial information that a person desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received not later than March 9, 1999. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, D.C. 20436. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

By order of the Commission.

Issued: January 20, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1637 Filed 1–22–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–68]

Lamb Meat

AGENCY: United States International Trade Commission.

ACTION: Determination that investigation is extraordinarily complicated and rescheduling of vote in injury phase of investigation.

SUMMARY: The Commission has determined that investigation No. TA–201–68, Lamb Meat, is ''extraordinarily complicated'' within the meaning of section 202(b)(2)(B) of the Trade Act of 1974 (19 U.S.C. 2252(b)(2)(B)), and accordingly will make its injury determination in this investigation

before the 150th day of the filing of the petition, as opposed to the 120th day. Having made the determination on January 15, 1999, the Commission met the statutory requirement that it make such determination before the 100th day after the petition was filed. Under the revised schedule, the vote on injury in the investigation will be announced in a separate **Federal Register** notice. The dates for the hearing in the remedy phase, should this phase be necessary, and for filing prehearing and posthearing briefs and other submissions relating to remedy, are the same as previously announced.

EFFECTIVE DATE: January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Notice of institution of the investigation and scheduling was published in the **Federal Register** of October 23, 1998 (63 FR 56940).

Issued: January 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1634 Filed 1–22–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–386 and 731–TA–812–813 (Preliminary)]

Live Cattle From Canada and Mexico

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of live cattle, provided for in subheading 0102.90.40 of the Harmonized Tariff Schedule of the United States, with the exception of statistical reporting numbers 0102.90.40.72 and 0102.90.40.74, that are alleged to be subsidized by the Government of Canada, and by imports of live cattle from Canada that are alleged to be sold in the United States at less than fair value (LTFV).[2] The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of live cattle from Mexico that are alleged to be sold in the United States at LTFV.[3]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of the investigations on Canada. The Commission will issue a final phase notice of scheduling that will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in these investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in these investigations under sections 703(b) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of these investigations need not enter a separate appearance for the final phase of these investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On November 12, 1998, a petition was filed with the Commission and the Department of Commerce by the Ranchers-Cattlemen Action Legal Foundation (''R-Calf''), Columbus, MT, alleging that an industry in the United States is materially injured by reason of imports from Canada of live cattle that are alleged to be subsidized by the Government of Canada, and imports from Canada and Mexico of live cattle that are alleged to be sold at LTFV. Accordingly, effective November 12, 1998, the Commission instituted countervailing and antidumping investigations Nos. 701–TA–386 and 731–TA–812–813 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 19, 1998 (63 FR 64277). The conference was held in Washington, DC, on December 2, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 19, 1999. The views of the Commission are contained in USITC Publication 3155 (February 1999), entitled Live Cattle from Canada and Mexico: Investigations Nos. 701–TA–386 and 731–TA–812–813 (Preliminary).

Issued: January 20, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1635 Filed 1–22–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–418]

Certain Rodent Bait Stations and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 23, 1998, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, Wisconsin 53704. A supplement to the complaint was filed on January 11, 1999. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rodent bait stations and components thereof by reason of infringement of claims 19 and 22 of U.S. Letters Patent 5,040,327, and claims 4, 5, 6, 7, and 8 of U.S. Letters Patent 5,448,852. The complaint further alleges that there exists an industry in

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Carol T. Crawford and Thelma J. Askey dissenting.

[3] Chairman Lynn M. Bragg dissenting.

the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its internet server (http://www.usitc.gov).

FOR FURTHER INFORMATION CONTACT: Steven A. Glazer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2577.

SUPPLEMENTARY INFORMATION:

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (1998).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on January 20, 1999, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain rodent bait stations or components thereof by reason of infringement of claims 19 or 22 of U.S. Letters Patent 5,040,327, or claims 4, 5, 6, 7, or 8 of U.S. Letters Patent 5,448,852, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, Wisconsin 53704.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Aegis Research Ltd., U.K., International Headquarters, Unit 2, Cologne Court, Brooklands Close, Windmill Road, Sunbury-On-Thames TW16 7EB, United Kingdom.

Aegis Research Ltd., U.S., Suite 4, 101 Weston Drive, Dover, Delaware 19904–2764.

(c) Steven A. Glazer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–K, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: January 20, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1638 Filed 1–22–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–750 (Final) (Remand)]

Vector Supercomputers From Japan; Notice and Scheduling of Remand Proceedings

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (the Commission) hereby gives notice of the court-ordered remand of its final antidumping investigation No. 731–TA–750 (Final).

EFFECTIVE DATE: January 19, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk, Office of Investigations, telephone 202–205–3190 or Cynthia P. Johnson, Office of General Counsel, telephone 202–205–3098, U.S. International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION

Background

On December 15, 1998, the United States Court of International Trade (''CIT'') issued a remand Order to the Commission in NEC Corporation and HSNX Supercomputers, Inc., and Fujitsu Limited and Fujitsu America, Inc., v. Department of Commerce & U.S. International Trade Commission, Consol. Ct. No. 97–11–01967, Slip. Op. 98–164. That case involved review of the Commission's October 1997 affirmative determination in Vector Supercomputers from Japan, Inv. No. 731–TA–750 (Final). The CIT held that it could not uphold the Supercomputers determination because the Commission ''may have adopted'' reasoning that ''is contradictory to the 'by reason of' standard adopted by the Federal Circuit.'' NEC, Slip Op. 98–164 at 30. In addition, the CIT held that the Commission ''did not apply the analysis mandated by the Federal Circuit'' in examining the price effects of future imports. Id. at 31. Accordingly, the CIT remanded the Commission's threat of material injury determination for further explanation or reconsideration.

Participation in the Proceedings

Only those persons who were parties to the original administrative

proceedings (i.e., persons listed on the Commission Secretary's service list) may participate in these remand proceedings.

Written Submissions

Briefs should be concise, limited to the issue on remand, and thoroughly referenced to information on the record in the original investigation. This remand investigation is being conducted on the evidentiary record from the original investigation. Therefore, the submission of new factual information is not permitted. Written briefs shall be limited to twenty-five (25) pages, and must be filed no later than close of business on February 4, 1999. No further submissions will be permitted unless otherwise ordered by the Commission.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

Issued: January 20, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–1636 Filed 1–22–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 4, 1998, and published in the **Federal Register** on August 18, 1998, (63 FR 44276), Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, 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
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer)	I
Lysergic acid diethlamide (7315)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecogonine (9180)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

No comments or objections were received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Applied Science Labs to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Applied Science Labs 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 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 classes of controlled substances listed above is granted.

Dated: January 12, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–1617 Filed 1–22–99; 8:45 am]

BILLING CODE 4410–09–M

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 request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 4, 1999.

Interested persons 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 February 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 4th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 01/04/1999

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
35,446	Amphenol Corp (IAMAW)	Sidney, NY	12/14/1998	Electrical & Environmental Connectors
35,447	JPM Co of South Carolina (Wrks)	Winnsboro, SC	12/16/1998	Wire Harness Cable
35,448	Private Line Group, Inc (Comp)	Franklin, GA	12/14/1998	Men's Suits, Sportcoats
35,449	ARCO (Comp)	Plano, TX	12/17/1998	Crude Oil, Natural Gas
35,450	Braeburn Alloy Steel (USWA)	Lower Burrell, PA	12/14/1998	Steel Conversion
35,451	Pillsbury Co (The) (Comp)	Woodbridge, NJ	12/21/1998	Ice Cream
35,452	C.P. Chemicals, Inc (Wrks)	Sewaren, NJ	12/21/1998	Nickel Carbonate
35,453	Pendleton Woolen Mills (Comp)	Fremont, NE	12/21/1998	Ladies' Skirts and Pants
35,454	B.J. Services (Wrks)	Odessa, TX	12/17/1998	Oilwell Services
35,455	Hughes Christensen (Wrks)	Salt Lake City, UT	12/21/1998	Exploration, Drilling Crude Oil
35,456	Hitachi Semiconductor (Wrks)	Irving, TX	12/10/1998	Semiconductor Chips
35,457	Motorola, Inc (Wrks)	Res. Triangle Pk, NC.	12/10/1998	Silicon Wafers for Semiconductors
35,458	Diamond Communication (Comp)	Garwood, NJ	12/11/1998	Drop & Pole Line CATV Hardware
35,459	Baker Oil Tools (Comp)	Houston, TX	12/21/1998	Oilfield Services
35,460	Amerada Hess Corp (Wrks)	Houston, TX	12/18/1998	Oil and Gas

[FR Doc. 99–1629 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,073 and 073B]

Camptown Togs, Incorporated, Clanton, AL; New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on December 15, 1998, applicable to workers of Camptown Togs, Incorporated located in Clanton, Alabama. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The State agency reports that worker separations have occurred at New York, New York location of Camptown Togs, Incorporated. The New York, New York location was the sales office for Camptown Togs' production facilities located in Clanton and Grove Hill, Alabama. The workers were engaged in the production of infants and children's tops and bottoms.

The intent of the Department's certification is to include all workers of Camptown Togs, Incorporated who were adversely affected by increased imports of infants and children's tops and bottoms. Accordingly, the Department is amending the certification to cover the workers of Camptown Togs, Incorporated, New York, New York.

The amended notice applicable to TA–W–35,073 is hereby issued as follows:

All workers of Camptown Togs, Incorporated, Clanton, Alabama (TA–W–35,073) and New York, New York (TVA–W–35,073B) who became totally or partially separated from employment on or after September 24, 1997 through December 15, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1623 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,955 and 955A]

Caza Drilling, Inc., North Dakota Operations; Headquartered in Williston, ND and Operating at Various Locations in Montana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on September 21, 1998, applicable to workers of Caza Drilling, Inc., North Dakota Operations headquartered in Williston, North Dakota. The notice was published in the **Federal Register** on October 9, 1998 (63 FR 54495).

At the request of petitioners and the State agency, the Department reviewed the certification for workers of the subject firm. Review of the investigation record shows that workers of Caza Drilling, Inc., North Dakota Operations, providing oil field services in Montana on a contractual basis for crude oil producers, were inadvertently excluded from the certification. Accordingly, the Department is amending the certification to expand coverage to workers of Caza Drilling, North Dakota Operations, to those workers operating at various locations in Montana.

The intent of the Department's certification is to provide coverage to all workers of the subject firm adversely affected by increased imports of crude oil.

The amended notice applicable to TA–W–34,955 is hereby issued as follows:

All workers of Caza Drilling, Inc., North Dakota Operations, headquartered in Williston, North Dakota (TA–W–34,955) and operating at various locations in the State of Montana (TA–W–34,955A), who became totally or partially separated from employment on or after August 26, 1997 through September 21, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of January 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1622 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,391 and TA–W–34,391C]

Forstmann & Company, Inc.; Dublin, GA; Carpini USA-Division New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on May 22, 1998, applicable to workers of Forstmann & Company, Inc. located in Dublin, Georgia. The notice was published in the **Federal Register** on June 22, 1998 (63 FR 33958).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The State agency reports that worker separations have occurred at Carpini USA-Division of Forstmann & Company, Inc. located in New York, New York. The New York, New York workers provide administrative and marketing services supporting the production of textile products at the Forstmann & Company, Inc. plants.

New findings show that workers at the Carpini USA-Division of Forstmann & Company, Inc., New York, New York were covered under a previous certification, TA–W–32,657, which expired October 15, 1998.

The intent of the Department's certification is to include all workers of Forstmann & Company, Inc. who were adversely affected by increased imports of textile products.

The amended notice applicable to TA–W–34,391 is hereby issued as follows:

All workers of Forstmann & Company, Inc., Dublin, Georgia (TA–W–34,391) who became totally or partially separated from employment on or after March 16, 1997 through May 22, 2000, and all workers of Forstmann & Company, Inc., Carpini USA Division, New York, New York (TA–W–34,391C) who became totally or partially separated from employment on or after October 16, 1998 through May 22, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1626 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,100]

McCulloch Corporation (Including Corporate Office/Distribution Center), Tucson, AZ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 27, 1997, applicable to all workers of McCulloch Corporation, Tucson, Arizona (excluding corporate office and distribution employees). The notice was published in the **Federal Register** on March 21, 1997 (62 FR 13710).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of chain saws, string trimmers, blowers and other lawn and garden equipment. The company reports that worker separations occurred at the subject firm's corporate office and distribution center, Tucson, Arizona when the company closed in January, 1999.

The intent of the Department's certification is to include all workers of McCulloch Corporation (including corporate office and distribution employees) adversely affected by increased imports.

Accordingly, the Department is amending the certification to cover the workers of McCulloch Corporation, Tucson, Arizona (including corporate office and distribution center).

The amended notice applicable to TA–W–34,143 is hereby issued as follows:

All workers of McCulloch Corporation, Tucson, Arizona who became totally or partially separated from employment on or after January 3, 1996 through February 27, 1999 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1627 Filed 1–22–99; 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 and January, 1999.

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 subdivision have decreased absolutely, and

(3) That increase of imports of articles like or directly competitive with articles produced by the firm of appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Workers Adjustment Assistance

In each of the following cases the 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 time.

TA–W–35,003; Paramount Headwear, Inc., Dexter, MO
TA–W–34,251; ApparelMark, Inc., El Paso, TX
TA–W–35,228; Crusader Engines, Sterling Heights, MI
TA–W–35,102; Mitchell Manufacturuing, A Lamount Group Co., Clare, MI
TA–W–34,975; Osram Sylvania Products, Inc., Wellsboro Glass Technologies, Wellsboro. PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–35,107; International Product Options, New York, NY
TA–W–35,328; Revlon, Inc., Holmdel, NJ
TA–W–35,218; Hooper Trucking Co., Odessa, TX

TA–W–35,148; Martin-Decker/Totco, Williston, ND

TA–W–35,341; The Kelly-Springfield Tire Co., Cumberland, MD

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–35,179; Spartan Mills Woven Apparel Fabrics, Chesnee, SC

TA–W–35,057; Connex Pipe Systems, Inc., Trutville, VA

TA–W–35,347; National Fruit Products Co., Inc., Kent City, MI

TA–W–35,116; Davis Clothing, Brockton, MA

TA–W–34,925; Windfall Products, Inc., St. Mary's PA

TA–W–35,084; Mascotech, Inc., Mascotech Forming Technologies Div., Fraser, MI

TA–W–35,099; Creative Expressions Group, Indianapolis, IN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–35,273; Bend Door, A Div. Of Jeld-Wen, Bend, OR

This investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–35,156; Pluma, Inc., Eden, NC and A; Martinsville, VA, B; Chatham, VA, C; Altavista, VA, D; Rocky Mt, VA, E; Meadows of Dan, VA

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Workers 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–35,099; Creative Expressions Group, Indianapolis, IN: Invitation Department: October 1, 1997

TA–W–35,105; Thurmond Apparel, State Road, NC: September 29 1997

TA–W–35,392; Magnetek Motor & Generator Group, Prairie Grove, AR: December 4, 1997.

TA–W–35,023; MTD Products, Inc., Cub Cadet Div., Brownsville, TN: September 16, 1997.

TA–W–35,146; Detroit Steel Products, Morristown, IN: October 20, 1997.

TA–W–35,028; Wire-Form, Warren, MI: September 11, 1997.

TA–W–35,337; Cross Creek Apparel, Inc., Floyd, VA: November 25, 1997.

TA–W–35,200; Nabors USA, Inc., East Texas/North Louisiana District, Kilgore, TX & Operating in The Following States: A; TX and B; LA: October 22, 1997.

TA–W–35,120; Biltwell Clothing Co., St. Louis, MO: October 14, 1997.

TA–W–35,173; Jockey International Inc., St. Sterling, KY: October 21, 1997.

TA–W–34,932; Crown Pacific, Bonners Ferry Div., Bonners Ferry, ID: August 15, 1997.

TA–W–35,178; Clar-Mar, Inc., Cherryville, NC: October 27, 1997.

TA–W–35,181; Nortel, Inc., Morrisville, NC: October 20, 1997.

TA–W–35,101; General Electric Co., Meter Business, Somersworth, NH: August 24, 1997.

TA–W–35,207; Saldan Bindery, Inc., Brooklyn, NY: November 3, 1997.

TA–W–35,073 & A; Camptown Togs, Inc., Clanton, AL and Grove Hill, AL: September 24, 1997.

TA–W–35,206; Darby Lumber, Inc., Bob Russell Construction, Darby, MT: October 27, 1997.

TA–W–35,158; Quickie Manufacturing Corp & Assembly Service, Inc., El Paso, TX: October 21, 1997.

TA–W–35,270; TDS, Inc., Oklahoma City, OK: November 16, 1997.

TA–W–35,203; Dan River, Inc., Spindale Plant, Spindale, NC: November 5, 1997.

TA–W–35,123; Hamilton Beach/Proctor-Silex, Inc., Mt. Airy, NC: October 13, 1997.

TA–W–35,217; Technical Logging Systems, Houma, LA: October 27, 1997.

TA–W–35,303; Kehoe Pipeline & Construction Co., Watford City, ND: November 19, 1997.

TA–W–35,292; Sta-Right Fusing Co., Inc., Pittston, PA: November 17, 1997.

TA–W–35,111; Associated Plastics, Inc., Jonesboro, AR: September 28, 1997.

TA–W–35,134; Henson Garment Co., Inc., Athens, GA: October 15, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of December, 1998. And January, 1999.

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 appropriation 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 imports 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–02688; Lakeshore, Inc., Ontonagon Facility, Octonagon, MI

NAFTA–TAA–02669; Mitchell Manufacturing Group, A Lamont Group Co., Clare, MI

NAFTA–TAA–02761; Bend Door, A Div. F Jeld-Wen, Bend, OR

NAFTA–TAA–02673; Creative Expressions Group, Indianapolis, IN

NAFTA–TAA–02724; Mattel, Inc., Mattel Fort Wayne Operations, Fort Wayne, IN

NAFTA–TAA–02682; Thomaston Mills, Griffin Div., Griffin, GA

NAFTA–TAA–02725; U.S. Steel Mining Co., LLC, Pinnacle System, Pineville, WV

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02763; Automotive Logistics Services, Brownstown, MI

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02671; Associated Plastic, Inc., Jonesboro, AR: October 8, 1997.

NAFTA–TAA–02803; Thomas & Betts Corp., Diamond Communication Products, Inc., Garwood, NJ: December 11, 1997.

NAFTA–TAA–02680; W. Seitchik & Sons, Philadelphia, PA: October 7, 1997.

NAFTA–TAA–02639; MTD Products, Inc., Cub Cadet Div., Brownsville, TN: September 16, 1997.

NAFTA–TAA–02737; ApparelMark, Inc., El Paso, TX: November 9, 1997.

NAFTA–TAA–02697; Standard Manufacturing Co., Orlando, FL: September 25, 1997.

NAFTA–TAA–02681; Biltwell Clothing Co., St. Louis, MO: October 14, 1997.

I hereby certify that the aforementioned determinations were issued during the months of December, 1998 and January, 1999. 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: January 11, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1630 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,922 et al.]

Anitec Image Corporation a/k/a Kodak Polychrome Graphics; Binghamton, NY; Ridgewood, NJ; Arlington Heights, IL; Corona, CA; Duluth, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 9, 1998, applicable to all workers of Anitec Image Corporation, located in Binghamton, New York. The notice was published in the **Federal Register** on February 6, 1998 (63 FR 6209).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations have occurred at the Ridgewood, New Jersey, Arlington Heights, Illinois, Corona, California and Duluth, Georgia locations of Anitec Image Corporation. These locations provide sales and administrative support functions for Anitec Image's production facility in Binghamton, New York. The workers are engaged in the production of photographic film, paper and related products.

The intent of the Department's certification is to include all workers of Anitec Image Corporation who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of Anitec Image Corporation, also known as Kodak Polychrome Graphics, Ridgewood, New Jersey, Arlington Heights, Illinois, Corona, California and Duluth, Georgia.

The amended notice applicable to TA–W–33,922 is hereby issued as follows:

All workers of Anitec Image Corporation, also known as Kodak Polychrome Graphics, Binghamton, New York (TA–W–33,922), Ridgewood, New Jersey (TA–W–33,922A), Arlington Heights, Illinois (TA–W–33,922B), Corona, California (TA–W–33,922C) and Duluth, Georgia (TA–W–33,922D) who became totally or partially separated from employment on or after December 14, 1997 through January 9, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January, 1999.

Grant D. Beale

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1625 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 744 and NAFTA–02482]

Lucas Varity North American Light Vehicle Braking Systems Mount Vernon, OH; Notice of Negative Determination on Reconsideration

On November 19, 1998, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The petitioner presented new evidence that the company shifted production of certain brake systems to Mexico and importing like or directly competitive articles into the U.S. The notice was published in the **Federal Register** on December 10, 1998 (63 FR 68304).

The Department initially denied TAA to workers of Lucas Varity because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met and because the group eligibility requirements of Section 250 of the Act were not met. The workers at the subject firm were engaged in employment related to the production of brakes and brake parts.

On reconsideration, the Department requested that Lucas Varity provide additional information on the production of brakes for KIA. The additional information provided by the company indicated the following: (1) The KIA work, which amounted to less than three percent of the company's sales and labor, was shifted to Mexico during the period August, 1997 through February, 1998; and (2) as of May 18, 1998 all workers at the subject firm had been recalled from various temporary lay-offs.

Conclusion

After reconsideration, I affirm the original notice of negative determination regarding eligibility to apply for worker adjustment assistance and NAFTA-Transitional Adjustment Assistance for workers and former workers of Lucas Varity, North American Light Vehicle Braking System, Mount Vernon, Ohio.

Signed at Washington, DC, this 6th day of January 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1624 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02648 and NAFTA—02648A]

McCulloch Corporation Lake Havasu City Warehouse, Lake Havasu City, AZ and Lake Havasu City Operations, Lake Havasu City, AZ; Amendment Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on October 22, 1998, applicable to workers of McCulloch Corporation, Lake Havasu City Warehouse, Lake Havasu City, Arizona. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63079).

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at the subject firm's Lake Havasu City Operations, Lake Havasu City, Arizona when it closed in January, 1999. The workers produced the machined parts for lawn and garden equipment, such as leaf blowers, string trimmers and chain saws. The production of machined parts for lawn and garden equipment contributed to the kitting functions (i.e. package machined parts for lawn and garden equipment) performed at McCulloch Corporation's Lake Havasu City Warehouse, Lake Havasu City, Arizona.

Accordingly, the Department is amending the certification to cover workers at McCulloch Corporation, Lake Havasu City Operations, Lake Havasu City, Arizona. The intent of the Department's certification is to include all workers of McCulloch Corporation adversely affected by increased imports from Mexico.

The amended notice applicable to NAFTA—02648 is hereby issued as follows:

All workers of McCulloch Corporation, Lake Havasu City Warehouse, Lake Havasu City, Arizona (NAFTA–2648) Lake Havasu City Operations, Lake Havasu City, Arizona (NAFTA–2648A) who became totally or partially separated from employment on or after February 10, 1998 through October 22, 2000 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–1628 Filed 1–22–99; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), The National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: February 8–9, 1999, 9:00 a.m.–6:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rooms 340 and 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. William Gordon, Program Director, Collaborative Research at Undergraduate Institutions Room 615, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1469.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted in response to the Collaborative Research at Undergraduate Institutions Pre-proposals. Collections program announcement (NSF 99–11).

Reason for Closing: The pre-proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1575 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting. Special Emphasis Panel in Computer and Computation Research.

Name: Special Emphasis Panel in Computer and Computation Research (1192).

Date: February 15–16, 1999, February 18–19, 1999, February 22, 1999.

Time: 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): S. Kamal Abdali, Program Director, Numeric, Symbolic, and Geometric Program, CISE/CCR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Telephone: (703) 306–1912.

Purposes of Meeting: To provide advice and recommendations for the Numerical, Symbolic, and Geometric Program (NSG) by providing review of a group of approximately 50 proposals with special attention to changing emphases for that program.

Agenda: To review and evaluate NSG proposals as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1576 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel Engineering Education and Centers (173).

Date and Time: February 11–12, 1999, 7:30 a.m.–5:30 p.m.

Place: National Science Foundation, Room 360, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Ernest T. Smerdon, Senior Education Associate, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted under the Action Agenda for Systemic Engineering Education Reform Guidelines.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as

salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1573 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel Engineering Education and Centers (173).

Date and Time: February 11–12, 1999, 7:30 a.m.–5:30 p.m.

Place: National Science Foundation, Room 360, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Ernest T. Smerdon, Senior Education Associate, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted under the Action Agenda for Systemic Engineering Education Reform Guidelines.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1581 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental & Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the national Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental & Integrative Activities (1193).

Date & Time: February 12, 1999, 8:00 a.m.–5:00 p.m.

Place: Room 1120, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Lawrence E. Brandt, Digital Government, Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, VA 22230 Telephone: (703) 306–1981.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Digital Government proposals submitted in response to the program announcement (NSF 98–121).

Reason for closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and(6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1572 Filed 1–22–99; 8:45 am]

BILLING CODE 7550–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel for Geosciences (1756).

Date & Time: February 2, 1999, 9:00 am.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Alexander N. Shor, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1579.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Shipboard Scientific Support Equipment proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1580 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and Time: February 8–10, 1999; 8:30 A.M. until 5:00 P.M.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Joe Jenkins, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1879.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Dynamical Systems Ergodic Theory, as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1578 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: February 8–10, 1999; 8:30 AM–5:00 PM.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Rm. 1020.

Type of Meeting: Closed.

Contact Person: Dr. Boris Kayser, Program Director for Theoretical Physics, Division of Physics, Rm. 1015, Telephone: (703) 306–1890.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Theoretical Physics Formal Strings Program at NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary date for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1571 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: February 8–10, 1999; 8:30AM–5:00PM.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Rm. 770.

Type of Meeting: Closed.

Contact Person: Dr. Winston Roberts, Program Director for Theoretical Physics, Division of Physics, Rm. 1015, Telephone: (703) 306–1890.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Theoretical Physics Nuclear Program at NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary date for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1574 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: February 12, 1999 from 8:00 a.m. to 5:00 p.m., Rm. 1060.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Time of Meeting: Closed.

Contact Person: Dr. Barry Schneider, Program Director for Atomic, Molecular and Optical Plasma Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1890.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF Plasma Physics Program.

Agenda: To review and evaluate proposals for the NSF/DOE Coordinated Review of Basic Plasma Physics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary date for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1577 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: February 4–6, 1999; 8:30 AM–5:00 PM.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Rm. 1060.

Type of Meeting: Closed.

Contact Person: Dr. Boris Kayser, Program Director for Theoretical Physics, Davison of Physics, Rm. 1015, Telephone: (703) 306–1890.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Theoretical Astrophysics Program at NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary date for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 1999.

Linda Allen-Benton,

Acting Director, Division of Human Resource Management.

[FR Doc. 99–1579 Filed 1–22–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–116]

Notice of Application for Decommissioning Amendment, Iowa State University, UTR–10 Research Reactor

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from Iowa State University dated January 6, 1999, for a license amendment approving the decommissioning plan for the Iowa State University Reactor (Facility License No. R–59) located in the Nuclear Engineering Building, which is located on the west edge of the main campus of Iowa State University, in Ames, Iowa.

A copy of the application is available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street, NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 14th day of January 1999.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1562 Filed 1–22–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23654; 812–11390]

Principal Management Corporation, et al.; Notice of Application

January 15, 1999.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the

''Act'') for an exemption from section 17(a) of the Act.

APPLICANTS: Principal Management Corporation (the ''Adviser''), Principal Tax-Exempt Cash Management Fund, Inc. (the ''Tax-Exempt Fund''), and Principal Cash Management Fund, Inc. (the ''Cash Management Fund'' and together with the Tax-Exempt Fund, the ''Funds'').

SUMMARY OF APPLICATION: Applicants request an order to permit the Cash Management Fund to acquire the assets and the liabilities of the Tax-Exempt Fund.

FILING DATES: The application was filed on October 30, 1998, and amended on January 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 9, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicants, The Principal Financial Group, Des Moines, Iowa 50392–0200.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, 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 SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. (202) 942–0526).

Applicants' Representations

1. Each of the Funds is a Maryland corporation registered under the Act as an open-end management investment company. Each of the Funds operates as a money market fund and seeks to maintain a stable net asset value (''NAV'') per share of $1.00. The Cash Management Fund has three classes of shares outstanding: Classes A, B, and R. The Tax-Exempt Fund has only one class, Class A, shares outstanding. Class A shares of the Funds are not subject to a sales load, redemption fee, exchange fee, contingent deferred sales charge, or a distribution fee under rule 12b–1 under the Act (''rule 12b–1 fee'').

2. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser for each of the funds. The Adviser is an indirect wholly-owned subsidiary of the Principal Life Insurance Company, an Iowa insurance company (''Principal Life''). At October 31, 1998, Principal Life and it subsidiaries owned approximately 9.5% of all the outstanding shares of the Cash Management Fund.

3. On September 14, 1998, the boards of directors of the Funds (''Boards''), including a majority of the directors who are not ''interested persons'' of the Funds as defined in section 2(a)(19) of the Act, approved the terms of an Agreement and Plan of Acquisition pursuant to which the Cash Management Fund will acquire all the assets and assume all the liabilities of the Tax-Exempt Fund in exchange for shares of the Cash Management Fund equal in value to the NAV of the Tax-Exempt Fund (the ''Acquisition''). The Acquisition is expected to close on April 1, 1999 (the ''Closing Date''). Each shareholder of the Tax-Exempt Fund will receive shares of the Cash Management Fund having an aggregate NAV equal to the aggregate NAV of the Tax-Exempt Fund's shares held by that shareholder calculated as of 4:00 p.m. on the Closing Date.

4. The investment objectives of the Funds are substantially similar. The principal investment objective of the Cash Management Fund is to seek as high a level of current income as is consistent with the preservation of principal and maintenance of liquidity by investing in money-market instruments. Similarly, the principal investment objective of the Tax-Exempt Fund is to seek as high a level of current interest income exempt from federal income tax as is consistent with stability of principal and maintenance of liquidity by investing in high quality, short-term municipal obligations.[1]

5. The Boards found that participation in the Acquisition was in the best interests of each Fund and their shareholders and that the interests of the existing shareholders of each Fund would not be diluted as a result of the Acquisition. The Boards considered a number of factors in authorizing the Acquisition including: (i) possible alternatives to the Acquisition, (ii) the terms and conditions of the Acquisition and whether the Acquisition would result in dilution of shareholder interests, (iii) the advantage to the Tax-Exempt Fund shareholders of investing in a larger asset pool with greater diversification, (iv) any direct or indirect costs incurred by the Funds as a result of the Acquisition, (v) expense ratios and available information regarding fees and expenses of the Funds, (vi) the tax consequences of the Acquisition, (vii) the compatibility of the investment objectives of the Funds, and (viii) the likelihood that the shareholders of the Tax-Exempt Fund would prefer the option of selecting between the Cash Management Fund and the Bond Funds to maintaining their interests in the Tax-Exempt Fund. The Adviser will pay all expenses incurred in connection with the Acquisition.

6. The Tax-Exempt Fund intends to hold a shareholders meeting on March 31, 1999 to consider and vote on the Acquisition. Completion of the Acquisition is subject to a number of conditions precedent, in addition to the approval of the Acquisition by the Boards and the shareholders of the Tax-Exempt Fund. The Acquisition will not be considered a tax-free ''reorganization,'' under applicable provision of the Internal Revenue Code. Although the Acquisition will not be considered a tax-free ''reorganization,'' in the opinion of tax counsel to the Funds, no gain or loss will be recognized by either Fund or shareholders, in connection with the Acquisition, and the tax cost basis of the Cash Management Fund shares received by Tax-Exempt Fund shareholders will equal the tax cost basis of their shares in the Tax-Exempt Fund, although their holding period will begin anew with the Acquisition. Applicants agree that no material changes will be made to the Acquisition plan without the prior approval of the Commission staff.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits any affiliated person of a registered investment company, or any affiliated

[1] In order to permit the shareholders of the Tax-Exempt Fund who wish to maintain an investment in a tax-exempt fund to do so, the Principal Tax-Exempt Bond Fund (the ''Bond Fund'') intends to offer to exchange its Class A shares at no load for shares of the Tax-Exempt Fund or the shares of the Cash Management Fund issued in exchange for shares of the Tax-Exempt Fund (the ''Exchange Offer''). The Exchange Offer is expected to commence the day after the Acquisition is approved by shareholders of the Tax-Exempt Fund and to continue for at least 30 days following the Closing Date. The Bond Fund, a Maryland corporation, is an open-end management investment company registered under the Act. The Adviser serves as the investment adviser to the Bond Fund.

person of such a person, acting as principal, from knowingly selling to or purchasing from such registered company any security or other property. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (i) any person directly or indirectly owning, controlling, or holding with the power to vote, 5% or more of the outstanding voting securities of such other person; (ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with the power to vote, by such other person; (iii) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and, (iv) if such other person is an investment company, any investment adviser thereof.

2. Rule 17a–8 under the Act generally exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants state that they may not rely on rule 17a–8 in connection with the Acquisition because the Funds may be affiliated persons of each other by reasons other than those set forth in the rule. Principal Life may be deemed an affiliated person of an affiliated person of the Funds because its wholly-owned subsidiary serves as the investment adviser to the Funds. Moreover, Principal Life may be deemed an affiliated person of the Cash Management Fund Principal Life owns approximately 9% of the outstanding shares of the Cash Management Fund.

4. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting the Acquisition from section 17(a) of the Act. Applicants submit that the Acquisition satisfies the requirements of section 17(b) of the Act. Applicants note that the Boards of the Funds have determined that the Acquisition is in the best interest of the Funds and of the shareholders of the Funds and that the Acquisition will not result in dilution of the interests of the existing shareholders of the Funds. Applicants state that the Acquisition is consistent with the principal investment objective of each Fund because each Fund operates as a money market fund and seeks to preserve capital and maintain liquidly by investing in short-term investments. Applicants state that neither Fund will incur any expenses in connection with the Acquisition because the Adviser has agreed to pay all these fees. Finally, applicants state that the exchange of the Tax-Exempt Fund's shares for shares of the Cash Management Fund will be based on relative NAVs, and, in the opinion of counsel to the Funds, no gain or loss will be recognized by either the Fund or its shareholders in connection with the Acquisition.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1531 Filed 1–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 25, 1999.

A closed meeting will be held on Thursday, January 28, 1999, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, January 28, 1999, at 11:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

Institution and settlement of injunctive actions.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: January 21, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–1689 Filed 1–21–99; 11:44 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40955; File No. SR-Amex-98-47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Options on the Internet Commerce Index

January 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 21, 1998, the American Stock Exchange LLC (''Amex'' on ''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 Amex.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade European-style, cash-settled options on the Internet Commerce Index (''Index''), an equal-dollar weighted, A.M.-settled new index developed by the Amex

[1] On December 21, 1998, the Amex replaced the filing's original Exhibit B, which lists the component securities of the Computer Hardware Index, with a new Exhibit B, which lists the component securities of the Internet Commerce Index. *See* Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Yvonne Fraticelli, SEC, dated December 21, 1998. In addition, the Amex replaced the filing's original cover letter with a new cover letter indicating that the Amex is filing the proposal pursuant to Section 19(b)(3)(A) of the Act. *See* Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, dated December 18, 1998.

based on the stocks of companies engaged in commerce conducted over the Internet.[2] In addition, the Amex proposes to amend Amex Rule 901C, ''Designation of Stock Index Options,'' Commentary .01, to indicate that 90% of the Index's numerical index value must be accounted for by stocks which meet the current criteria and guidelines set forth in Amex Rule 915, ''Criteria for Underlying Securities.'' In addition, Commentary .01, as amended, indicates that these criteria must also be satisfied immediately following each quarterly rebalancing.

The Amex is filing their proposal pursuant to Amex Rule 901C, Commentary .02, which provides for the commencement of trading of options on the Index 30 days after the date of this filing. The Amex believes that the proposal meets all of the criteria set forth in Amex Rule 901C, Commentary .02, and the Commission's order approving Amex Rule 901C, Commentary .02 (''Generic Index Approval Order'').[3]

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of the 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 Amex 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

(a) Purpose

The Amex proposes to trade options on its newly developed Index, which is based entirely on the shares of companies engaged in commerce conducted over the Internet. The companies in the Index generate all or a significant portion of their revenues from commerce conducted over the Internet or have as a corporate goal the generation of all or a significant portion of their revenues from commerce conducted over the Internet. Often the share prices of companies, similar to those in the Index, that generate all or a significant portion of their revenues from commerce conducted over the Internet have been relatively volatile. Accordingly, options on the Index are designed to provide investors with an investment vehicle to participate in or hedge against this volatility, and decrease the risk involved in selecting individual stocks.

The Amex is filing this proposal pursuant to Amex Rule 901C, Commentary .02, which provides for the commencement of the trading of options on the Index 30 days after the date of this filing. The Amex believes that the proposal meets all of the criteria set forth in Amex Rule 901C, Commentary .02, and in the Generic Index Approval Order.[4]

Eligibility Criteria For Index Components. In accordance with the requirements of Amex Rule 901C, Commentary .02: (1) each of the component securities of the Index has a minimum market capitalization of at least $75 million and has a trading volume in each of the last six months of not less that 1,000,000 shares; (2) at lease 90% of the Index's numerical index value and at least 80% of the total number of component securities meet the current criteria for standardized option trading set forth in Exchange Rule 915 (in fact, all but one of the component securities in the Index currently underlie standardized options); (3) the Index contains no American Depositary Receipts (''ADRs''); (4) all of the component stocks of the Index are listed on the Amex or the New York Stock Exchange (''NYSE''), or are traded through the facilities of the Nasdaq and are reported National Market securities (''Nasdaq/NNM''); and (5) no component security represents more than 25% of the weight of the index, and the five highest weighted component securities in the Index do not in the aggregate account for more than 60% of the weight of the Index.

Index Calculation. The Index will be calculated using an ''equal-dollar weighting'' methodology designed to ensure that each of the component securities is represented in an approximately ''equal'' dollar amount in the Index. The following is a description of the methodology. As of the market close on December 1, 1998, a portfolio of stocks were established representing an investment of approximately $10,000 in the stock (rounded to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield a benchmark value of 100.00 at the closing of trading on December 1, 1998.

Maintenance of the Index. The Exchange will maintain the Index in accordance with Amex Rule 901C, Commentary .02 so that: (1) the Index is comprised of not less than 10 underlying stocks, and not more than 20 underlying stocks; (2) component stocks constituting the top 90% of the Index, by weight, will have a minimum market capitalization of $75 million, and the component stocks constituting the bottom 10% of the Index, by weight, may have a minimum market capitalization of $50 million; (3) 90% of the Index's numerical index value and at least 80% of the total number of components will meet the then current criteria for standardized options trading set forth in Amex Rule 915; (4) foreign country securities or ADRs thereon that are not subject to comprehensive surveillance agreements will not in the aggregate represent more than 20% of the weight of the Index; (5) all of the Index's component stocks will either be listed on the Amex, the NYSE, or Nasdaq/NNM; (6) no component security of the Index will represent more than 20% of the weight of the Index, and the five highest weighted components will not in the aggregate account for more than 60% of the Index; and (7) the trading volume of each component security shall be at least 500,000 shares for each of the last six months, or for each of the lowest weighted components that in the aggregate account for more than 10% of the weight of the Index, the monthly trading volume may be at least 400,000 shares for each of the last six months.

The Exchange shall not open for trading any additional option series if the Index fails to satisfy any of the maintenance criteria set forth above unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of Index options has been

[2] In accordance with the Generic Index Approval Order, the Amex submitted a pre-filing on December 10, 1998. *See* Generic Index Approval Order, *infra* note 3.

[3] *See* Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994) (order approving File Nos. SR-Amex-92-35; SR–CBOE–93–59; SR–NYSE–94–17; SR–PSE–94–07; and SR–PHLX–94–10). The Generic Index Approval Order established generic listing standards for options on narrow-based indexes and adopted streamlined procedures for introducing trading in options satisfying the generic listing standards.

[4] *See* note 3, *supra.*

approved by the Commission pursuant to Section 19(b)(2) of the Act.

Rebalancing. Following the close of trading on the third Friday of February, May, August and November, the Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in ''equal'' dollar amounts. If necessary, a divisor adjustment will be made at the rebalancing to ensure the continuity of the Index's value. The newly adjusted portfolio will then become the basis for the Index's value on the first trading day following the adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly rebalancings except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In the case of a merger or the consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted to the nearest whole share to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock addition or replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases the divisor will be adjusted, if necessary, to ensure Index continuity.

All stock replacements and the handling of non-routine corporate actions will be annouced at least ten business days in advance of such effective change, whenever possible. The Exchange will make this information available to the public through dissemination of an information circular.

Dissemination of Index. Similar to other stock index values which underlie exchange-traded products, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B. The Amex and the Options Price Reporting Authority (''OPRA'') represent that they have the necessary systems capacity to handle the additional traffic of the Index.[5]

Expiration and Settlement. The proposed Index options will be European-style (*i.e.*, exercises are permitted at expiration only), and cash settled. Standard option trading hours (9:30 a.m. to 4:02 p.m. New York time) will apply. The options on the Index will expire on the Saturday following the third Friday of the expiration month (''Expiration Friday''). The last trading day in expiring option series will normally be the second to the last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Exchange plans to list options series with expirations in the three near-term calendar months and in two additional calendar months in the February cycle. In addition, the Amex may list flexible exchange options (''FLEX Options'') on the Index, and longer term option series having up to thirty-six months to expiration. In lieu of such long-term options on a full value Index, the Exchange may instead list long-term, reduced value put and call options based on one-tenth (1/10th) the Index's full value. In either event, the interval between expiration months for either a full value or reduced value long-term option will not be less than six months. The trading of any long-term options will be subject to the same rules which govern the trading of all the Exchange's Index options, including sales practice rules, margin requirements and floor trading procedures. Position limits on reduced value long-term Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options (for example, if the position limit for the full value options is 15,000 contracts on the same side of the market, then the position limit for the reduced value options will be 150,000 contracts on the same side of the market).

The exercise settlement value for all of the Index's expiring options will be calculated based upon the primary exchange regular way opening sale prices for the Index's component stocks. In the case of Nasdaq/NNM listed securities, the first reported regular way sale price will be used. If any component stock of the Index does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.

Exchange Rules Applicable to Stock Index Options. Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in Index options. The Index is deemed to be a stock index option under paragraph (a) of Amex Rule 901C, ''Designation of Stock Index Options,'' and a stock index industry group under paragraph (b)(1) of Amex Rule 900C, ''Applicability and Definitions.'' With respect to paragraph (b) of Amex Rule 903C, ''Series of Stock Index Options,'' the Exchange proposes to list near-the-money (*i.e.*, within ten points above or below the current index value) option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange expects that the review required by paragraph (c) of Amex Rule 904C, ''Position Limits,'' will result in a position limit of 15,000 contracts for options on the Index.

(b) Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will impose no 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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the

[5] *See* Letter from Scott G. Van Hatten, Legal Counsel, Derivative Securities, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated December 22, 1998; Letter from Raymond L. Bell, Vice President, Market Data Services, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated January 11, 1999; and Letter from Joe Corrigan, Executive Director, OPRA, to Richard Strasser, Assistant Director, Division, Commission, dated January 15, 1999.

meaning, administration, or enforcement of an existing rule of the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e)(1) of Rule 19b–4 thereunder.[7] The Amex may not list options for trading on the Index prior to 30 days after the date the proposed rule change was filed with the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–98–47 and should be submitted by February 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1607 Filed 1–22–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e)(1).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40950; File No. SR–CHX–98–31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to the Trading of Select Sector SPDRs®

January 15, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] notice is hereby given that on December 18, 1998, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to trade, pursuant to unlisted trading privileges (''UTP'') and the listing standards of CHX Article XXVIII, Rule 24, nine series of Select Sector SPDRs® by adding a new interpretation and policy .03 to Article XXVIII, Rule 24 and amending interpretation and policy .05 of Article XX, Rule 22.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, he Proposed Rule Change

In its filing with the Commission, The CHX 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 staements may be examined at the places specified in Item III below. The CHX has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] ''S&P''®, ''Standard & Poor's 500''®,''Standard & Poor's Depository Receipts''® and ''SPDRs''®, and ''Select Sector SPDR''® are trademarks of the McGraw-Hill Companies, Inc.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CHX Article XXVIII, Rule 24 provides for the listing and trading of units representing an interest in a registered investment company (''Units'') that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index.[3] The Exchange currently trades, pursuant to unlisted trading privileges, several series of World Equity Benchmark Shares ™ (''WEBS™,'')[4] based on Morgan Stanley Capital International foreign stock indices pursuant to the standards set forth in Article XXVIII, Rule 24.[5] WEBS are currently listed and traded on the American Stock Exchange (''AMEX'') under AMEX Rules 1000A *et seq.*,[6] which rules are substantially the same as CHX Article XXVIII, Rule 24.

The CHX proposes to trade, pursuant to UTP and the listing standards of CHX Article XXVIII, Rule 24, nine series of Select Sector SPDRs by adding a new interpretation and policy .03 to Article XXVIII, Rule 24 and amending interpretation and policy .05 of Article XX, Rule 22.[7] The Select Sector SPDRs, described below, are issued by an open-end management investment company.[8]

(a) Select Sector SPDRs

The Exchange proposes to trade nine investment series of Select Sector

[3] *See* Securities Exchange Act Release No. 37121 (April 17, 1996), 61 FR 17932 (April 23, 1996) (Order approving SR–CHX–96–12 amending Article XXVIII providing for the listing and trading of units representing an interest in a registered investment company).

[4] ''World Equity Benchmark Shares'' and ''WEBS'' are service marks of Morgan Stanley Group, Inc.

[5] *See* Securities Exchange Act Release No. 39117 (September 22, 1997), 62 FR 50973 (September 29, 1997) (Order approving SR–CHX–96–14 to commence trading of WEBS pursuant to UTP and CHX Article XXVIII, Rule 24).

[6] AMEX Rules 1000A *et seq.* provide for the listing and trading of Index Fund Shares, which are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic index.

[7] The AMEX received the Commission's approval to list and trade nine series of Select Sector SPDRs under AMEX Rules 1000A *et seq.* Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998) (''AMEX Select Sector SPDRs Approval Order'').

[8] The Selector Sector SPDR Trust (with respect to Select Sector SPDRs) filed with the Commission an Application for Orders under Sections 6(c) and 17(b) of the Investment Company Act of 1940 (''1940 Act'') as amended, for the purpose of exempting Select Sector SPDRs from various provisions of the 1940 Act. *See* Investment Company Act Release No. 23492 (October 20, 1998), 63 FR 57332 (October 27, 1998).

SPDRs to be offered by the Select Sector SPDR Trust, an open-ended investment company and a Massachusetts business trust. The Select Sector SPDRs offered by the Trust are: The Basic Industries Select Sector SPDR; The Consumer Services Select Sector SPDR; The Consumer Staples Select Sector SPDR; The Cyclical/Transportation Select Sector SPDR; The Energy Select Sector SPDR; The Financial Select Sector SPDR; The Industrial Select Sector SPDR; The Technology Select Sector SPDR; and The Utilities Select Sector SPDR.

Each Select Sector SPDR offers and issues Select Sector SPDR shares at their net asset value only in aggregations of a specified number of shares (each, a ''Creation Unit''), generally in exchange for a basket of common stocks consisting of some or all of the component securities (''Fund Securities'') of a specified market sector index (''Select Sector Index''), together with the deposit of a specified small cash payment known as the ''cash component'' and reflecting, for example, net accrued dividends. It is anticipated that the deposit of Fund Securities and the specified cash payment in exchange for Select Sector SPDRs will be made primarily by institutional investors, arbitrageurs and the Exchange specialist. Creation Units are separable upon issue into identical shares which are listed and traded on the AMEX and, upon approval of this proposed rule change, will also be traded on the Exchange. Similarly, shares are also redeemable only in Creation Unit size aggregations and usually in exchange for Fund Securities and a specified cash payment. It is anticipated that a Creation Unit will consist of 50,000 shares of the relevant series of Select Sector SPDRs. The Select Sector SPDR Trust reserves the right to off a ''cash'' option for creations and redemptions of Select Sector SPDRs, although it has no current intention of doing so. For each Select Sector SPDR, the Administrator (State Street Bank and Trust Company) makes available through the National Securities Clearing Corporation (''NSCC''), immediately prior to the opening of business, the list of names and the required number of shares of stocks of each relevant Select Sector Index to be included in the securities deposit required in connection with creation of Select Sector SPDRs in Creation Unit size aggregations.

Each of the nine Select Sector Indices, which is the benchmark for a Select Sector SPDR, is intended to give investors an efficient way to track the movement of baskets of the equity securities of public companies that are components of the Standard & Poor's 500 Composite Stock Index (''S&P 500'') and are involved in specified sectors. Each stock included in a Select Sector Index (the ''Component Stocks'') will be selected from companies represented in the S&P 500. The nine Select Sector Indices together will include all of the companies represented in the S&P 500. Each S&P 500 stock will be allocated to one and only one of the Select Sector Indices. The CHX understands that each Select Sector Index will be calculated by the AMEX's Index Services Group (''AMEX ISG'') using the ''market capitalization'' methodology (the same method used in calculating the S&P 500). This design should ensure that each of the component stocks within a Select Sector Index is represented in a proportion consistent with its percentage with respect to the total market capitalization of the Select Sector Index. Under certain conditions, the number of shares of a component stock may be adjusted to conform to requirements of Subchapter M under the Internal Revenue Code.[9]

The stocks included in a Select Sector Index have been assigned to a Select Sector Index by Merrill Lynch (''the Index Compilation Agent''). The Index Compilation Agent, after consultation with Standard & Poor's assigns stocks to a particular Select Sector Index with the aim of categorizing a company's fundamental business on the basis of the company's sales and earning composition and its predominant source of revenue among the company's business lines. In addition, such assignment is based on the sensitivity of the company's stock price and business results to the common factors that affect other companies in the specific Select Sector Index. Standard & Poor's has sole control over the removal of stocks from the S&P 500 and the selection of replacement stocks to be added to the S&P 500, but only plays a consulting role in the assignment of the S&P 500 component securities to any Select Sector Index. The assignment of component stocks to a Select Sector Index is the sole responsibility of the Index Compilation Agent. If Standard & Poor's removes a stock from the S&P 500, Merrill Lynch will remove the same stock from whichever Select Sector Index it is in. When Standard & Poor's assigns a replacement stock to the S&P 500, Merrill Lynch will assign the same stock to whichever Select Sector Index it deems appropriate.

Each Select Sector Index is weighted based on the market capitalization of each of the Component Stocks, subject to the following asset diversification requirements; (i) the market capitalization-based weighted value of any single Component Stock measured on the last day of calendar quarter may not exceed 24.99% of the total value of its respective Select Sector Index; and (ii) with respect to 50% of the total value of the Select Sector Index, the market capitalization-based weighted value of the Component Stocks must be diversified so that no single Component Stock measured on the last day of a calendar quarter represents more than 4.99% of the total value of its respective Select Sector Index, or in other words, the sum of the weight of all of the component stocks that each represent less than 5% of the Index must be equal to at least 50% of the Index weight.

Rebalancing the Select Sector Indices to meet the asset diversification requirements will be the responsibility of the AMEX ISG. If shortly prior to the last business day of any calendar quarter (a ''Quarterly Qualification Date''), a Component Stock(s) approaches the maximum allowable value limits set forth above (the ''Asset Diversification Limits''), the percentage that such Component Stock (or Component Stocks) represents in the Select Sector Index will be reduced and the market capitalization-based weighted value of such Component Stock (or Component Stocks) will be redistributed across the Component Stocks that do not closely approach the Asset Diversification Limits in accordance with the methodology set forth in the prospectus and Statement of Additional Information for the Select Sector SPDR Trust. The Select Sector Indices are calculated and disseminated by the AMEX ISG.

The Index Compilation Agency at any time may determine that a Component Stock which has been assigned to one Select Sector Index has undergone such a transformation in the composition of its business that it should be removed from the Select Sector Index and assigned to a different Select Sector Index. In the event that the Index Compilation Agent notifies the AMEX ISG that a Component Stocks Select Sector Index assignment should be changed, the AMEX will disseminate notice of the change by issuing an information circular to its membership within one business day of receipt of such notice and will implement the

[9] Each Select Sector SPDR Fund intends to qualify for and to elect treatment as a separate regulated investment company under Subchapter M. To qualify for such treatment, a company must annually distribute at least 90% of its net investment company taxable income (which includes dividends, interest and net short-term capital gains) and meet several other requirements, including certain diversification tests.

change in the affected Select Sector Indices no less than one week after the initial dissemination of information on the sector change to the extent practicable.

Component Stocks removed from and added to the S&P 500 will be deleted from and added to the appropriate Select Sector Index consistent with the timing of the announcement and effectiveness of additions and deletions from the S&P 500 insofar as practicable. The AMEX will announce a change to a Select Sector Index promptly following an announcement by Standard & Poor's of an addition to and deletion from the S&P 500.[10] Generally, changes in the applicable component stock for the relevant Select Sector SPDR Index will be made concurrently with Standard & Poor's change to the S&P 500.

Standard & Poor's will advise the AMEX ISG regarding the handling of nonroutine corporate actions which may arise from time to time and which may have an impact on the calculation of the S&P 500, and, consequently, on the calculation of the Select Sector Indices. Corporate actions such as a merger or acquisition, stock splits, and routine spin-offs, which require adjustments in the Select Sector Index calculation, will be handled by the AMEX staff. Index Divisor adjustments will be calculated, when necessary, in the same manner they are handled by Standard & Poor's in its maintenance of the S&P 500. In the event a merger or acquisition changes a company's fundamental business and source of revenues, the Select Sector Index assignment of the stock may change. In any event, a new Index Divisor for affected Select Sector Indices will be disseminated to the public promptly by the AMEX ISG.[11] Each Select Sector SPDR will normally invest at least 95% of its total assets in stocks that comprise the relevant Select Sector Index or stock equivalent positions which the Adviser deems appropriate as an alternative to such stocks.[12]

(b) Trading Issues

The Select Sector SPDR shares will be deemed equity securities subject to all CHX rules governing the trading of equity securities, including, among others, rules governing priority, parity, and precedence of orders, market volatility related trading halt provisions, and responsibilities of specialists. The minimum trading increment under Article XX, Rule 22 for Select Sector SPDRs will be 1/64 of $1.00.

(c) Disclosure

Member firms will be informed by an information circular, prior to the commencement of trading, that investors purchasing Select Sector SPDRs must receive a fund prospectus prior to, or concurrently with, the confirmation of a transaction. The information circular will also address Exchange members' responsibilities under CHX Article VIII, Rule 25 (''know your customer rule'') regarding transactions in such shares.[13] The circular also will address members' responsibility to deliver a prospectus to all investors as well as highlight the characteristics of purchases of Select Sector SPDRs.

(d) Dissemination of Information by the Exchange

The value of the Select Sector Indices will be calculated continuously by AMEX and disseminated every 15 seconds on Network B of the Consolidated Tape Association (''CTA''). The major electronic financial data vendors, including Bloomberg, Quotron, Reuters, and Bridge Information Systems, are expected to publish information on the Select Sector and Technology 100 Indices for their subscribers.

To provide up to date pricing information for the Funds' shares, the AMEX will calculate and disseminate every 15 seconds through CTA Network B an amount representing on a per share basis the sum of the ''Dividend Equivalent Payment'' effective through and including the previous business day, plus the current value of the ''Deposit Securities'' (the sum of the Dividend Equivalent Payment plus the current value of the Deposit Securities is the ''Value''). The Dividend Equivalent Payment is an amount intended to enable a Fund to make a distribution of dividends on the next payment date as if all the portfolio securities of the Fund had been held for the entire dividend period. The ''Deposit Securities'' consist of a designated portfolio of securities constituting a substantial replication, or a representation, of the stocks included in the relevant Fund index.

(e) Other Characteristics of Select Sector SPDRs

For each of the nine series of Select Sector SPDRs, it is anticipated that a minimum of the three Creation Units will be outstanding at the commencement of trading on the Exchange. Select Sector SPDRs will pass along dividends and interest, net of expenses, to fund shareholders as ''income dividend distributions.'' Net capital gains will be distributed to shareholders as ''capital gain distributions.''

The net asset value for the Funds is calculated by the Administrator, State Street Bank and Trust Company (''State Street''), which is also the Adviser and Custodian for the Funds. State Street will also act as the lending agent for the Select Sector SPDRs.[14] ALPS Mutual Funds Services, Inc. will serve as principal underwriter and distributor for the Select Sector SPDRs. Select Sector SPDRs will be registered in book-entry form through The Depository Trust Company.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(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. Solicitation of Comments

Interested persons are invited to submit written data, views and

[10] Standard & Poor's generally announces S&P 500 changes five business days before they take effect.

[11] CHX has requested that AMEX forward changes in the Component Stocks of a Select Sector SPDR Index or the Index Divisors to the Exchange as it becomes publicly available. To the extent that the CHX has access to such information, the Exchange will notify its members of these changes. Telephone conversation between David Rusoff, Foley & Lardner, and Marc McKayle, Attorney, Division of Market Regulation, Commission, on January 12, 1999.

[12] Select Sector SPDRs generally will hold all of the securities in the applicable index, subject to certain conditions disclosed in the applicable prospectus.

[13] CHX Article VIII, Rule 25 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted.

[14] The lending agents for the Funds will cause the delivery of loaned securities from each Fund to borrowers, arrange for the return of loaned securities to the Fund at the termination of the loans, request deposit of collateral when required by the loan arrangements, and provide recordkeeping and accounting services.

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 submissions, 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 prapased rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–98–31 and should be submitted by February 16, 1999.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[15] Section 6(b)(5) provides that Exchange rules facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Moreover, that section of the Act requires that an exchange's rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[16]

As the Commission noted in greater detail in the order approving Select Sector SPDRs for listing and trading on AMEX.[17] the estimated cost of an individual Select Sector SPDRs [18] should make it attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of stocks representing a particular sector of the marketplace. Under the proposed rule change, the benefits of Select Sector SPDRs will now be available to investors trading on CHX which could benefit investors through intermarket competition.

Although the value of Select SPDRs is based on the value of the securities and cash held in the Fund, Select Sector SPDRs are not leveraged instruments. Select Sector SPDRs are essentially equity securities that represent an interest in a portfolio of stocks designed to reflect substantially the applicable Select Sector SPDRs Index. Accordingly, it is appropriate to regulate Select Sector SPDRs in a manner similar to other equity securities. Nonetheless, the Commission believes that the characteristics of Select Sector SPDRs raise important disclosure, trading, and certain other issues.

(a) Trading of Select Sector SPDRs on CHX

The Commission finds that adequate rules and procedures exist to govern the trading of Select Sector SPDRs on CHX pursuant to UTP.[19] Select Sector SPDRs will be deemed equity securities subject to CHX's rules governing the trading of equity securities. Accordingly, the Exchange's existing general rules that currently apply to the trading of equity securities will also apply to Select Sector SPDRs. In addition, CHX's Article XXVIII, Rule 24,[20] which contains specific listing and delisting criteria to accommodate the trading of Units, will apply to the trading of Select Sector SPDRs.[21] The delisting criteria allow the Exchange to consider the suspension of trading and the delisting of a series of Units, including suspending trading in Select Sector SPDRs traded on the Exchange pursuant to UTP, if an event were to occur that made further dealings in such securities inadvisable. This will give the Exchange flexibility to suspend trading the Select Sector SPDRs if circumstances warrant such action. Accordingly, the Commission believes that CHX's equity rules in general, and CHX's Article XXVIII, Rule 24 in particular, provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. The Commission also believes that the proposed rule change should help protect investors and the public interest, and help perfect the mechanisms of a national market system, in that it will allow for the trading of Select Sector SPDRs on CHX pursuant to UTP, making Select Sector SPDRs more broadly available to the investing public.

(b) Disclosure

The Commission believes that CHX's proposal should provide for adequate disclosure to investors relating to the terms and characteristics of trading Select Sector SPDRs. All Select Sector SPDRs investors, including those purchasing Select Sector SPDRs on CHX pursuant to UTP, will receive a prospectus regarding the product. Because Select Sector SPDRs trading on CHX pursuant to UTP will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply to both the initial investors and to investors purchasing such securities in the secondary market on CHX. The prospectus addresses the special characteristics of Select Sector SPDRs, including a statement regarding their redeemability and method of creation, and that Select Sector SPDRs are not individually redeemable.

CHX has also drafted an information circular that will be sent to all CHX members prior to the commencement of trading of Select Sector SPDRs. The information circular is intended to explain the characteristics of Select Sector SPDRs. The circular will note, for example, Exchange member responsibilities, including that before an Exchange member undertakes to recommend a transaction in Select Sector SPDRs it should make a determination that it is in compliance with the CHX suitability rules. The circular will also address member's responsibility to deliver a prospectus to all investors purchasing Select Sector SPDRs, as well as highlight the characteristics of Select Sector SPDRs, including that they are only redeemable in Creation Units.

(c) Dissemination of Information

The Commission believes that the Values the Exchange proposes to disseminate for the Funds should help to provide investors with timely and useful information concerning the value of the Select Sector SPDRs Fund shares on a per Fund basis. The Exchange understands that the information will be disseminated through the facilities of

[15] U.S.C. 78f(b)(5).

[16] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] *See* AMEX Select Sector SPDRs Approval Order, *supra* note 7.

[18] As noted in the AMEX Select Sector SPDRs Approval Order *supra* note 7, the estimated cost at the time of the approval for trading on AMEX was $21 to $28 per individual Select Sector SPDR.

[19] Pursuant to Rule 12f–5 under the Act, in order to trade a particular class or type of security pursuant to unlisted trading privileges, the Exchange must have rules providing for transactions in such class or type of security. *See* 17 CFR 240.12f–5.

[20] The Commission approved generic rules for the listing and/or trading of investment company units on CHX in 1996. *See* Securities Exchange Act Release No. 37589 (August 21, 1996), 61 FR 44370 (August 28, 1996).

[21] The Commission notes the CHX listing and delisting criteria is similar to those adopted by AMEX to trade Select Sector SPDRs.

the CTA and will reflect currently available information concerning the value of the assets comprising the Deposit Securities. This information will be disseminated every 15 seconds during regular AMEX trading hours of 9:30 a.m. to 4:00 p.m., New York time. In addition, since it is expected that the Value will closely track the applicable Fund, The Commission believes that the Values will provide investors with adequate information to determine the intra-day value of the given Select Sector SPDR. As noted in the AMEX Select Sector SPDRs Approval Order, the Commission expects that the AMEX will monitor the disseminated Value, and if the AMEX were to determine that the Value does not closely track the applicable Fund, it would arrange to disseminate an adequate alternative value.[22]

(d) Surveillance

The Commission notes that CHX has submitted surveillance procedures for Select Sector SPDRs intended to address concerns associated with listing and trading such securities, including any concerns associated with specialists purchasing and redeeming Creation Units. The Exchange has represented that its surveillance procedures should allow it to identify situations where specialists purchase or redeem Creation Units to ensure compliance with CHX Article XXX, Rule 23(a), which requires that such purchases or redemptions facilitate the maintenance of a fair and orderly market in the subject security.[23]

CHX has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that the Exchange's proposal to trade Select Sector SPDRs pursuant to unlisted trading privileges will provide investors with a convenient way of trading a basket of stocks, based upon a specific Select Sector Index as designated by Merrill Lynch, representing a particular sector of the marketplace. The Commission believes that the proposed rule change could produce added benefits to investors through the increased competition between other market centers trading the product. Specifically, the Commission believes that by increasing the availability of Select Sector SPDRs as an investment tool the CHX's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell at negotiated prices throughout the trading day securities that replicate the performance of several portfolios of stock.[24]

As noted above, the Commission has approved the listing and trading of Select Sector SPDRs at the AMEX,[25] under rules that are substantially similar to CHX Article XXVIII, Rule 24. The trading requirements of Select Sector SPDRs at the CHX will be substantially similar to the trading requirements of Select Sector SPDRs at the AMEX. Additionally, the proposed rule change is analogous to the Commission's approval of the CHX's trading of WEBS pursuant to UTP and CHX Article XXVIII, Rule 24.[26] As a result, the Commission does not believe that trading of this product raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–CHX–98–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1530 Filed 1–22–99; 8:45 am]

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[22] *See supra*, note 7.

[23] In the AMEX Select Sector SPDRs Approval Order, the Commission discussed the concerns raised when a broker-dealer is involved in the development and maintenance of a stock index upon which a product such as Select Sector SPDRs is based. The Commission noted the importance of the Exchange adopting adequate procedures to prevent the misuse of material, non-public information regarding changes to component stocks in a Select Sector SPDR Index. The CHX surveillance procedures should help to address concerns raised by Merrill Lynch's involvement in the management of the Indices.

[24] Unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in Select Sector SPDRs can redeem them in creation unit size aggregations only.

[25] AMEX Select Sector SPDRs Approval Order, *supra* note 7.

[26] *See supra*, note 5.

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40953; File No. SR–Phlx–99–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Modify Existing Rules Relating to Trading of the New European Currency, the Euro

January 15, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 6, 1999, 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 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 Phlx proposes to change the references to the European Currency Unit (''ECU'') to the New European currency (''Euro'') in the Phlx rules in response to the European Council's decision to convert the ECU to the Euro on a one-to-one basis as of January 1, 1999.

The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

In its filing with the Commission, the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 11, 1998, the Exchange re-introduced the ECU for trading in the non-customized environment anticipating the advent of the Euro.[3] Subsequently, the European Council agreed in the Maastrict Treaty to have a single European currency, the Euro. On January 1, 1999, the ECU converted to the Euro on a one-to-one basis. Accordingly, Phlx foreign currency options (''FCO'') contracts on the ECU converted to the Euro pursuant to Phlx Rule 1009(c).[4] Phlx Rule 1009(c) states, in the event that any of the sovereign governments of the European Economic Community's European Monetary System issuing any of the above mentioned currencies should issue a new currency intended to replace the one of the above mentioned currencies as a standard unit of the official medium of exchange of such government. Such new currency also may be approved as an underlying currency for options transactions by the Exchange, subject to any approval criteria the Exchange may deem necessary or appropriate for the protection of investors.

Pursuant to Phlx Rule 1009(c), the Exchange believes that it is necessary and appropriate for investors that the Exchange recognize the conversion of the ECU to the Euro on a one-to-one basis and implement such changes to its FCO contracts, including options trading pursuant to Phlx Rule 1069. Because the ECU/Euro conversion was on a one-to-one basis, the Euro FCO contract size would be 62,500 Euros. The premium will be $.0044, per unit or $275 for an option contract having a unit of trading of 62,500, pursuant to Phlx Rule 1033. Pursuant to Rule 1014, the bid-ask differential for the Euro options will be $.0005 between the bid and the offer for each option contract for which the bid is $.0050 or less; no more than $.0010 where the bid is more than $.0050 but does not exceed $.0200; and no more than $.0015 where the bid is more than $.0200. The initial margin for the Euro would be 3%, the same margin as the ECU.[5] According to Phlx Rule 1034, the minimum trading increments for the Euro will be the same as the ECU, $.0001.

As a result of the conversion, the Exchange proposes to replace all references to the ECU with the Euro in the text of the various Phlx rules. Therefore, the Phlx is proposing to amend the text of Phlx Rules 1000(b)(15), 1009, 1014, 1033, 1034 and Options Floor Procedure Advice F–6 to reflect the proposed change.

2. Statutory Basis

The Phlx believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act[6] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Phlx notes that the conversion of the ECU to the Euro was a major event in world financial markets. This conversion was adopted by the Exchange in order to provide investors with a continuous, uninterrupted market to hedge their currency risk using options on the Euro.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received at the time of this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,[7] and subparagraph (e) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 the Phlx. All submissions should refer to File No. SR–Phlx–99–01 and should be submitted by February 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1606 Filed 1–22–99; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 39940 (April 30, 1998) 63 FR 25258 (May 7, 1998) (File No. SR–Phlx–98–17).

[4] The Commission notes that it was consulted by the Phlx prior to the conversion of the ECU to the Euro. On these facts, the Commission believes that the Euro replaces the previously approved ECU as the standard unit of the official medium of exchange of the European Council as required by Phlx Rule 1009(c). On different facts, however, the Exchange may need to submit a filing to the Commission, pursuant to Section 19(b)(2) of the Act, prior to trading an option on a new foreign currency intended to replace an existing foreign currency option.

[5] The Exchange submitted to the Commission a correlation analysis between the ECU and the Euro, which demonstrated nearly a one-to-one correlation. Thus, the Exchange proposes not to change the customer margin level for the Euro at this time. Subject to Phlx Rule 722, Commentary .15, the Exchange will re-examine the margin levels for the Euro on January 15, 1999.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(i).

[8] 17 CFR 240.19b–4.

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 2960]

Office of the Legal Adviser; Application of Certain United States Extradition Treaties to Parental Kidnapping

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: On October 31, 1998, President Clinton signed into law the

Extradition Treaties Interpretation Act of 1998 (Title II of Public Law 105–323). That Act authorizes the interpretation of the word ''kidnapping'' in international extradition treaties of the United States to include parental kidnapping. An earlier **Federal Register** notice issued by the State Department's Legal Adviser reflected a more limited interpretation of the word kidnapping in extradition treaties. This Notice explains the change in U.S. policy in this area, including the context of Public Law 105–323.

EFFECTIVE DATE: October 31, 1998.

FOR FURTHER INFORMATION CONTACT: Samuel M. Witten, Office of the Legal Adviser, Department of State (202–647–7324).

SUPPLEMENTARY INFORMATION: Title II of Public Law 105–323, the ''Extradition Treaties Interpretation Act of 1998,'' addresses a unique issue that has arisen in the last twenty years of U.S. extradition practice. The U.S. Government's international extradition treaties negotiated prior to the late 1970's typically limit extradition to specific listed offenses and include the word ''kidnapping'' in the negotiated lists of those offenses. About 75 of the U.S. Government's approximately 110 extradition treaty relationships fall in this category of ''list'' treaties that include the word ''kidnapping''.

At the time these list extradition treaties were negotiated, the term ''kidnapping'' was generally understood in U.S. criminal law to exclude abductions or wrongful retentions of minors by their parents. In keeping with this narrow interpretation, on November 24, 1976 the State Department Legal Adviser issued a **Federal Register** Notice with a model ''Bilateral Treaty on Mutual Extradition of Fugitives'' which included the offense of ''kidnapping'' in the list of extraditable offenses while simultaneously noting that the model treaty would not reach ''domestic relations problems such as custody disputes.'' *See* **Federal Register**, Vol. 141, No. 228, page 51897. Subsequently, the State Department has not interpreted such ''list'' treaties to permit extradition requests that would have construed the word ''kidnapping'' to include parental kidnapping.

U.S. law on this subject has evolved dramatically since most of these list treaties were negotiated. Parental kidnappings are now crimes at the federal level (*see* United States Code, Title 18, Section 1204), in all of the 50 states, and in the District of Columbia. Both in the context of abductions and wrongful retention of children from the United States in violation of these laws and, more generally, in the interest of enhanced international law enforcement cooperation under our extradition treaties, this narrow interpretation became the subject of concern on the part of the U.S. Departments of Justice and State, state and local prosecutors, and parents who would like the greatest possible flexibility in dealing with parental kidnapping situations.

In addition, as U.S. extradition practice evolved, the practice of including lists of extraditable offenses in extradition treaties was gradually abandoned in favor of generally permitting extradition for any crime that is punishable in both the requesting and requested States by more than one year's imprisonment. This advance in treaty practice made the list treaty situation particularly anomalous because parental kidnapping was typically an extraditable offense under the modern extradition treaties that rely on ''dual criminality'' rather than lists of offenses, so long as the relevant treaty partner has also criminalized the offense and all other conditions of the treaties are met.

Normally, the interpretation of ''list'' treaty offenses would simply evolve to reflect the evolution of new aspects of crimes that are identified in the list treaties. In this instance, however, the U.S. view had been widely disseminated, including by publication in the **Federal Register** in 1976, as a fixed policy of the U.S. Government. Therefore, in 1997 the State and Justice Departments brought this issue to the attention of the Congress. These consultations led to Public law 105–323, which addresses the matter by clarifying that ''kidnapping'' in extradition list treaties may include parental kidnapping, thus reflecting the major changes that have occurred in this area of criminal law in the last 20 years. With this clarification, the Executive Branch is now in a stronger position to make and act upon the full range of possible extradition requests dealing with parental kidnapping under list treaties that include the word ''kidnapping'' on such lists. This will help achieve the goal of enhancing international law enforcement cooperation in this area. The United States would, however, adopt this broader interpretation only once it has confirmed with respect to a given treaty that this would be a shared understanding of the parties regarding the interpretation of the treaty in question.

This change in the interpretation of ''kidnapping'' for purposes of extradition treaties is entirely unrelated to and would have no effect whatsoever on the use of civil means for the return of children, in particular under the Hague Convention on the Civil Aspects of International Parental Child Abduction. It addresses only countries with which we have ''list'' extradition treaties and would have no effect with respect to countries with which the United States has no extradition relationship or countries where we have a dual criminality treaty.

The adoption of this expanded interpretation with respect to each specific treaty, however, will depend of course on the views of the other country in question, as the interpretation of terms in a bilateral treaty must depend on a shared understanding between the two parties. The United States recognizes that not all countries have criminalized parental kidnapping, and many continue to treaty custody of children as a civil or family law matter that is not an appropriate subject for criminal action. We also recognize that this is an evolving area of criminal law and that some countries which do not currently criminalize this conduct may decide to do so in future years. For this reason, we will consult with our list treaty partners and will adopt the expanded interpretation only where there is a shared understanding to this effect between the parties.

Dated: January 11, 1999.

David R. Andrews,

The Legal Adviser, U.S. Department of State.

[FR Doc. 99–1585 Filed 1–22–99; 8:45 am]

BILLING CODE 4710–25–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Initiation of a Review To Consider the Designation of Mongolia as a Beneficiary Developing Country Under the GSP; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of Mongolia for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of Mongolia as a beneficiary developing country under the GSP program and solicits public comment relating to the designation criteria by April 2, 1999.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, N.W., Room 518, Washington, D.C. 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: The government of Mongolia has requested that it be granted eligibility for beneficiary status under the GSP program. The Trade Policy Staff Committee (TPSC) has initiated a review to determine if Mongolia should be designated as a beneficiary developing country. A country may not be designated a GSP beneficiary developing country, absent a finding that such designation would be in the economic interests of the United States, if any one of several elements are found, including: the participation by the country in a commodity cartel that causes serious disruption to the world economy; the provision by the country of preferential treatment to products of other developed countries which has a significant adverse effect on U.S. commerce; the expropriation by the country of U.S.-owned property without compensation; a failure by the country to enforce arbitral awards in favor of U.S. persons; the support by the country of international terrorism; or a failure by the country to take steps to protect internationally recognized worker rights. Other factors taken into account in determining whether a country will be designated a beneficiary developing country include: the extent to which the country has assured the United States that it will provide market access for U.S. goods; the extent to which the country has taken action to reduce trade-distorting investment practices and policies; and the extent to which the country is providing adequate and effective protection of intellectual property rights. The criteria for designation are set forth in full in section 502 of the Trade Act of 1974, as amended (19 U.S.C. 2462).

Interested parties are invited to submit comments regarding the eligibility of Mongolia for designation as a GSP beneficiary developing country. Submission of comments must be made in English in 14 copies to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, and be received in Room 518 at 600 17th Street, N.W., Washington, D.C. 20508, no later than 5 p.m. on Friday, April 2, 1999. Except for submissions granted ''business confidential'' status pursuant to 15 CFR 2003.6 information and comments submitted regarding Mongolia will be subject to public inspection by appointment with the staff of the USTR Public Reading Room. For an appointment, please call Ms. Brenda Webb at 202/395–6186. If the document contains business confidential information, 14 copies of a nonconfidential version of the submission along with 14 copies of the confidential version must be submitted. In addition, the submission should be clearly marked ''confidential'' at the top and bottom of each page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either ''public version'' or 'non-confidential'').

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 99–1551 Filed 1–22–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 15, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–5002.

Date Filed: January 13, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 10, 1999.

Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for renewal of its Guam/Saipan-Osaka authority for a five year period.

Docket Number: OST–99–5008.

Date Filed: January 15, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 12, 1999.

Description: Application of Community Air, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a certificate of public convenience and necessity authorizing scheduled air transportation of persons, property, and mail within the states of California and Nevada.

Docket Number: OST–99–5010.

Date Filed: January 15, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 12, 1999.

Description: Application of Wrangell Mountain Air, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a certificate of public convenience and necessity authorizing interstate scheduled passenger, cargo, and mail air transportation between any point in any state in the United States or District of Columbia, or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–1563 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 10, 1999, at 10 a.m.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, 400 Seventh Street, SW., Room 3200–3204, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075; e-mail Jean Cascianofaa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on February 10, 1999, at the U.S. Department of Transportation, 400 Seventh Street, SW., Room 3200–3204, Washington, DC. 10 a.m. The agenda will include:

- ''Voting'' members on working groups.
- Assessment of working group support.

• Administrative issues.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by February 1, 1999, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to her at the meeting.

Sign and oral interpretation, as well as an assistive listening device, can be made available if requested 10 calendar days before the meeting by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC. on January 15, 1999.

Ida M. Klepper,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–1552 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Implementation of Section 360 of the Omnibus Appropriations Act for Fiscal Year 1999 (Public Law 105–277)

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of implementation of Section 360 of the Omnibus Appropriations Act for Fiscal Year 1999.

SUMMARY: Section 360 of the Omnibus Appropriations Act for Fiscal Year 1999 (Public Law 105–277) provides that FTA may allow certain recipients of Urbanized Area Formula Funds (Section 5307 of Title 49 U.S.C.) in areas with populations 200,000 or over that provide service for elderly persons and persons with disabilities, with 20 or fewer vehicles, to use a portion of their Section 5307 funds for operating assistance. Because of changes made by the Transportation Equity Act for the 21st Century (TEA–21), such funds would normally not be available for Federal transit operating assistance.

The chief executive or authorized official of a transit operation who believes his or her operation to be eligible for Federal transit operating assistance under Section 360 may submit a letter of intent to use the provisions of Section 360. The letter of intent should identify the transit property, address the criteria for eligibility listed herein, and identify the amount of funds that will be requested for Federal transit operating assistance for Fiscal Year 1999.

DATES: A letter of intent to apply for funds pursuant to Section 360 must be received by the appropriate FTA Regional Office on or before April 15, 1999. FTA will make a determination of the amount that may be used for Federal transit operating assistance on or before May 14, 1999.

ADDRESSES: Addresses of FTA Regional Offices are as follows:

Region 1—Boston. Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA. 02142–1093
Tel. 617 494–2055
Region 2—New York. I Bowling Green, New York, NY 10274
Tel. No. 212 264–8162
Region 3—Philadelphia. 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124
Tel. 215 656–7100
Region 4—Atlanta. 61 Forsyth Street, S.W. Suite 17T50 Atlanta, GA 30303–8917
Tel. 404 562–3500
Region 5—Chicago. 200 W. Adams Street, Suite 2410, Chicago, IL 60606–5232
Tel. 312 353–2789
Region 6—Ft. Worth. 819 Taylor Street, Room 8A36 Ft. Worth, TX 76102
Tel. 817 978–0550
Region 7—Kansas City, MO. 6301 Rockhill Road, Suite 303 Kansas City, MO 64131–1117
Tel. 816 523–0204
Region 8—Denver. Columbine Place, 216 16th St., Suite 650 Denver, CO 80202–5120
Tel. 303 844–3242
Region 9—San Francisco. 201 Mission Street, Room 2210 San Francisco, CA 94105–1800
Tel. 415 744–3133
Region 10—Seattle. Jackson Federal Building, 915 Second Avenue, Suite 3142 Seattle, WA 98174–1002
Tel. 206 220–7954

FOR FURTHER INFORMATION CONTACT: Mr. Douglas A. Kerr, Director, Office of Program Guidance and Support, Federal Transit Administration (Tel. (202) 366–1656).

SUPPLEMENTARY INFORMATION: In the Omnibus Appropriations Act for Fiscal Year 1999 (Public Law 105–277 dated October 21, 1998, Congress added a provision that allows operating expenses of certain transit operators in areas with populations of 200,000 and over to be an eligible cost category under the Urbanized Area Formula Program, Section 5307 of Title 49 U.S.C. The Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178) eliminated the eligibility of Federal transit operating assistance for urbanized areas with populations 200,000 or over. The provision, Section 360 of the Omnibus Act, amends Section 3027 of the TEA–21 by adding the following language:

''(3) Services for Elderly and Persons with Disabilities. In addition to assistance made available under paragraph (1), the Secretary may provide assistance under section 5307 of title 49 United States Code, to a transit provider that operates 20 or fewer vehicles in an urbanized area with a population of at least 200,000 to finance the operating costs of equipment and facilities used by the transit provider in providing mass transportation services to elderly and persons with disabilities, provided that such assistance to all entities shall not exceed $1,000,000 annually.''

The intent of Congress is to protect—''hold harmless''—from the loss of Federal transit operating assistance certain small providers in urbanized areas larger than 200,000 that provide demand-responsive service to accommodate elderly persons and/or persons with disabilities in areas in which there is no other transit service. The provision of Section 360 is designed not as a new window of opportunity to use Federal funds for transit operating assistance but as a corrective action to address a need the Congress identified in large urbanized areas in which there is no other transit service provided for elderly persons and persons with disabilities.

Amount Available

Section 5307 funds made eligible for operating assistance by Omnibus Act amount to a total of $1 million per year. Such demand responsive service to elderly persons and/or persons with disabilities will be eligible for FTA operating assistance at the 50/50 Federal/local share ratio.

The $1 million made eligible for Federal transit operating assistance by Section 360 of the Omnibus Act is not additional money; nor is it a set-aside. Rather, this provision establishes an optional additional eligibility for the use of Section 5307 funds by past recipients of Section 5307 funds that qualify to use a portion of the Fiscal Year 1999 funds for operating assistance.

Funds for ADA-Related Paratransit

The funds eligible for operating assistance under Section 360 of the Omnibus Act are not available to operate the paratransit services complementary to fixed route bus services that are required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12143). TEA–21, at Section 3027, amended Section 5302(a) of Federal transit law to expand the

definition of an eligible FTA-assisted capital project to include costs for operating ADA-related complementary paratransit in any sized UZA, for any grant applicant that is in compliance with ADA. Hence, providers of ADA-related paratransit service may apply for funds at the 80/20 Federal/local share ratio in accordance with Section 3027 of TEA–21. Up to 10 percent of the urbanized area's apportionment under Section 5307 of Title 49, Chapter 53, may be used for the ADA-related costs. The option to use and the allocation of the 10 percent is to be made by the local Metropolitan Planning Organization.

Critera

The criteria by which FTA will allow eligibility for Federal transit operating assistance under the provisions of Section 360 of the Omnibus Appropriations Act for Fiscal Year 1999 are as follows:

1. The operator provides demand responsive service exclusively for elderly persons and/or persons with disabilities. Such service does not include service for the general public.
2. The number of demand responsive vehicles, operated in maximum service, is 20 or fewer.
3. The operator provides the demand responsive service in a UZA with a population of 200,000 or over.
4. The demand-responsive service provided is not ADA paratransit service complementary to fixed route service.
5. Neither fixed-route nor ADA-related paratransit service complementary to fixed-route service is provided in the service areas serve by the demand responsible service for which Federal transit operating assistance will be requested.
6. The transit provider, in at least one of Federal Fiscal Years 1996, 1997, or 1998, has received an FTA grant for operating assistance under Section 5307 of Title 49 U.S.C. or has received operating assistance under Section 5307 passed through from another FTA grantee and has reported the assistance in the National Transit Database. An exception to the criteria of reporting the funds received by a pass through arrangement would be the case in which FTA has allowed an exemption to the reporting because the transit operator operated nine or fewer vehicles.
7. The Metropolitan Planning Organization concurs in the use for operating assistance of a portion of the urbanized area's Section 5307 apportionment.

Calculation

After determining a transit provider's eligibility to use Section 5307 funds for operating assistance, and taking into account the total amounts of Federal transit operating assistance being requested, FTA will determine the amount for which the recipient is eligible. Determination will be made on the basis of the recipient's past receipt—either directly or indirectly—of Federal transit operating assistance under Section 5307 of Title 49 U.S.C. The transit operator will not receive more than the maximum the operator has received in any one of the Federal Fiscal Years 1996, 1997, or 1998.

If the total amount requested by all eligible recipients pursuant to Section 360 is greater than $1 million, FTA will calculate the amount eligible to each eligible recipient on the basis of Federal transit operating assistance obligated to or passed through to the particular eligible recipient in the past, as a proportion of the total amount of Federal transit operating assistance obligated to or passed through to all of the eligible recipients requesting eligibility under Section 360.

FTA Grant Application Requirements

All of the normal FTA grant requirements regarding Federal transit operating assistance apply, as described in Appendix D of FTA Circular 9030.1C, ''Urbanized Area Formula Program: Grant Application Instructions.'' dated October 1, 1998. Understanding that amendments to Transportation Improvement Programs (TIP) and to State Transportation Improvement Programs (STIP) will have to be made, FTA will not require that the funds be programmed in a TIP before the letter of intent is received. Use of the funds under Section 360 must be programmed in an approved TIP and an approved STIP, however, before FTA can obligate funds.

Letter of Intent

The letter of intent, which must be received by the appropriate FTA Regional Office on or before April 15, 1999, should address the following:

1. Each criterion of eligibility listed.

2. The amounts of Federal transit operating assistance received, either directly or indirectly, in each of Federal Fiscal Years 1996, 1997, and 1998.

3. The amount of Fiscal Year 1999 funds that will be requested for Federal transit operating assistance. Such amount may not be greater than the maximum amount received in any one of Federal Fiscal Years 1996, 1997, or 1998.

Issued on: January 20, 1999.

Gordon J. Linton,

Administrator.

[FR Doc. 99–1632 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–4973]

Nissan Motors Corporation U.S.A.; Receipt of Application for Decision of Inconsequential Noncompliance

Nissan Motor Corporation U.S.A. (Nissan) has determined that certain 1998 and 1999 Nissan Frontier pickup trucks equipped with automatic transmissions were not in full compliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 102, ''Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Nissan has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

We are publishing this notice of receipt of an application as required by 49 U.S.C. 30118 and 30120. This action does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Under S3.1.4.1 of FMVSS No. 102, if a vehicle's transmission shift lever sequence includes a park position, identification of the shift lever positions (including the positions in relation to each other and the position selected) shall be displayed in view of the driver under two conditions: if the ignition is in a position where the transmission can be shifted, or the transmission is not in park.

From September 1997 to August 1998, Nissan produced approximately 22,000 U.S. light trucks that use an electronic display in the instrument panel to indicate transmission gear position. In these vehicles, when the ignition key is in the ''OFF'' or ''ACCESSORY'' position, the selected gear position is not displayed. ''OFF'' refers to the range of movement of the ignition key between the ''LOCK'' and ''ACCESSORY'' positions. The gear selector lever can be moved while the ignition switch is in ''OFF'' or ''ACCESSORY.'' There is no detent for ''OFF'' as the key is rotated nor is ''OFF'' labeled on the ignition switch.

There is a detent for ''ACCESSORY'' and it is labeled on the ignition switch. Nissan believes that it is highly unlikely that a driver would actually turn and leave the key in the ''OFF'' position. Nissan states that the affected vehicles do comply with all other requirements of FMVSS 102.

Nissan supports its application for inconsequential noncompliance with the following statements:

The situation involving the Frontier trucks is essentially the same as that described in an inconsequentiality petition filed by General Motors Corporation in 1993 and granted by NHTSA. See 58 FR 16735, March 30, 1993 and 58 FR 33296, June 16, 1993. The petitioner in that matter stated that, on certain of its vehicles, the PRNDL display would not be illuminated if the transmission was left in a position other than ''PARK'' when the ignition key was turned ''OFF.'' The petitioner noted that the vehicles in question complied with FMVSS 102 during normal ignition activation and vehicle operation. In that matter, NHTSA concluded that since the noncompliance did not occur during times that the affected vehicles were operated, ''the noncompliance presents no discernible threat to safety.'' See 58 FR 33297.

As NHTSA noted in proposing the current version of the standard (49 FR 3240911, August 25, 1988), the purpose of the display requirement is to ''provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors.'' In all but the rarest circumstances, the primary function of the transmission display is to inform the driver of gear selection and relative position of the gears while the engine is running.

In the case of the Nissan trucks, the selected gear position and PRNDL display are always visible when the engine is running. The selected gear position is not shown in the instrument panel electronic display if the engine is turned off. If the ignition key is rotated to the ''ON'' position, the selected gear position immediately illuminates. If the transmission is in ''PARK'' and the engine is started, the selected gear position becomes immediately visible.

If the driver seeks to start the truck when the transmission is not in the ''PARK'' or ''NEUTRAL'' position, ignition would be impossible, as required under FMVSS 102. As soon as the ignition key is rotated to the ''ON'' or ''START'' position, the selected gear would become immediately apparent as the display is illuminated under these conditions. This means that the engine will only start under the condition that the PRNDL and selected gear position are visible to the driver.

Because the movement of the shift lever to place the transmission in ''PARK'' is the same on all vehicles using a column-mounted shift lever, that is, pulled toward the driver and then moved all the way to the left, most drivers do not rely on the PRNDL display to ensure the transmission is in ''PARK.'' This means that it is highly unlikely a driver attempting to place the transmission in ''PARK'' would fail to do so even if the gear position was not visible on the PRNDL display.

If the driver were to attempt to remove the key before exiting the vehicle while erroneously believing that the transmission is in ''PARK'' (with the ignition key being in the ''OFF'' or ''ACCESSORY'' position), it would be impossible to remove the key from the ignition. This would alert drivers that the transmission was not in ''PARK'' and cause them to put it in ''PARK'' so that they could remove the key. If the driver opens the door before attempting to remove the key, the FMVSS 114 audible warning would sound when the door is opened, providing further indication of the improper gear selection. As stated by NHTSA, exiting the vehicle in these circumstances ''would be limited to the rare situation.'' See 54 FR 29042, 29044 (July 11, 1989).

Nissan believes that the theoretical risk of one of the subject vehicles rolling away after the driver exits the vehicle because they failed to place the transmission in ''PARK'' and/or to engage the parking brake while leaving the key in the ignition switch in the ''OFF'' or ''ACCESSORY'' position so that the selected gear is not displayed in the PRNDL is no higher than in a vehicle in which the PRNDL display is working properly.

Although there may be rare circumstances when it would be useful to know the gear position when the engine is off, this information is provided by the shift lever position. Moreover, the electronic display can be illuminated simply by turning the key to the ''ON'' position. As noted above and as stated in the final notice granting the General Motors petition, ''in all but the rarest circumstances, the primary function of the PRNDL display is to inform the driver of gear selection and relative position of the gears while the engine is running.'' See 58 FR 33297.

The gear selector lever on these trucks cannot be moved from the ''PARK'' position if the key is not in the ignition switch. Therefore, the fact that the selected gear is not displayed in the PRNDL with the ignition key in the ''OFF'' or ''ON'' position has no relevance when the key is not in the switch.

Nissan has no record of any customer complaint or accident report that could be associated with or attributed to this condition.

We invite you to comment in writing on Nissan's application. Comments should refer to the docket number and be submitted in two copies to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590.

We will consider comments received before the close of business on the closing date indicated below. We will file the application and supporting materials. We will consider, to the extent possible, all comments received after the closing date. When we grant or deny the application, we will publish the notice in the **Federal Register**.

Comment closing date: February 24, 1999.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 19, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–1584 Filed 1–22–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 132X)]

Union Pacific Railroad Company—Abandonment Exemption—in Rio Grande and Mineral Counties, CO

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon and discontinue service over a 21.6-mile line of railroad known as the Creede Branch, extending from milepost 299.3 near Derrick to the end of the line at milepost 320.9 at Creede, in Rio Grande and Mineral Counties, CO.[1] The line

[1] The line is located on the former railroad known as The Denver and Rio Grande Western Railroad Company, a company of the former Southern Pacific Transportation Company which merged into UP pursuant to Board authority granted in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company,* Finance Docket No. 32760, Decision No. 44 (STB served Aug. 12, 1996). In this filing, UP is seeking to abandon the stub end of the line.

traverses United States Postal Service Zip Codes 81154 and 81130.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Because a formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 6, 1999,[2] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] any additional formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 4, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 16, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 29, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by January 25, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: January 15, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–1620 Filed 1–22–99; 8:45 am]

BILLING CODE 4915–00–P

[2] Under 49 CFR 1152.50(3), the notice would have been scheduled to become effective on February 24, 1999, but a formal expression of intent to file an OFA has been filed by the Denver & Rio Grande Railway Historical Foundation (D&RHF) to purchase or to acquire by donation the entire line. D&RHF's notice of intent automatically will stay the effective date of the exemption until March 6, 1999. *See* 49 CFR 1152.27(c)(2)(i). An OFA is due no later than 30 days after the **Federal Register** publication of the notice of exemption. *See* 49 CFR 1152.27(c)(2)(ii)(B). Thus, an OFA is due no later than February 24, 1999.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for renewed approval by the Office of Management and Budget. The Office of International Financial Analysis within the Department of the Treasury is soliciting comments concerning Treasury International Capital Forms CQ–1 and CQ–2, Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

DATES: Written comments should be received on or before March 26, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, Administrator, International Portfolio Investment Data Systems, Department of the Treasury, Room 5205, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Dwight Wolkow, Administrator, International Portfolio Investment Data Systems, Department of the Treasury, Room 5205, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 622–1276.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form CQ–1, Financial Liabilities to, and Claims on, Unaffiliated Foreigners; and Treasury International Capital Form CQ–2, Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

OMB Number: 1505–0024.

Abstract: Forms CQ–1 and CQ–2 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; EO 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Forms CQ–1 and CQ–2 are quarterly reports filed by nonbanking enterprises in the U.S. to report their international portfolio transactions with unaffiliated foreigners. This information is necessary for compiling the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: No changes to reporting requirements for the forms are proposed at this time.

Type of Review: Extension.

Affected Public: Business or other for-profit organizations.

Forms CQ–1 and CQ–2 (1505–0024).

Estimated Number of Respondents: 500.

Estimated Average Time per Respondent: 4 hours per respondent per filing.

Estimated Total Annual Burden Hours: 8,000 hours, based on 4 reporting periods per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether Forms CQ–1 and CQ–2 are necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; ways to enhance the quality, usefulness, and clarity of the information to be collected: ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and estimates of capital or start-up costs of operation, maintenance, and purchases of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 99–1521 Filed 1–22–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Submission for OMB review; joint comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the OCC, Board, and FDIC hereby give notice that they plan to submit to the Office of Management and Budget (OMB) requests for review of an information collection titled the Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004). The OCC's title for this information collection is (MA)—Insider Transactions (12 CFR 31).

The OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 24, 1999.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments should refer to the OMB control number(s) and will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219; Attention: Paperwork Docket No. 1557–0070 (FAX number (202) 874–5274; Internet address: regs.comments@occ.treas.gov). Comments will be available for inspection and photocopying at that address.

Board: Written comments should be addressed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to:

OCC: Jessie Gates, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

Board: Mary M. McLaughlin, Chief, Financial Reports Section (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Request for OMB approval to extend without revision, the following currently approved collection of information:

Report Title: Board and FDIC: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks. OCC: (MA)—Insider Transactions (12 CFR 31).

Form Number: FFIEC 004.

Frequency of Response: Annually (for executive officers and principal shareholders), and on occasion (for national, state member, and insured state nonmember banks).

Affected Public: Individuals or households, business or other for-profit.

Type of Review: Extension of currently approved collection.

For OCC

OMB Number: 1557–0070.

Estimated Number of Respondents: 27,500 (25,000 executive officers and principal shareholders fulfilling recordkeeping burden, 2,500 national banks fulfilling recordkeeping and disclosure burden).

Estimated Time per Response: 2.95 hours.

Estimated Total Annual Burden: 81,250 hours.

For Board

OMB Number: 7100–0034.

Estimated Number of Respondents: 4,955 (3,964 executive officers and principal shareholders fulfilling recordkeeping burden, 991 state member banks fulfilling recordkeeping and disclosure burden).

Estimated Time per Response: 1.12 hours.

Estimated Total Annual Burden: 5,551 hours.

For FDIC

OMB Number: 3064–0023.

Estimated Number of Respondents: 29,925 (23,940 executive officers and principal shareholders fulfilling recordkeeping burden, 5,985 insured state nonmember banks fulfilling recordkeeping and disclosure burden).

Estimated Time per Response: 1.8 hours.

Estimated Total Annual Burden: 53,865 hours.

Burden Note for all Agencies: The estimated time per response is an average which varies by agency because of differences in the sizes of banks under each agency's supervision, differences in the number of executive officers and principal shareholders subject to the recordkeeping requirements at banks of different sizes, and differences in the number of correspondent banks for banks of different sizes. Also, the time per response represents an average of (a) the recordkeeping requirements for executive officers and principal shareholders (which is estimated to range from 0.5 to 10 hours depending on individual circumstances); and (b) the recordkeeping and disclosure requirements for banks (which is estimated to range from 0.5 to 25 hours depending on individual circumstances).

General Description of Report: This information collection is mandatory: 12 U.S.C. 1972(2)(G) (all); 12 U.S.C. 93a, 12 U.S.C. 1817(k), and 12 CFR part 31 (OCC); 12 U.S.C. 375(a)(6) and (10), 12 U.S.C. 375(b)(10), and 12 CFR part 215 (Board); 12 CFR 304.5(e), 12 CFR 349.3, and 12 CFR 349.4 (FDIC).

Abstract: Executive officers and principal shareholders of insured banks must file with the bank the information contained in the FFIEC 004 report on their indebtedness and that of their related interests to correspondent banks. Banks must retain these reports or reports containing similar information and fulfill other recordkeeping requirements, such as furnishing annually a list of their correspondent banks to their executive officers and principal shareholders. Banks also have certain disclosure requirements for this information collection. On July 1, 1998, the three agencies jointly published a notice in the **Federal Register** (63 FR 36034) inviting comment on the extension of this collection of information, with no proposed changes.

Current Actions: The agencies received comments from four banking organizations on the extension of this collection of information. Most of the commenters suggested changes to the information that executive officers and principal shareholders must provide in the FFIEC 004 report. However, several of these suggestions are inconsistent with certain requirements of the Board's Regulation O (12 CFR part 215), ''Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks,'' 12 CFR part 349 of the FDIC's regulations, or statutes. The agencies will review their regulations to determine whether any of the suggested changes are consistent with the statute and with safety and soundness and, therefore, should be proposed. If so, corresponding changes to the FFIEC 004 would be proposed. The agencies note that the information required by Regulation O and Part 349 may be submitted in any format and does not have to be completed on this particular form.

One commenter suggested that the term ''Maximum Amount of Indebtedness Outstanding'' be clarified as it applies to lines of credit. For lines of credit, the ''Maximum Amount of Indebtedness Outstanding'' includes the full amount of the line of credit granted, not the amount actually borrowed against the line.

Comments: Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections; including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 12, 1999.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, January 19, 1998.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 22 day of December, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–1528 Filed 1–22–99; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P and 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–7

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–7, Application for IRS Individual Taxpayer Identification Number.

DATES: Written comments should be received on or before March 26, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for IRS Individual Taxpayer Identification Number.

OMB Number: 1545–1483.

Form Number: W–7.

Abstract: Form W–7 is used to apply for an IRS individual taxpayer identification number (ITIN). An ITIN is a nine-digit number issued by the IRS to individuals who are required to have a

U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a social security number. ITINs are intended for tax use only.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 1 hr., 3 min.

Estimated Total Annual Burden Hours: 525,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–1516 Filed 1–22–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3115

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3115, Application for Change in Accounting Method.

DATES: Written comments should be received on or before March 26, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Change in Accounting Method.

OMB Number: 1545–0152.

Form Number: 3115.

Abstract: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 6,400.

Estimated Time Per Respondent: 44 hr., 44 min.

Estimated Total Annual Burden Hours: 286,334.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–1517 Filed 1–22–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–262–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–262–82 (TD

8600), Definition of an S Corporation. (§ 1.1361–1).

DATES: Written comments should be received on or before March 26, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Definition of an S Corporation.

OMB Number: 1545–0731.

Regulation Project Number: PS–262–82.

Abstract: This regulation provides the procedures and the statements to be filed by certain individuals for making the election under Internal Revenue Code section 1361(d)(2), the refusal to consent to that election, or the revocation of that election. The statements required to be filed are used to verify that taxpayers are complying with requirements imposed by Congress under subchapter S.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,005.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,005.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–1518 Filed 1–22–99; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 64, No. 15

Monday, January 25, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

Correction

In notice document 99–960 appearing on page 2474, in the issue of Thursday, January 14, 1999, make the following correction:

On page 2474, in the third column, under the heading **TIME AND DATE:,**''February 2, 1999'' should read ''February 12, 1999''.

[FR Doc. C9–960 Filed 1-22-99; 8:45 am]

BILLING CODE 1505–01–D

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 251

[Docket No. 98-3A CARP]

Copyright Arbitration Royalty Panels; Rules and Regulations

Correction

In proposed rule document 99–1239, appearing on page 3055, in the issue of Wednesday, January 20, 1999, in the second column, in the **DATES:** section, in the second line, ''March 22, 1999'' should read ''March 8, 1999''.

[FR Doc. C9–1239 Filed 1–22–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Monday
January 25, 1999

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 484 and 488

Medicare and Medicaid Programs: Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies and Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 484 and 488

[HCFA–3006–IFC]

RIN 0938–AJ10

Medicare and Medicaid Programs: Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: Section 4602(e) of the Balanced Budget Act of 1997 authorizes the Secretary to require that home health agencies (HHAs) submit any information that the Secretary considers necessary to develop a reliable case mix system. This interim final rule with comment period requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for HHAs. Specifically, this rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or HCFA OASIS contractor in collecting and transmitting this information to HCFA. This interim final rule also sets forth rules concerning the privacy of patient identifiable information generated by the OASIS. The requirements of this interim final rule with comment period are necessary to establish a prospective payment system for HHAs and to achieve broad-based, measurable improvement in the quality of care furnished through Federal programs.

DATES: *Effective Date:* February 24, 1999. *Applicability Date:* Regulations at § 484.20 are applicable for testing of the HHA's transmission system and encoding of OASIS data on March 26, 1999, and for reporting of the HHA's OASIS data on April 26, 1999.

Comment Period: Comments will be considered if we receive them at the appropriate address no later than 5:00 p.m. on March 26, 1999.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–3006–IFC, P.O. Box 7517, Baltimore, MD 21244–1850.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201; or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on ordering copies of the **Federal Register** containing this document and electronic access, see the beginning of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Tracey Mummert, (410) 786–3398 or Mary Weakland, (410) 786–6835.

SUPPLEMENTARY INFORMATION:

Comments, Procedures, Availability of Copies, and Electronic Access

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–3006–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 445–G of the Department's offices at 200 Independence Avenue SW, Washington, DC, Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of the comments to:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: John Burke HCFA–3006–IFC; and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

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I. Background

A. General

Home health services are covered for the elderly and disabled under the Hospital Insurance (Part A) and Supplemental Medical Insurance (Part B) benefits of the Medicare program and are described in section 1861(m) of the Social Security Act (the Act). These services must be furnished by, or under arrangement with, an HHA that participates in the Medicare program, and must be provided on a visiting basis in the beneficiary's home.

Section 1861(o) of the Act specifies certain requirements that a home health agency must meet to participate in the Medicare program. (Existing regulations at 42 CFR 440.70(d) specify that HHAs participating in the Medicaid program must also meet the Medicare conditions of participation (COPs)). In particular, section 1861(o)(6) of the Act provides that an HHA must meet the COPs specified in section 1891(a) of the Act and any other COPs that the Secretary finds necessary in the interest of the health and safety of HHA patients. Section 1861(o)(8) of the Act provides that an HHA must meet additional requirements that the Secretary finds necessary for the effective and efficient operation of the home health program.

Section 1891 of the Act sets forth the conditions that HHAs must meet to participate in the Medicare program. Specifically, section 1891(a) of the Act establishes specific requirements for HHAs in several areas, including patient rights, home health aide training and competency, and compliance with applicable Federal, State, and local laws. Under section 1891(b) of the Act,

the Secretary is responsible for assuring that the COPs, and their enforcement, are adequate to protect the health and safety of individuals under the care of an HHA and to promote the effective and efficient use of Medicare funds. In accordance with sections 1864 and 1891(c) of the Act, State agencies generally conduct surveys of HHAs to determine whether they are complying with the COPs.

Under the authority of sections 1861(o), 1871, and 1891 of the Act, the Secretary has established in regulations the requirements that an HHA must meet to participate in Medicare. These requirements are set forth at 42 CFR part 484, Conditions of Participation: Home Health Agencies. The COPs apply to an HHA and the services furnished to each individual under the care of the HHA, unless a condition is specifically limited to Medicare beneficiaries.

Section 1864 of the Act authorizes the use of State agencies to determine providers' compliance with the COPs. Responsibilities of States in ensuring compliance with the COPs are set forth in regulations at 42 CFR part 488, Survey, Certification, and Enforcement Procedures.

B. New Legislation and Related Regulations

Section 4603 of the Balanced Budget Act (Public Law 105–33 (BBA)), enacted on August 5, 1997, amended the Act to require the Secretary to establish a prospective payment system for home health care. Although the implementation of a prospective payment system will be delayed until all related systems achieve year 2000 compliance, we will still need to begin receiving the data to be used for standardizing the payment amounts as soon as possible. The BBA reformed the payment system for Medicare home health services to achieve $21.2 billion in savings by the year 2002. These reductions were undertaken as part of the overall strategy to balance the federal budget and extend solvency of the Medicare trust fund. The payment reform for home health services includes an interim payment system (IPS) with reduced cost limits and eventual implementation of a prospective payment system for HHAs. Details of the IPS can be found in the March 31, 1998 **Federal Register** at 63 FR 15718. The IPS will generally result in overall reduced payments to HHAs. Our objective in implementing the provisions of section 4603 of the BBA is to develop a payment system that promotes HHA efficiency while assuring that providers who serve patients with high care needs are reimbursed within statutory dictates.

In order to implement this prospective payment system, it is necessary that we have data from HHAs to develop a reliable case-mix adjuster system. Section 4602 of the BBA provides that, for cost reporting periods beginning on or after October 1, 1997, the Secretary may require HHAs to submit additional information that the Secretary considers necessary for the development of a reliable case-mix system. We intend for the Outcome and Assessment Information Set (OASIS), a data set comprised of patient care items developed for the purpose of measuring patient health care outcomes in HHAs, to be the vehicle through which information for the case-mix system is collected. Thus, as discussed below, to facilitate the implementation of the prospective payment system and to gather data that can be used to evaluate and develop plans to improve outcomes of care in HHAs, we are publishing two regulations in this issue of the **Federal Register**. Specifically, we are publishing a final rule titled, ''Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies,'' which requires that HHAs complete a comprehensive assessment for each patient and that they incorporate the OASIS into their comprehensive assessment process. In addition, as discussed in detail below, in this interim final rule with comment period, we are requiring that HHAs electronically report data from the OASIS to the State agency or other entity designated by HCFA (HCFA OASIS contractor).

II. Provisions of This Interim Final Rule With Comment Period

In this regulation we are requiring Medicare-approved HHAs and those HHAs that are required to meet Medicare conditions (including Medicaid HHAs and managed care organizations providing home health services to Medicare and Medicaid beneficiaries) to, with certain exceptions, report via electronic transmission their OASIS data to a database established by HCFA within each State. These reporting requirements are consistent with the collection requirements also published today in this issue of the **Federal Register**.

In addition to requirements for HHAs, this interim final rule with comment period includes responsibilities of the State agencies and HCFA OASIS contractors, which have been approved by HCFA to maintain an OASIS database. Finally, to ensure confidentiality of patient identifiable data generated by the OASIS, we are setting forth requirements for State agencies, HCFA OASIS contractors, and HHAs regarding the release of this information.

A. Section 484.20 Condition of Participation: Reporting OASIS Information

We are adding a new § 484.20, Condition of Participation: Reporting OASIS Information, to provide that HHAs must report OASIS data on all patients except those specified in the preamble to the regulation describing collection of OASIS data, that is, ''Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies,'' mentioned previously. This new COP at § 484.20 will consist of four standards, which are discussed in detail below.

In 1988, we entered into a contract with the Center for Health Services and Policy Research at the University of Colorado Health Sciences Center to develop, test, and refine a system of outcome measures that could be used for outcome-based quality improvement in HHAs. The results of subsequent studies have shown that the collection of precise information on the health status of patients at different points in time can be used in a variety of ways. Once reported to a central database, the compiled, aggregate results of the collection of OASIS data can be used by the HHA to determine how it is performing in terms of patient outcomes compared with other HHAs. The term most often linked with the use of OASIS data to improve quality of care is ''outcome-based quality improvement'' or OBQI. The OASIS data set is but one of several components of OBQI.

Other components of OBQI include using outcome and case mix reports within an agency to improve quality, evaluate effectiveness of practice, and better manage care to enhance outcomes and control costs and utilization. Outcome reports will be generated by the State agency or HCFA OASIS contractor and will contain data related to patient outcome and case mix findings based on the patient-level data submitted by the HHA. For example, outcome reports may provide information relative to hospitalization rates, medication management, and patient functional status within an HHA. These data will be displayed relative to the individual HHA, along with data representing local and national trends. When outcome reports become available, we expect that each

HHA will be able to use them in its own quality assessment and performance improvement program. HHAs will be able to examine specific care domains and case mix of patients, compare current performance to past performance, and compare their aggregate outcomes to national reference values, that is, the aggregate outcomes from all HHAs. The HHA could then compare its performance with other HHAs locally, regionally, and nationally. This information will be advantageous not only to Medicare beneficiaries and other home care clients, but also to the home care industry in demonstrating its effectiveness. For example, as a result of collecting OASIS information and submitting it to a central data base for evaluation, the University of Colorado has data indicating a statistically significant decrease in rate of re-hospitalization among HHA patients when the agency incorporates outcome reports into its OBQI program.

Outcome reports will most likely be available to HHAs from State agencies on a yearly basis, based on OASIS data that HHAs report to the State. These data will be used to establish and maintain a national database, based on the data from outcome reports. To generate outcome reports that are statistically valid, it is necessary that HHAs transmit a sufficient number of data points. Results of the OASIS demonstration project suggest that reports be based on the collection of data over a year's time. We estimate that outcome reports will begin to be made available no less than one year from the date HHAs are required to begin reporting their OASIS data. We expect that the outcome reports will be made available at least annually thereafter.

In addition, we, along with State agencies, will be able to use the outcome reports to identify opportunities for improvement in national or local priority areas, such as a project to improve medication management for beneficiaries generally or to shorten the time necessary to achieve a clinically important patient outcome. Therefore, the benefit of reporting OASIS data is two-fold. We not only meet our statutory requirements for establishing a prospective payment system for home health but also gather data that can be used at a national level to evaluate and develop plans to improve outcomes of care in the Medicare and Medicaid home health benefit. We believe that computerized patient assessment data would be a valuable resource to monitor trends in patient care in the home health industry. In addition, a national data base would provide important insights into the structure of the industry and use of resources to achieve positive patient outcomes.

In our companion regulation concerning collection of OASIS data items, time frames for completing OASIS data sets are described for the comprehensive assessment (5 days from start of care), routine update of the comprehensive assessment (two calendar months from start of care), and discharge from a hospital admission, that is, resumption of care (48 hours). Specific time frames for completion of OASIS data were not described for discharge, including discharge to the community, transfer to an inpatient facility (with or without agency discharge), and death at home, nor were comments received relative to these time frames. For consistency in encoding (entering data into a computer) and reporting data relative to these OASIS data sets, we expect that HHAs would complete the OASIS data set items for these time points within 48 hours of knowledge of their occurrence. We are seeking comment on the expectation that HHAs will complete these assessment updates within 48 hours. The reason for the requirement to complete these other assessment types within two calendar days is that the HHA can more readily assess specific information related to the patient's condition at that point in time and maintain a uniform platform for reporting all assessment types.

1. Section 484.20(a) Standard: Encoding OASIS Data

At § 484.20(a), we require that HHAs encode and finalize data entry (lock) for all patients (except those specified in the preamble to the regulation describing collection of OASIS data, that is, ''Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies'') in the agency within 7 days of completing an OASIS data set.

Once the OASIS data set has been collected by the authorized clinical staff member at the specified time points described at § 484.55, HHAs may take up to 7 calendar days after collection to enter it into their computer systems. To enter the data, HHAs will operate the Home Assessment Validation Entry (HAVEN) software program and run the OASIS data set through the HCFA-specified edits in order to make it transmission-ready. This process involves using the HAVEN software to review the data for accuracy and consistency, making any necessary changes, and finalizing the data. We specify 7 days to encode, edit, and lock the OASIS data because we believe that this is a reasonable amount of time to expect agencies to complete this task while ensuring accuracy of the data. The agency must enter the OASIS data and identify any information that does not pass the HCFA-specified edits, that is, any missing, incorrect, or inconsistent data. This is a simple process of entering a data set into a computer using software that mirrors the OASIS data items. Editing and locking are functions automatically performed using the HAVEN software. If HAVEN identifies data items in need of clarification or additional information, we believe that 7 days is a reasonable amount of time for staff entering data to contact and seek assistance from the qualified clinician who assessed the patient. It is preferable that the edits and corrections be made as close in time as possible to the assessment activity, since the clinician's recall of the patient assessment and the clinical notes that document the assessment are fresher at that point. Seven days is also consistent with the timeframe currently required by long-term care facilities encoding Minimum Data Set (MDS) information. We believe that keeping OASIS encoding consistent with MDS encoding would be simpler for providers and State agencies to manage than introducing a different set of timeframes. In addition, we expect that, in order to provide quality care, HHAs would assess patients and submit OASIS data in a timely fashion for data entry in order to prepare and maintain a current and viable plan of care. As such, we feel that it is reasonable to expect that HHAs will be able to encode, edit, and ready OASIS data for transmission within 7 days of the data's collection.

HHAs will have flexibility in the method used to encode their data. Once the assessment is completed and OASIS data items are collected by the qualified skilled professional (that is, the nurse or therapist responsible for coordinating or completing the assessment), data can be encoded directly by that skilled professional, by a clerical staff member from a hard copy of a completed OASIS, or by a data entry operator with whom the HHA may contract to enter the data. Non-clinical staff may not assess patients or complete assessment items; however, clerical staff or data entry operators may enter the OASIS data collected by the skilled professional into the computer. We note that in entering the data, HHAs must comply with requirements for safeguarding the confidentiality of patient identifiable

information. These requirements are discussed in detail below.

Once the OASIS information is encoded, HHAs will ''lock'' the data, that is, use their software to review and edit it to create a file that will be transmitted to the State agency or other entity approved to receive this transmission. The edits will include an electronic safety net to preclude the transmission of erroneous or inconsistent information, and required formatting for the data set items. The locking mechanism is necessary to ensure the accuracy of the patient assessment at the point in time that the assessment took place. The locking mechanism will prevent the override of current assessment information with future information.

2. Section 484.20(b) Standard: Accuracy of Encoded OASIS Data

Section 484.20(b) requires that the encoded OASIS data accurately reflect the patient's status at the time the information is collected. As research has shown that the patient status changes over time, the data must accurately represent a patient's status at selected points in time. Before transmission, the HHA must ensure that data items on its own collection record match the encoded data that are sent to the State. We expect that once the qualified skilled professional completes the OASIS using either a hard copy of the instrument or an electronic method, the HHA will develop a means to ensure that the data put into the computer and transmitted to the State agency or HCFA OASIS contractor reflect the data collected by the skilled professional. The HHA might appoint staff to audit OASIS records after input as part of the HHA's overall quality assurance program. In addition, the State survey process for HHAs may include review of OASIS data collected versus data encoded and transmitted to the State.

3. Section 484.20(c) Standard: Transmittal of OASIS Data

General requirements. At § 484.20(c), we require that the HHA electronically transmit to the State agency or HCFA OASIS contractor, at least monthly, accurate, completed, encoded, and locked OASIS data for each patient. This time frame allows for transmission more frequently as determined by the HHA. We also provide that the data must be transmitted in a format that meets the requirements specified in the data format standard at § 484.20(d). Thus, data collected, encoded and locked in February will need to be transmitted in March. We believe that a monthly time frame for transmitting the data will minimize the burden on the HHA associated with frequency of transmission, maintain uniform assessment reporting time frames, and maintain a clear reporting time frame that eliminates the variation of days in a month. We provide flexibility for the HHA in that we do not specify a date on which HHAs must transmit the data. Therefore HHAs are free to develop monthly schedules for transmitting the data that best suit their needs. In addition, we provide that HHAs may send OASIS data to the State agency or HCFA OASIS contractor more frequently than monthly if they choose to do so.

We note that the HHA must transmit the Clinical Record Items section of the OASIS, which identifies the patient, with each data set. The Clinical Record Items section includes information such as agency identification, patient identification, and start of care date. The Clinical Record Items are a key aspect of an OASIS data set that will allow the HHA, State agency or HCFA OASIS contractor, and HCFA to track all data sets collected on individual patients within the episode of care. Many elements in the Clinical Records Items section may be completed initially by clerical staff as part of the intake/referral process; but should be verified by the clinician doing the assessment.

As we continue to develop our system to maintain the OASIS data base, the items in the Clinical Record Items section may change to accommodate growth. No substantive changes have been made to the clinical data items published in the **Federal Register** on March 10, 1997, although minor changes have been made to the numbering system to accommodate electronic reporting. We refer you to the HCFA webpage (http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm) for changes necessary to comply with OASIS reporting requirements. The current version of OASIS is a proposed information collection requirement pending OMB approval. We have summarized the Paperwork Reduction Act process below and have described the timeframes associated with that process. As an alternative to Internet access, which is the most efficient method of obtaining the current version of the OASIS, agencies may contact their State agency or HCFA regional office home health representatives to request a paper copy of the data set for review. Any future changes to OASIS will be submitted to OMB to review pursuant to the Paperwork Reduction Act of 1995, will be available electronically on the HCFA website, and, when approved by OMB, available in hard copy from the National Technical Information Service ((703) 487–4650).

In addition to OASIS data, HHAs will transmit information that identifies the location and description of the HHA sending data and the identity of the person submitting the data to the State agency or HCFA OASIS contractor. This information is referred to as the header record. Header information is not information requested by the OASIS data set. Rather, it is information required to support the transmission process. At the end of the transmission file, a record concerning the number of records being transmitted is required to complete the transmission process. This information is referred to as the trailer record. When the HHA is ready to transmit its data to the State, it will use the HAVEN software to add the selected records to be sent with the header and trailer records to create an export file. The export file is then transmitted to the State by the HHA.

HHAs should use standard communication software to dial-up to the State agency or HCFA OASIS contractor, transmit the export file, and receive validation information. HHAs should have a system that supports dial-up communications for the transmission of OASIS data to the State. The communications capability must meet our specification related to transmission of OASIS data. More detailed instructions on the process for data submission will be made available in the near future. This dial-up link will eventually serve as a means of communicating information such as reports, notices, and documents between HHAs and the State agency without requiring additional hardware or software.

HHAs must transmit the OASIS data using a private dial-up network based on a direct telephone connection from the HHA. The telephone communication provides a secure source of transmission, with interception of information being prohibited by Federal and State law. The information is transmitted via a modem at the HHA and received at the State communications server where the file is validated. The State agency or HCFA OASIS contractor will provide to the HHAs in their State specific instructions and phone numbers of the lines available for transmission.

Once transmitted, the State agency or HCFA OASIS contractor validates the information while the HHA remains on-line to ensure that some basic elements conform to HCFA requirements, such as proper format and HHA information. Once these file checks are complete, a

message indicating whether the file has been accepted or rejected is sent back to the HHA's terminal via the agency's communication link. If the submission passes the initial validation check, the record is checked for errors or exceptions to the data specifications and a Final Validation Report is generated. If the submission is rejected, a message is sent to the HHA along with the rejected submission file for correction in the header or trailer record. A record may be rejected for a variety of reasons, for example, the provider identification name or number submitted may be incorrect or does not match the name or number at the State, or the number of records indicated in the trailer record does not match the actual number of records submitted. The HHA will need to make the corrections and re-submit the submission file to the State.

Initial transmission requirements. In order to initiate transmission of OASIS data to the State agency or HCFA OASIS contractor, we are including the requirement that HHAs make a successful transmission of test data to the State agency or HCFA OASIS contractor during the test transmission period. The initial test should include both 1) a transmission of any start of care or resumption of care OASIS data that passes HCFA edit checks; and 2) a validation report back from the State confirming transmission of data. We require that HHAs successfully transmit test data to the State agency or HCFA OASIS contractor beginning March 26, 1999, and no later than April 26, 1999. This test data will not be included in the national repository.

On or after April 26, 1999 we expect that HHAs will send to the State agency or HCFA OASIS contractor all OASIS data collected on existing patients under the care of the HHA on March 26, 1999. The data should include the start of care; follow-up of the start of care; resumption of care; discharge to the community; transfer to an inpatient facility (with or without agency discharge); and death at home OASIS assessment items. Specifically, on patients admitted to the HHA on or after March 26, 1999 the data should include a start of care assessment and any other OASIS data collected in accordance with the requirements at § 484.55. For patients already under the care of the HHA as of March 26, 1999 the data may not include a start of care data set, but must include any OASIS data collected in accordance with the requirements at § 484.55 (follow-up, resumption of care (following an inpatient stay), transfer to inpatient facility (with or without agency discharge), or discharge (including death at home)). As stated above, OASIS data should be reported on all HHA patients except those specified in the regulation describing collection of OASIS data, that is, ''Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies.'' Specific directions for coding these assessments for initial transmission will be included in the State training and manual instructions. On or after, April 26, 1999 and at least monthly thereafter, HHAs will transmit OASIS updates on those patients included in the initial transmission as well as comprehensive assessment OASIS data and updates on any patients admitted to the HHA on or after March 26, 1999.

To further clarify the OASIS effective dates schedule, we offer the following chart based on the assumption that this regulation and the companion regulation describing collection of OASIS data, ''Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies,'' are published November 16, 1998. While the publication date of the OASIS regulations differs from the one used in this example, the effective dates in the following chart are based on an assumed publication date. HHAs are cautioned to substitute the actual publication date into the formulas listed below to derive the actual effective dates in addition to reading the discussion of effective dates above. When these regulations are published, we will post the publication date and effective dates on the OASIS webpage.

OASIS COLLECTION AND REPORTING TIMELINE

Publication date	Collection begins (11/16/98 + 30 days) [1]	Encoding begins (11/16/98 + 60 days) [2]	HHA tests transmission system (11/16/98 + 60 through 90 days)	HHA begins reporting OASIS data (11/16/98 + 90 days and monthly thereafter) [3]
11/16/98	12/16/98	1/15/99	1/15/99 through 2/14/99	2/14/99 and monthly thereafter.

[1] HHA collects start of care, resumption of care, follow-up, discharge to the community, transfer to an inpatient facility (with or without discharge) and death at home OASIS data on all patients under the care of the HHA as of 12/16/98.

[2] HHA collects *and encodes* start of care, resumption of care, follow-up, discharge to the community, transfer to an inpatient facility (with or without discharge) and death at home OASIS data on all patients under the care of the HHA as of 1/15/99. For patients admitted to the HHA before 1/15/99, it is not required to encode start of care data.

[3] HHA reports (transmits to the State agency or HCFA OASIS contractor) all OASIS data collected and encoded from 1/15/99 through 2/14/99 and monthly thereafter. Monthly transmissions should include all OASIS data collected and encoded in the previous month.

4. Section 484.20(d) Standard: Data Format

At § 484.20(d) we specify that the HHA must encode and transmit data using the software available from HCFA or software that conforms to HCFA standard electronic record layout, edit specifications, and data dictionary and includes OASIS data items specified in § 484.55(e). To meet the data format requirements, HHAs will be able to use the HAVEN software developed by HCFA, or other vendor's software that conforms to HCFA standardized electronic record formats, edit specifications, data dictionaries, and that passes standardized edits defined by HCFA. The HAVEN software can be used for several purposes. HHAs will be able to use HAVEN to encode OASIS data, maintain agency and patient-specific OASIS information, and create export files to submit OASIS data. HAVEN will provide comprehensive on-line help to users in encoding, editing and transmitting these data sets. Additionally, we have developed a hotline to support this software product.

HAVEN will alert the individual who is encoding the data to use the correct screen for the specific type of assessment record required. We suggest that as HHAs plan for implementation, those HHAs using paper copies of OASIS data sets consider a way to differentiate among the various subsets of OASIS data. For example, agencies who were involved in the demonstration pilot studies used different colored paper for each subset of the OASIS instrument. We caution HHAs that the HAVEN system will provide only the minimum requirements to encode and format the data. We will support these functions and applications; however, we do not intend to provide any other applications

related to care planning, financial information, durable medical equipment, medications, or personnel issues. Software vendors are encouraged to use the HAVEN software as a minimum system until they have developed their own software to accommodate HCFA specifications and other applications useful for HHAs. If the HHA uses software other than HAVEN it must conform to HCFA standardized electronic record formats, edit specifications, and data dictionaries. The software must also include the OASIS data items specified in § 484.55(e).

HCFA will provide standardized training to State agencies or HCFA OASIS contractors, who, in turn, will provide training to HHAs in each State in advance of the implementation date of this interim final rule. This training, which will include the OASIS User's Manual, will focus on how to use the HAVEN software to encode and format data, how to transmit data, and how to interpret the validation reports.

The required OASIS data set will be available on our website located at http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm at all times. HHAs will be able to access the website and download the required OASIS data set for each data collection time point (start of care; resumption of care following an inpatient facility stay; follow-up; discharge (not to an inpatient facility); transfer to inpatient facility (with or without agency discharge); and death at home). We expect the required OASIS to vary slightly from that published in the March 10, 1997, proposed rule; however, there are no changes in the core data items that were published in the proposed rule. Items in the Clinical Records Items section of the OASIS are being updated to accommodate electronic reporting. In addition, the HAVEN software is available on the HCFA website and can be downloaded at no charge to HHAs and used to report OASIS data. This website includes the data specifications, data dictionaries, OASIS data set, and the OASIS User's Manual for the OASIS data set, HAVEN software and HHA data submission. We will also post other educational materials for HHAs on the website. We intend for the website to provide direct access for HHAs, State agencies, HCFA OASIS contractors, software vendors, professional organizations, and consumers. We encourage vendors and agencies to regularly review the website for information related to the computerization of OASIS and other HCFA-related home health issues. We will continue to promote processes for assuring accuracy in the software. In the future, an alternate version of the OASIS may be required. HHAs will be directed to the HCFA website for the applicable version of the OASIS data set. Once the data set is approved by OMB, HHAs may also obtain hard copies from the National Technical Information Service at ((703) 487–4650).

B. Exemption for HHAs in Research and Demonstration Projects

Some HHAs participating in OASIS research and demonstration projects may be using other data collection sets, which have been approved by the Secretary. HHAs in research and demonstration projects may be exempt from the requirement to use the OASIS as part of the comprehensive assessment and reporting process for the duration of the project. These determinations will be made on a case-by-case basis. Whether an HHA participating in a research or demonstration project is exempt from the requirements of the final rules requiring collection and reporting of OASIS data will depend on several factors including, the nature of the demonstration project, the data set used, payment implications for the HHA, quality concerns, and burden issues.

At completion or termination of the studies, we will work on a case-by-case basis with these HHAs to transition them into compliance with the general collection and reporting requirements for HHAs that are required to meet the Medicare home health COPs.

C. Section 484.11 Condition of Participation: Release of Patient Identifiable OASIS Information

We are adding a new § 484.11 Condition of Participation: Release of Patient Identifiable OASIS Information. Section 484.11 provides that the HHA or agent acting on behalf of the HHA must ensure the confidentiality of all patient identifiable information contained in the clinical record and may not release patient identifiable OASIS information to the public. We believe that this provision will ensure that access to all OASIS data (hard copy as well as electronic data) will be secured and controlled by the HHA, State agency or HCFA OASIS contractor. We also specify that an agent acting on behalf of the HHA in accordance with a written contract between the HHA and the agent may not use or disclose the information. The agent may only use or disclose data to the extent the HHA itself is permitted to do so. We believe that this COP will act as a safeguard against the unauthorized use of a patient's clinical record information, regardless of the form or storage method.

D. Section 488.68 State Agency Responsibilities for OASIS Collection and Database Requirements

Under section 1891(b) of the Act, the Secretary must assure that processes are in place to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys. Section 1864 of the Act authorizes the use of State health agencies to determine a provider's compliance with the COPs. State responsibilities for ensuring compliance with the COPs are set forth at part 488, Survey, Certification, and Enforcement Procedures.

Under the authority referenced above, we are adding a new § 488.68, State agency OASIS collection and data base responsibilities. This section provides that the overall responsibility for fulfilling requirements to operate the OASIS system will rest with the State agency or other entity designated by HCFA. The State may enter into an agreement with the State Medicaid agency, another State component, or a private entity to perform day-to-day operations of the system, or HCFA may contract with an entity directly, in the event the State is unable or unwilling to perform these operations. While these entities may actually perform all OASIS-related functions, the ultimate responsibility of the OASIS program rests with the State agency or authorized entity under contract directly to HCFA. If the standard State system is operated by an entity other than the State agency, the State must ensure that it has suitable access to this system to fully support all OASIS-driven functions required of the State agency (for example, outcome-based quality improvement reports and survey specific data). Section 488.68 also specifies State agency and HCFA OASIS contractor responsibilities with regard to the OASIS system, which are discussed in detail below.

1. Section 488.68(a) Establish and Maintain the OASIS Data Base

At § 488.68(a), we provide that the State agency or other entity designated by HCFA must use a standard system developed or approved by HCFA to collect, store and analyze data generated by OASIS. The system developed to compile the Minimum Data Set (MDS) assessments (the HCFA standard State system) has already been procured, installed, and used to collect MDS data. We are currently modifying the standard State system to accommodate OASIS data transmitted by HHAs. The standard State system currently includes a database, communication, supporting

files, print servers for client workstations, local and wide area data networks, and application software for performing all aspects of MDS related functions and tasks. This system may also be utilized to reconfigure data into reports that can be used by State surveyors to focus facility surveys and improve quality of care.

We are providing States with the software and any additional hardware needed to support the standard State system. In several States the home health component of the survey agency is a separate entity that is governed separately and sometimes located in a different geographical location from the agency that currently supports the standard State system. In these States, HCFA will fund the purchase and installation of a computer work station to provide these separate agencies access to OASIS data. As part of the survey responsibilities, § 488.68(a) also provides that States will be responsible for basic system management responsibilities such as hardware and software maintenance, system backup, and monitoring the status of the database.

We also set forth requirements for modification of the HCFA standard State system. Specifically, the State agency must obtain HCFA approval before modifying any parts of the system. The State agency or HCFA OASIS contractor may not modify any aspect of the standard State system that pertains to the standard HCFA-approved OASIS data items, standard HCFA-approved record formats and validation edits, and standard HCFA-approved agency encoding and transmission methods.

2. Section 488.68(b) Analyze and Edit OASIS Data

At § 488.68(b), we provide that the State agency or HCFA OASIS contractor is responsible for analyzing and preparing OASIS data for HCFA to retrieve. Upon receipt of data from an HHA, we require that the State agency or HCFA OASIS contractor edit the data as specified by HCFA, and ensure that the HHA resolves errors within the limits specified by HCFA. At least monthly, the State agency or HCFA OASIS contractor must make available for retrieval by HCFA all edited OASIS records received during that period, according to formats specified by HCFA, and correct and retransmit rejected data as needed. We will electronically retrieve OASIS data from the HCFA standard State system into a central repository at HCFA for analysis.

Finally, we require that the State agency or HCFA OASIS contractor analyze the data and generate reports as specified by HCFA. This responsibility includes generating the outcome reports discussed above for use by the HHA as well as for the State's own use in focusing onsite inspection activities associated with the home health survey process. The OASIS data will significantly improve each State's ability to identify areas of potential quality concerns and will facilitate partnership between States and industry in identifying opportunities to improve care. In addition to the responsibility for generating outcome reports, the State will issue validation reports once OASIS data is received in their systems. Validation reports provide timely feedback to HHAs as to whether the OASIS data they sent has been accepted or rejected, along with reasons why.

3. Section 488.68(c) Ensure Accuracy of OASIS Data

We are requiring at § 488.68(c) that, as part of the survey process, the State agency review an HHA's records to verify that OASIS data collected is consistent with OASIS data reported to the State agency or HCFA OASIS contractor. In keeping with § 484.20(b), which requires that the HHA's encoded OASIS data accurately reflect the patient's status at the time the information is collected, we expect that the HHA will develop a means to ensure that the data input into the computer and transmitted to the State agency or HCFA OASIS contractor reflects the data collected by the skilled professional. As discussed earlier, methods to ensure accuracy of OASIS data may include appointing staff to audit OASIS records after input as part of the HHA's overall quality assurance program. The State agency may include a review of the HHA's quality assurance documentation as part of the overall determination of compliance with OASIS related COPs.

4. Section 488.68(d) Restrict Access to OASIS Data

To secure and control access to patient identifiable information, we are requiring at § 488.68(d) that the State agency or HCFA OASIS contractor be responsible for restricting access to OASIS data. Specifically, we require that the State agency or HCFA OASIS contractor must assure that access to data is restricted except for transmission of data and reports to HCFA, transmission of data and reports to the State agency component that conducts surveys for purposes related to this function, and transmission of data and reports to other entities only when authorized by HCFA.

We also specify that patient identifiable OASIS data may not be released to the public by the State agency or HCFA OASIS contractor except to the extent it is permitted to do so under the Privacy Act of 1974. Disclosure may be made under the Privacy Act for ''routine uses,'' that are compatible with the purpose for which the information was collected. These routine uses are described in the Privacy Act System of Records, which will be published in the near future. Consistent with these provisions, the State agency or HCFA OASIS contractor is not permitted to release patient identifiable information to the public but may release aggregated data.

5. Section 488.68(e) Provide Training and Technical Support for HHAs

The State agency will play a key role in providing educational and technical resources to the HHA to implement the automation of the OASIS data set. Therefore, at § 488.68(e), we require the State agency or HCFA OASIS contractor to provide training and technical support for HHAs. Specifically, we require the State agency or HCFA OASIS contractor to provide HHAs in each State with training on the administration and integration of the OASIS data set into the facility's own comprehensive assessment system. We also specify that the State agency is responsible for instructing each HHA on the use of software to encode and transmit OASIS data.

The State agency staff who operate the HCFA standard system will provide training to designated staff in HHAs on the use of the free HCFA software that will allow the HHAs to encode and format OASIS data for transmission to the State or HCFA OASIS contractor. In a similar manner, HCFA will provide standardized instructions for using the free software, as well as instructions for data submission which will be available electronically on the HCFA website. The designated trainer in the HHA should train HHA staff responsible for collecting OASIS information using a standard training curriculum and manual, which will be provided by HCFA. A User's Manual is available electronically on the HCFA website, and will be available in hard copy from the National Technical Information Service ((703) 487–4650).

States' responsibilities for training and supporting HHAs in the implementation of the OASIS and automation of the OASIS database will likely include the following tasks:

- Training HHAs on OASIS data set administration;

- Providing training and technical support to HHAs in integrating the OASIS items into the HHA's own comprehensive assessment system;
- Answering questions on the clinical aspects of OASIS and providing information to HHAs on the use of the OASIS data in determining prospective payment rates for HHA patients;
- Providing training to other State agency staff in using OASIS data and outcome reports for survey activities;
- Training HHAs on the submission of OASIS data to the State;
- Interpreting validation reports;
- Providing information relative to hardware and software requirements for HHAs to consider when purchasing computer equipment;
- Assisting with training HHAs on encoding and transmitting OASIS data to the State agency, including providing support for transmission of test data during startup, supporting callers requesting technical assistance, providing passwords to HHAs, answering questions about the computer edits and reports; and
- Participating in an annual update on the OASIS and home health prospective payment system project.

To promote national consistency in OASIS systems for States, we have requested that each State designate one or two individuals to support the several tasks involved in this project. These individuals, the State OASIS Educational Coordinator and State Automation Coordinator, will be funded by HCFA through the Medicare survey and certification program.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments that we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed and the terms and substance of the proposed rule or description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest.

The primary reasons for waiving the proposed rulemaking process are two-fold. First, in the interest of creating budgetary savings, Congress explicitly authorizes the Secretary under section 4602(e) of the BBA to collect whatever data the Secretary deems necessary to implement a revised home health payment structure to be implemented in the very near future. We cannot issue a proposed rule followed by a final rule and be timely with the implementation of the revised home health payment system within the timeframes contemplated by Congress. No later than April 26, 1999, we must begin receiving OASIS data in order to revise the payment system as required by section 4603 of the BBA. Currently, HHAs are receiving payment for services via an interim payment system and will continue to receive payment for services via the interim payment system until the new payment system is developed and implemented.

Second, we believe it is consistent with public interest not to delay implementation of a prospective payment system by publishing a proposed rule. Publication of this rule as final is necessary to begin the flow of data to HCFA in order to establish, in the very near future, a system of payment for home health agencies using case mix adjusters. Finalizing this rule is in the best interest of the public because affording notice and opportunity for comment would extend the time home health agencies are reimbursed under the current interim payment system while delaying the implementation of the prospective payment system.

In addition, delaying the OASIS reporting process would postpone the implementation of a variety of survey and quality measures designed to protect and promote patient health and safety. Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day comment period for public comment.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are, however, requesting an emergency review of this interim final rule with comment period. In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are submitting to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection and reporting of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320, to ensure the timely availability and reporting of data as necessary for the development of a reliable case mix adjuster that we require for the establishment of a prospective payment system for home health services in compliance with sections 4602 and 4603 of the BBA. We cannot reasonably comply with normal clearance procedures because public harm is likely to result if the agency does not enforce the inclusion of OASIS elements into an HHA's comprehensive assessment requirement early enough to permit training and to enable the HHA to collect and report reliable OASIS data for the period beginning on April 26, 1999. As mentioned above, delaying the OASIS reporting process would delay the implementation of a variety of survey and quality measures designed to protect and promote patient health and safety. In addition, this time frame is necessary because a key aspect of creating a prospective payment system based on agency cost experience is the need to ''standardize'' the rates by adjusting the agency costs for their case mix. In effect, case mix needs to be adjusted out of the basic payment rates, then, relevant to admissions, built back into the rates on an agency-specific basis. We believe the most reliable way to accomplish this result is by using data from existing agencies. Because the prospective payment system must be implemented as soon as possible, we will need to begin receiving the data to be used for standardizing the prospective payment amounts.

The immediate publication of rules requiring the collection and reporting of OASIS data and OMB approval of these requirements pursuant to the Paperwork Reduction Act of 1995 are essential because these data are required for the development of the home health prospective payment system, required by statute in October of 2000. Because OASIS data will form the basis for the case mix adjustment component of the prospective payment system, national OASIS data must be used in the extensive statistical analyses needed to calculate standardized prospective payment rates and estimate their impact. The process of rate development must take place in the early spring of 1999 for incorporation in a proposed rule. The proposed rule regarding the home health prospective payment system must be published by the fall of 1999 to allow for necessary comments and revisions prior to the publication of a final rule in the summer of 2000. Given the lag time between the publication of the OASIS rules and the receipt of viable national data by HCFA, we are already at the point where only two months of national data will be potentially available for use in the proposed rule and less than a year of data for the final rule. Further delays would reduce the amount of national data available for development of the prospective payment rates and thus seriously undermine the project plan aimed at implementation of the prospective payment system on October 1, 2000.

We note that the information collection requirements and associated burden referenced in this regulation are primarily concerned with the ''reporting'' of OASIS data. The collection requirements and related burden associated with the ''collection'' of OASIS data are referenced in a separate final rule published today in the **Federal Register** and approved under OMB control number 0938–0365. Also worth noting is the fact that HCFA–R–39 (0938–0365), ''Home Health Medicare Conditions of Participation Information Collection Requirement as Outlined in Regulation 42 CFR 484,'' is currently being revised to include the OASIS data set as displayed at http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm. As an alternative to Internet access, which is the most efficient method of obtaining the current version of the OASIS, agencies may contact their State agency or HCFA regional office home health representatives to request a paper copy of the data set for review.

The current version of OASIS is a proposed information collection requirement pending OMB approval. We have summarized the Paperwork Reduction Act process below and have described the timeframes associated with that process. We are asking not only for approval of OASIS but also reapproval of the COPs previously included in HCFA–R–39 and approved under the OMB control number indicated above.

HCFA is requesting OMB review and approval of this collection within 16 working days from the date of publication of this regulation, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 15 working days from the date of publication of this regulation.

During this 180-day approval period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

We are soliciting public comment on each of these issues for the provisions that contain information collection requirements as summarized below:

Section 484.11 Condition of Participation: Release of Patient Identifiable OASIS Information

Section 484.11 states that the HHA may release patient identifiable information to an agent acting on behalf of the HHA only in accordance with a written contract between the HHA and the agent. As such, the agent agrees not to use or disclose the information except to the extent the HHA itself is permitted to do so.

The burden associated with this record keeping requirement is the time and effort for the HHA to maintain a copy of the written agreement. We estimate that each HHA will maintain one written agreement which will take 2 minutes. We estimate that there will be 2,623 written agreements (25% x 10,492 HHAs x 1 agreement) which will each take 2 minutes for a total annual burden of 88 hours.

Section 484.20 Condition of Participation: Reporting OASIS Information

Section 484.20 states that HHAs must electronically report all OASIS data collected in accordance with § 484.55 and the requirements contained in this section.

The burden associated with meeting § 484.20 is the time and effort for the HHA to electronically report all OASIS data collected in accordance with § 484.55 and the requirements contained in this section. We estimate that each HHA will take 121.50 hours on an annual basis (486 admissions per year x 2.5 assessments x 6 minutes to review, enter, transmit and perform a 15-minute monthly data audit) to comply with § 484.20. We estimate that the total annual burden for 10,492 HHA's will be 1,274,778 hours. As noted above, the requirements and associated burden imposed by this section relate only to the ''reporting'' burden. The burden associated with the ''collection'' of OASIS data is contained in the regulation HCFA–3007–F which is published as a separate final rule in this issue of the **Federal Register**.

The table below indicates the annual number of responses for each regulation section in this interim final rule with comment period that contains information collection requirements, the average burden per response in minutes or hours, and the total annual burden hours.

ESTIMATED ANNUAL BURDEN

CFR section	Responses	Average burden per response	Annual burden hours
484.11(b)	2,623	2 minutes	88 hours
484.20	10,492	121.50 hours	1,274,778 hours
Total			1,274,866 hours

We have submitted a copy of this interim final rule with comment period to OMB for its review of the information collection requirements. These requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) and/or OMB numbers referenced above, to *paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within 15 working days from the date of this publication in the **Federal Register** to:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850 Attn: John Burke HCFA–3006–IFC Fax number: 410–786–0262

and,

Office of Information and Regulatory Affairs, Office of Management and Budget Room 10235, New Executive Office Building Washington, D.C. 20503 Attn.: Allison Herron Eydt, HCFA Desk Officer Fax numbers: 202–395–6974 or 202–395–5167

VI. Regulatory Impact Statement

A. General

We have examined the impacts of this interim final rule with comment period as required by Executive Order 12866, the Regulatory Flexibility Act (RFA) (Pub. L. 96–354), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, most hospitals, and most other providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. For purposes of the RFA, most HHAs are considered small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for an interim final rule with comment period that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural impact statement since we have determined, and the Secretary certifies that this interim final rule with comment period would not have a significant economic impact on the operations of a substantial number of small rural hospitals. However, we have provided a detailed discussion on the costs and various benefits of reporting OASIS data in tables, I and II in Section B. Costs associated with OASIS reporting, and in accompanying explanations.

Section 202 of the Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). As discussed in detail in the cost benefit analysis below, we estimate that the amount of the unfunded mandate associated with this interim rule with comment period will result in an annual expenditure of less than $100 million to these governmental and private sectors. Therefore, we believe the law does not apply.

We are requiring that all Medicare-certified HHAs and HHAs that are required to meet Medicare conditions of participation (for example, Managed Care and Medicaid HHAs), assess their patients using the standardized, outcome oriented data set known as OASIS. OASIS was developed through extensive research and validated in a multi-State demonstration project. As discussed in detail in a separate rule on OASIS data collection published today in the **Federal Register**, this defined set of core data items was developed largely for the purpose of measuring and risk adjusting patient-level outcomes in home health care and as such, is explicitly tailored to home care. Data reported from the OASIS will allow HHAs to integrate a quality assurance and performance improvement measurement system approach into their practices and, as discussed above, will also be used to support the Medicare HHA prospective payment system.

The Balanced Budget Act of 1997 requires HCFA to develop a prospective payment system for home health. A prospective payment system pays providers based on the predicted costs of care, giving providers the incentive to provide care efficiently. In the home health prospective payment system, beneficiaries will be classified into case mix groupings based on their predicted resource use, with each group having a specific payment rate.

In developing a sound classification system, HCFA must account for the factors that would influence the beneficiary's use of services. In the case of the hospital prospective payment system, this was done using Medicare claims data linked to diagnosis data. Because the majority of inpatient services are attributed to the medical diagnosis, Medicare claims provide enough information to classify patients for hospital payments.

Post-acute care services such as home health and skilled nursing facility services are influenced in part by the medical diagnosis. However, other factors have a strong influence in the use of post-acute care, such as the severity of illness and functional abilities. Therefore, a more comprehensive data source is needed for proper patient classification. Because Medicare claims provide information only about diagnosis, age, gender, and race, a claims-based grouping would not adequately classify beneficiaries into payment groups.

The first attempt to design a prospective payment system for post-acute services was the case of skilled nursing facilities. Under this payment system, HCFA has used data from both claims and the Minimum Data Set (MDS) to classify patients into payment groups. Similarly, HCFA plans to use OASIS data in addition to claims data to construct the home health prospective payment system. A classification system that takes into account severity of illness as well as functional abilities will help to ensure adequate payment for high-cost beneficiaries. At this time, there is no other viable data source that would provide this information other than OASIS. If HCFA does not use OASIS data to identify case mix groups, then, on average, prospective payment amounts could be too low for beneficiaries who need assistance with many activities of daily living and too high for beneficiaries who need less assistance.

The Balanced Budget Act of 1997 also requires the amounts paid for each case mix group under the prospective payment system to be based on a standardized payment rate. HCFA is designing the case-mix classification system based on OASIS and claims data from a stratified sample of 90 HHAs. Standardization requires removing the effect of case mix and wage variation from payment levels for these 90 HHAs and from national payment levels. This helps to ensure that if resource use varies from region to region, payments in the prospective payment system are adjusted accordingly. This process requires the same information that is used to classify patients into payment groups. Therefore, we must collect OASIS data from HHAs before HCFA can set standardized payment rates for a prospective payment system.

The OASIS instrument has been in development for the past ten years. A large number of home health agencies have participated in its development and testing. The instrument has demonstrated its validity and reliability as an assessment and outcome measurement tool. We share the industry's interest in the adoption of a useful and appropriate instrument with as little disruption to existing HHAs operations as possible. We also share the industry's interest in minimizing unnecessary paperwork and record keeping burdens, while at the same time, ensuring quality of care for beneficiaries. Paperwork and record keeping requirements must be cost effectively integrated into HCFA's survey and enforcement processes (both from the balanced perspectives of the public and private sectors), and must maximize available information technologies. In particular, we may reevaluate OASIS data and reporting needs for patient reassessments. We solicit public comment on appropriate refinements to reassessment data requirements and any other aspects of OASIS that can be improved as the result of program experience.

In addition to its use as the basis for prospective payment, OASIS will assist agencies in improving their performance through outcomes-based assessment. The quality component of OASIS is crucial to ensuring that beneficiaries receive needed services under the home health prospective payment system.

OASIS is one of several components of the outcome-based quality improvement (OBQI) approach that has produced documented positive impacts on the clinical status of HHA patients. The outcome data encapsulated in OASIS allows HHAs to improve quality, evaluate the effectiveness of its care, and better manage care to enhance outcomes and control costs and utilization. Key features of the OBQI approach are the collection of patient/client data at regular intervals; the aggregation and comparison of agency outcomes on a yearly basis and nationally; changing care associated with poor outcomes; and reinforcing care for exemplary outcomes. Outcome measures are defined as a quantification of a change in patient health status between two or more time points and in OBQI, outcome measures are computed using OASIS data from start of care and from subsequent time points or discharge. HCFA commissioned a demonstration study to evaluate the clinical outcomes associated with the application of OBQI/OASIS. The Center for Health Services and Policy Research at the University of Colorado has preliminary findings associated with an outcome-based quality improvement study. Preliminary results from the study, yet unpublished, suggest that risk-adjusted hospitalization rates declined from approximately 31 percent to 28 percent (about a 10 percent rate of decrease) from the first to second years of OBQI application. The demonstration findings also showed an improvement in other health status outcomes. OBQI, properly implemented and maintained, is capable of assisting HHAs enhance patient outcomes. However, in order to realize the full benefits of using OASIS data, the information needs to be computerized and configurable as an analytical tool. Implementation of this rule will allow this goal to be realized.

The OASIS data transmitted by HHAs and States to HCFA will improve the delivery of quality care to patients receiving services from HHAs in the following ways. The database will enable the State agencies and us to provide HHAs with reports of aggregated State and national patient outcome measures and trends. These reports will allow HHAs to compare themselves to similar providers and develop improvement activities, where the need is identified. By establishing internal quality assurance analyses derived from the computerized data, HHAs will be able to evaluate the effectiveness of various components of their home health care delivery systems. The evaluations will lead to identification of best clinical practices and interventions, optimal personnel staffing, and optimal length and type of services for each agency and its patients.

Access to this electronic data will provide information that will benefit both the policy and operational components of Federal and State government. The system has the potential of providing consumer groups with outcome and quality information for making health care decisions. States will have access to timely OASIS data that will improve their ability to focus on-site inspection activities associated with the home health survey process. Since we require OASIS data for almost all home health patients regardless of payer source, the database will allow for comparison of outcomes of most patients receiving home health services. The OASIS data will significantly improve each State's ability to identify areas of potential quality concerns in an effective and efficient manner, and will facilitate partnership between States and industry in identifying opportunities to improve care. At both the Federal and State level, information from the OASIS system will provide a valid and reliable tool for evaluating and improving the efficacy of survey and certification activities. The quality of peer profiling will be made available from the State agency to allow the HHA to compare itself against its peers. If the HHA needs assistance with ways to improve its activity, the State agency or other consultative group will be able to provide guidance in this iterative process.

We note that OASIS data will become part of the same information system that is being designed to collect and report beneficiary specific outcomes of care and provider performance data across a multitude of delivery sites. Currently, as required in § 483.315(h), States are collecting and reporting assessment data on residents in all Medicare and Medicaid certified nursing homes through the use of the MDS. As OASIS data becomes part of this standard State system, we will have data on the second piece of the post-acute care continuum. The systems and staffing infrastructure to collect OASIS and MDS information have already been established at each State survey agency, as well as within HCFA itself, so that State costs associated with electronically collecting OASIS data from HHAs will be on an incremental basis.

B. Costs Associated With OASIS Reporting

General

We anticipate that both HHAs and States will incur some incremental costs from reporting OASIS information. We estimate total start-up costs of $11.4 million, which represents only costs incurred by HHAs (we will be supplying the OASIS software directly to States and States already have the requisite hardware). This includes as much as $5.2 million in Medicare program costs.

We also estimate total ongoing annual costs of about $25.0 million, which includes $22.0 million in costs for HHAs and $3.0 million in costs for States. Approximately $10.1 million of the $22 million will be reimbursable by Medicare annually. The annual administrative cost for States of $3.0 million will be absorbed within HCFA's program management appropriation. We will be supplying OASIS software directly to States and States already have the requisite hardware. However, the benefits associated with computerizing the OASIS far outweigh the additional costs of automating the data.

The preceding represents our estimates of the individual costs associated with this effort. These figures are based on our best estimates of actual burden to existing HHAs and are without the benefit of actual cost data documenting the incremental costs associated with the reporting of OASIS data. Any adjustments to Medicare cost limits would necessarily be based on cost data rather than estimates. In addition, these costs are based on the assumption that implementation will be in fiscal years 1999 and 2000. On August 11, 1998, we published in the **Federal Register** a notice with comment period that set forth the schedules of per-visit and per-beneficiary limitations for HHA costs (63 FR 42912). In that notice, we included an OASIS offset adjustment factor to the per visit limitations to address costs incurred with OASIS implementation. While we based this adjustment on the best data we had available, we are concerned that we may not have captured all relevant costs, particularly ongoing and automation costs. In part, this is because our data are based on agencies whose costs in this regard may not have been fully representative of agency costs in general. In the above notice, we asked for specific comments on ongoing and automation costs associated with OASIS reporting. We also asked for cost data that would impact subsequent decision making on future cost limit notices. In this interim final rule, we are requesting comments on the adequacy of estimated initial and on-going costs associated with the automation of OASIS data. Because the comment period for the notice referred to above closed on October 13, 1998, we will consider comments on cost limit adjustments based on the estimates we have included in this rule in future cost limit notices. However, we will only consider such comments on cost limit adjustments if they relate to the provisions of this interim final rule, specifically those associated with the incremental cost of OASIS implementation.

We have used this approach of accepting comments on cost limit adjustment in response to this interim final rule because we would not consider re-opening the previous comment period. The issues in the August 1998 notice on the interim payment system are much broader than the payment adjustment for OASIS related costs. Consequently, the comments we received were almost entirely directed to the broader issues. In fact, we received only two comments suggesting additional factors to be considered in assessing costs associated with OASIS. We expect a great deal more comments relative to this issue in response to this interim rule with comment period, which focuses entirely on OASIS related concerns.

Home Health Agencies

Upon publication of this rule, each HHA that is required to meet the Medicare Conditions of Participation must electronically transmit OASIS data to its respective State survey agency or HCFA OASIS contractor. Most costs associated with computerizing the OASIS will be related to hardware and software. The costs presented below are based on the profile of an average HHA, where applicable, since certain costs (such as a computer) are constant regardless of the size of the agency. We define an average size HHA as having 18 clinicians and other service practitioners and 486 admissions per year.

At the current time, we estimate that approximately 50 percent of the 10,492 Medicare certified HHAs as of March 1998, or 5,246 agencies, already possess the requisite hardware needed to support automation of the OASIS. This estimate is based on a national survey conducted by the Joint Commission on Accreditation for Healthcare Organizations. We note that many HHAs currently contract with outside entities to electronically bill fiscal intermediaries for Medicare services. We anticipate that, similarly, many HHAs will choose to contract for the encoding and transmitting of the OASIS data as well. Therefore, these HHAs will not be incurring any costs associated with procuring the hardware needed to support this effort. Nonetheless, for the purpose of the estimates in this rule, we have assumed that all 50 percent of the HHAs without computer equipment will opt to purchase the requisite hardware.

Reimbursement for Costs

- Medicare

The BBA has mandated us to develop a prospective payment system for home health services based on units of payment. Until the HHA prospective payment system is in effect, the BBA also required that we implement an interim payment system (IPS) for home health, which began on October 1, 1997. This interim payment system established two sets of cost limits for home health agencies. Details of the IPS can be found in the March 31, 1998, **Federal Register** (63 FR 15718) and in the August 11, 1998, **Federal Register** (63 FR 42911). The IPS will generally result in overall reduced payments to HHAs. We anticipate that HHAs will incur some costs associated with the implementation of OASIS data collection and reporting. However, as stated above, we are evaluating comments on the August 11, 1998 payment notice setting forth HHA cost limitations that included an OASIS offset adjustment factor to the per visit limitations. This payment notice addresses costs incurred with the incremental costs of OASIS implementation.

The implementation of this interim final rule with comment period will be accomplished by HHAs in existence, and participating in HCFA programs. HHAs that apply for and receive Medicare certification in the future will be expected to comply with the current COPs regarding comprehensive assessment of patients prior to certification. Therefore we would not expect HHAs that are certified in the future to have start-up costs related to revising their comprehensive assessments.

- Medicaid

States have flexibility in designing their payment methodology for home health services that are reimbursable under the Medicaid program. The payment methodology can recognize provider costs or it can recognize a certain rate that the State is willing to pay. The State agency has a choice to either determine a negotiated rate with the HHA or to set a standard rate for all HHA providers. In this case, the HHA has the option of accepting the rate, or not. To the extent that an HHA incurs costs in computerizing the OASIS (such as, the acquisition of hardware or software, staff training, or additional staffing), the provider may take the costs into account when establishing its rates for home health services. The State Medicaid agency can also take the costs into consideration in reimbursing the provider. Therefore, we do not believe that these costs will serve as a barrier to new, viable HHA entrants.

The following tables show our estimates of national costs for OASIS reporting.

TABLE. I—NATIONAL START-UP COSTS FOR OASIS REPORTING

FY	Number of agencies incurring start-up costs	Start-up costs (in millions) [5]	Medicare costs (in millions)	Costs to other sources (in millions) [3]
1999 and 2000 [1]	10,492	$11.4 [4]	$5.2	$6.2
2001	0	0	0	0
2002	0	0	0	0
2003	0	0	0	0

TABLE II.—NATIONAL COSTS FOR OASIS REPORTING

FY	Number of HHAs	Total on-going costs (in millions) [5]	State Admin Costs (in millions) [2]	On-going Costs @ $2,097 per HHA (in millions)	Medicare Costs (in millions)	Costs to Other sources (in millions) [3]
1999 [1]	10,492	$25.0	$3.0	$22.0	$10.1	$11.9
2000 [1]	10,492	25.0	3.0	22.0	10.1	11.9
2001	10,492	25.0	3.0	22.0	10.1	11.9
2002	10,492	25.0	3.0	22.0	10.1	11.9
2003	10,492	25.0	3.0	22.0	10.1	11.9

Tables I and II reflect estimates of total costs versus incremental costs. These costs are based on the following assumptions:

[1] Implementation will be in Fiscal years 1999 and 2000.

[2] Expected to be absorbed within HCFA's program management appropriation.

[3] Medicare will reimburse HHAs for their reasonable start-up and ongoing costs, subject to cost limits, based on the estimate that approximately 46% of HHA patients are Medicare beneficiaries. This estimate is reflected in Table I by indicating that 46% of $11.4 million (or $5.2 million) will be reimbursable by Medicare for start up costs. This estimate is also reflected in Table II by indicating that 46% of $22.0 million (or $10.1. million) will be reimbursable by Medicare for annual ongoing costs. These estimates may be overstated to the extent that reasonable cost determinations and application of cost limits reduce this expense. The remaining 54% of the start-up costs, or $6.2 million in Table I, and the remaining 54% of the ongoing costs in Table II, or $11.9 million annually may be absorbed by a combination of the Medicaid program, private insurers, and beneficiaries. Because approximately 23% of HHA patients are Medicaid beneficiaries, we expect HHAs to try to have the Medicaid programs absorb up to 23% of the $11.4 million in start-up costs or $2.6 million. Subtracting $2.6 million from the remaining $6.2 million start-up costs leaves $3.6 million in start-up costs to be passed along to private insurers and beneficiaries. In a similar way, we expect HHAs to have the Medicaid programs absorb up to 23 per cent of the annual $22.0 million in ongoing costs, or $5.1 million. Subtracting $5.1 million from the remaining $11.9 million annual ongoing costs leaves $6.8 million in annual ongoing costs. However, after implementation, ongoing costs become part of the HHA's base history.

[4] See Table I—Estimated start-up costs include $170.00 for training expenses x 10,492 HHAs ($1.8 million). We estimate approximately $1,829 per HHA to purchase computers x 5,246 HHAs because an estimated one half of the 10,492 HHAs already have the necessary computer equipment ($9.6 million). Therefore, $1.8 million + $9.6 million = $11.4 million.

[5] The total of start up costs and ongoing costs equals $61.4 million. This is based on an estimated start up cost of $11.4 million for Fiscal years 1999 and 2000, and ongoing costs of $25 million per year, for those two years.

• *Hardware:* We estimate total hardware costs associated with automating the OASIS to be approximately $1,829 for a typical HHA, which includes the computer and communications components capable of running OASIS software and transmitting OASIS assessments, and a laser printer. This estimate is based on the most recent cost data available for a system that includes an Intel Pentium processor. This system typically would use Windows 95 or Windows NT 4.0, and include at least 32 megabytes of RAM, 2 gigabytes disk space, a 3.5 floppy disk drive, CD–ROM drive, a color SVGA monitor, a mouse, a laser printer, and a 56 kbps modem connected to a dedicated telephone line. The cost estimate is based on the optimal system we anticipate that many HHAs will choose to purchase. However, at a minimum, HHAs should have at least a 486–50 personal computer in a Windows 3.1 environment with 8 megabytes of RAM, at least 100 megabytes of available hard disk space, a VGA color monitor, keyboard, mouse, a 3.5 floppy drive, and a laser printer. All HHAs should have at least a 28.8 kbps modem for telecommunications of the data, as well as web browser software that supports dial-up communications for the transmission of HHA assessment data to the State. The communications capability must meet our specifications related to transmission of OASIS data.

• *Software:* HHAs have the option of purchasing data collection software that can be used to support other clinical or operational needs (for example, care planning, quality assurance, or billing) or other regulatory requirements for reporting patient information. However, HCFA has developed an OASIS data entry system (that is, Home Assessment Validation and Entry, or ''HAVEN'') that is available to HHAs at no charge through HCFA's website at http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm. HHAs may also request HAVEN on CD–ROM. Therefore, HHAs who plan to use HAVEN will need either Internet access (for example, a dial-up Internet Service Provider (ISP) account) or a CD–ROM drive in order to obtain and install the software.

HAVEN will offer users the ability to collect OASIS assessments data in a database and transmit the data in a HCFA-standard format to State databases. The data entry software will import and export data in standard OASIS record format, maintain agency, patient, and employee information, enforce data integrity through rigorous edit checks, and provide comprehensive on-line help. It is recommended that the

Windows operating system be operated at a screen resolution of 800x600 for HAVEN. While HAVEN will operate at 640x480 resolution, the data entry forms will not be completely visible on the screen, and the user will need to scroll to view some of the variables.

• *Supplies:* Supplies necessary for collection and transmission of data, including forms, diskettes, computer paper, and toner, will vary according to the size of the agency, the number of patients served, and the number of assessments conducted. We anticipate that an average HHA with 486 admissions per year will incur approximately $250 in costs for supplies.

• *Maintenance:* There are costs associated with normal maintenance of computer equipment such as the replacement of disk drives or memory chips. Typically, such maintenance is provided through extended warranty agreements with the original equipment manufacturer, system retailer, or a firm that provides computer support. These maintenance costs are estimated to average no more than $100 per year.

• *Training:* HHA staff will require training on encoding assessments and compiling OASIS data for electronic submission. One person in each agency should be trained in data entry and data transmission procedures and requirements. We expect that this initial training will require about 5.5 hours of staff time, and will cost an average HHA about $170 based on an average hourly rate of $12.50 for technical staff. This cost also includes travel expenses and travel time, since facility staff may need to travel to a centralized training site within the State (we anticipate that training will be provided in multiple sites in the State once the system is implemented). We expect that the State survey agencies will supply this training.

• *Data Entry:* HHAs have flexibility in choosing the method used to collect OASIS data, but the method must comply with our requirement for safeguarding the confidentiality of clinical records. HHAs must collect and transmit OASIS data to the State survey agency, at a minimum, on a monthly basis. The data may be entered directly by a technical staff member from a paper document completed by a clinical staff member, or by a data entry operator under contract to the HHA to key in data. Additionally, HHAs must allow time for data validation, preparation of data for transmission, and correction of returned records that failed checks at the State data-editing level. We estimate that an average HHA with 486 admissions per year will incur an annual data entry cost of $1,557 per year, based on an estimate of 2.5 assessments per admission and an hourly rate for data entry costs of $12.50. This cost includes data review and entry, as well as a (recommended) 15 minute monthly data entry audit for quality assurance purposes.

• *Ongoing Data Transmission:* HHAs will fund the cost of transmitting OASIS data to their respective State agencies. HHA staff must also manage the data transmission function, correct communications problems, and manage report logs and validation reports transmitted from the State. We estimate that it will take about one additional hour of staff time to perform data transmission related tasks each month, including running a data edit check program. This staff time will cost an average size HHA about $150 per year based on an hourly rate of $12.50.

Some States will opt to provide their HHAs with a toll-free line to use in transmitting their data. However, in the States that choose not to do so, we estimate that an average HHA will incur about $36 per year to electronically report its OASIS data to the State.

States

We expect that overall responsibility for fulfilling requirements to operate the State OASIS system will rest with the State survey agency. OASIS data will be maintained on the standard State systems that currently house the MDS assessments being reported by all certified nursing homes. HCFA has already procured and installed this system in each State survey agency. It is currently being used to collect the MDS data and to configure reports that will be used by the State surveyors to better focus surveys. However, there are some States in which responsibility for the long term survey and certification functions are located in different components of the State agency than the home health survey and certification functions. HCFA will fund the purchase and installation of a computer work station in these States, so that the non-long term care surveyors will have direct access to the OASIS data.

Since HCFA has already deployed computer hardware and software to the States to operate the MDS automated system, the entity operating the MDS system will also be responsible for day-to-day operations of the OASIS system. In most cases, the State is operating the system itself. However, several States have exercised their option to enter into an agreement with either the State Medicaid agency, another State component, or a private contractor to perform the day-to-day operations of the MDS system. Just as we required for MDS data, prior to entering an agreement with a subcontractor to extend support for OASIS data, a State must receive approval from its respective HCFA regional office if the State OASIS system is to be operated by an entity other than the survey agency. If the State system is operated by an entity other than the State survey agency, the State must ensure that the survey agency has suitable access to this system to fully support all OASIS-driven functions that the State will require of the survey agency (for example, quality indicator reporting and survey targeting). The State is also responsible for maintaining OASIS data for retrieval by HCFA to a central repository to be established by HCFA.

States will use OASIS data primarily to focus the home health survey process and to provide HHAs and consumers with OASIS-driven information. As previously mentioned, the OASIS information will be maintained on the already existing MDS system which currently includes a database, communication, supporting file(s), and print servers for client workstations; local and wide area data networks; and application software for performing all aspects of MDS related functions and tasks. This system has been designed and developed within a broad class of systems known as Client/Server architecture.

We are providing the OASIS system to States primarily for use in the survey and certification program. As such, most Federally reimbursable costs incurred by the States for automating the OASIS will be funded through the Medicare survey and certification program. However, some States could also choose to use OASIS data in administering their Medicaid programs. When that is the case, Federal reimbursement is applicable to the extent that a State uses the OASIS for administering its Medicaid program. As a result, it may be appropriate for a State to allocate some OASIS costs to its Medicaid administrative cost claims.

When a State does use OASIS in administering its Medicaid programs, it should apportion Federal costs associated with automating the OASIS and operating the data system between the Medicare survey and certification program and the Medicaid program (as administrative costs, when applicable). The State should apportion OASIS costs to these programs based on the State's determination of each program's utilization of the OASIS system. The Federal financial participation rate for costs apportioned as Medicaid administrative costs is 50 percent. When

the State licensure program benefits from the automation of the OASIS, the State should also share in the OASIS automation costs.

• *Hardware:* As previously discussed, States already have the systems infrastructure in place to support the requirement to collect OASIS data from their certified HHAs. However, HCFA will fund the purchase and installation of a computer work station in those States in which the long term care and non-long term care surveyors work in different offices. We anticipate that these States will require a Pentium 233 workstation with 8 gigabyte hard drive and a 15 inch monitor. This system will run on Windows NT 4.0 and include a network card for LAN connections.

• *Software:* HCFA will provide each State with a standard suite of software applications to perform all OASIS-related functions, including receipt and validation of OASIS records, posting of records to the master repository, and analytical applications to be used to inform and support the home health agency.

The OASIS system, in most cases, will be operated by personnel within the designated State agency. We will require the State systems to perform the full gamut of OASIS system responsibilities including receiving, authenticating, and validating the records received from HHAs, providing feedback to the HHAs, storing the OASIS records in a permanent database within the State system, creating system management reports and logs, generating provider performance reports, and retransmitting validated OASIS records from each State agency to a national OASIS repository maintained by HCFA. When a State develops its own customized OASIS applications, the costs of developing and maintaining these additional software applications (and any related hardware components) will not be Federally funded.

• *Operational Staff Time:* The systems infrastructure that will collect and configure the OASIS data from HHAs is already in place in all States. We expect that States will hire or reassign the technical staff required to support the system. However, HCFA recognizes that there will be incremental staff time required to support the additional technical activities associated with maintaining additional provider passwords and a larger database, as well as fulfilling the provider/vendor education and support role. We are requesting that each State assign an OASIS automation coordinator who will be our key contact within each State for managing OASIS system issues. States have already named an MDS automation coordinator, and we anticipate that in many cases, this same individual will also be supporting OASIS.

HCFA will fund additional staffing costs based on the incremental time requirements associated with the computerization of OASIS. We have ranked States into three groups based on the number of HHAs in each State and will fund staffing costs depending on the number of HHAs within each State. We will fund an additional .5 full time equivalent (FTE) staff time for a State with less than 100 HHAs; we will fund an additional 1.0 FTE for a State with 101–250 HHAs; and, we will fund an additional 1.5 FTE for a State with greater than 251 HHAs. These additional FTEs represent both the incremental technical time needed to support OASIS, as well as the duties of the OASIS Automation Coordinator whose duties will include training providers to encode data in the HCFA standard format, to create export files, and to use the communications software to dial into the State database; error tracking and resolution of HHA provider data problems; and other data management responsibilities such as cleaning and aggregating the data prior to transmission to HCFA and system backup and archiving. We estimate that the incremental staffing costs for both technical staff and the OASIS Automation Coordinator will be about $44,000 for an average size State with responsibility for 101–250 HHAs.

• *Supplies:* States can expect about $600 per year in incremental OASIS-related costs for products that are consumed, such as printer toner, paper, and back-up tapes.

• *Training:* We plan to centralize training of State personnel who will be responsible for administrative and technical aspects of OASIS operations. With our technical support and guidance, States will work closely with the HHA provider community in providing information on specific requirements related to the submission of OASIS assessments to the State repository.

In order to promote national consistency in OASIS system operations and troubleshooting, we will request the OASIS coordinators to attend a national multi-day training session. We will also convene at least one national meeting of the OASIS coordinators each year. We will use this forum to present new information, gather suggestions for system improvements, exchange ideas on OASIS system operations, administration and troubleshooting issues, and to discuss objectives for future system development and refinement. States will be expected to work with their HHA provider community to educate them on automating the OASIS. We anticipate annual training costs associated with training for an average size State to be about $5,600 which includes travel costs associated with both the centralized training and educating the HHAs and vendor community on computerization requirements.

• *Data Transmission:* States will incur data communication costs both in receiving OASIS data from HHAs and transmitting validation reports back to the HHAs. These costs have two basic elements:

(1) Fixed monthly line fees of approximately $23.00 per line per month. The number of lines required varies from 8 to 48 according to the number of HHAs supported by a State. On average, a State's fixed line costs will be $2,208 per year.

(2) Line connect and long distance charges of approximately $.03 per assessment for the monthly connection times associated with transmitting error logs and edit reports back to the HHAs. This translates into an average connection cost of $7,665 per year per State.

C. Conclusion

As discussed in detail above, HHAs and States will bear some incremental costs associated with this proposal. However, we believe that these costs are well justified when considered within the context of the anticipated increased quality of care for HHA patients, as well as the potential uses of the automated data by the HHAs, the States, and us. The foregoing estimates may actually overstate anticipated costs because they do not take into account cost-savings to be achieved by improving HHAs' management information systems, as well as potential improvements in patients' overall health status. Nor do they represent the savings inherent in future improvements to the survey and certification process, and specifically, a more focused, uniform approach by both the States and us in assessing quality of care in the nation's HHAs. We note that we have received feedback from many of the HHAs that chose to participate in the HCFA-sponsored OASIS Demonstration Project that has been underway for the past several years. These HHAs have indicated that the value of the information they have received about their individual performance has well outweighed the incremental cost associated with collecting and reporting the data.

In accordance with the provisions of Executive Order 12866, this regulation

was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Administrative practice and procedure, Health facilities, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as follows:

A. Part 484 is amended as follows:

PART 484—CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES

1. The authority citation for part 484 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh))

Subpart B—Administration

2. Section 484.11 is added to subpart B to read as follows:

§ 484.11 Condition of participation: Release of patient identifiable OASIS information.

The HHA and agent acting on behalf of the HHA in accordance with a written contract must ensure the confidentiality of all patient identifiable information contained in the clinical record, including OASIS data, and may not release patient identifiable OASIS information to the public.

3. Section 484.20 is added to subpart B to read as follows:

§ 484.20 Condition of participation: Reporting OASIS information.

HHAs must electronically report all OASIS data collected in accordance with § 484.55.

(a) *Standard: Encoding OASIS data.* The HHA must encode and be capable of transmitting OASIS data for each agency patient within 7 days of completing an OASIS data set.

(b) *Standard: Accuracy of encoded OASIS data.* The encoded OASIS data must accurately reflect the patient's status at the time of assessment.

(c) *Standard: Transmittal of OASIS data.* The HHA must—

(1) Electronically transmit accurate, completed, encoded and locked OASIS data for each patient to the State agency or HCFA OASIS contractor at least monthly;

(2) For all assessments completed in the previous month, transmit OASIS data in a format that meets the requirements of paragraph (d) of this section;

(3) Successfully transmit test data to the State agency or HCFA OASIS contractor beginning March 26, 1999, and no later than April 26, 1999; and

(4) Transmit data using electronic communications software that provides a direct telephone connection from the HHA to the State agency or HCFA OASIS contractor.

(d) *Standard: Data Format.* The HHA must encode and transmit data using the software available from HCFA or software that conforms to HCFA standard electronic record layout, edit specifications, and data dictionary, and that includes the required OASIS data set.

B. Part 488 is amended as follows:

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

1. The authority citation for part 488 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

Subpart B—Special Requirements

2. Section 488.68 is added to subpart B to read as follows:

§ 488.68 State Agency responsibilities for OASIS collection and data base requirements.

As part of State agency survey responsibilities, the State agency or other entity designated by HCFA has overall responsibility for fulfilling the following requirements for operating the OASIS system:

(a) *Establish and maintain an OASIS database*—. The State agency or other entity designated by HCFA must'

(1) Use a standard system developed or approved by HCFA to collect, store, and analyze data;

(2) Conduct basic system management activities including hardware and software maintenance, system back-up, and monitoring the status of the database; and

(3) Obtain HCFA approval before modifying any parts of the HCFA standard system including, but not limited to, standard HCFA-approved—

(i) OASIS data items;

(ii) Record formats and validation edits; and

(iii) Agency encoding and transmission methods.

(b) *Analyze and edit OASIS data.* The State agency or other entity designated by HCFA must—

(1) Upon receipt of data from an HHA, edit the data as specified by HCFA and ensure that the HHA resolves errors within the limits specified by HCFA;

(2) At least monthly, make available for retrieval by HCFA all edited OASIS records received during that period, according to formats specified by HCFA, and correct and retransmit previously rejected data as needed; and

(3) Analyze data and generate reports as specified by HCFA.

(c) *Ensure accuracy of OASIS data.* The State agency must audit the accuracy of the OASIS data through the survey process.

(d) *Restrict access to OASIS data.* The State agency or other entity designated by HCFA must do the following:

(1) Ensure that access to data is restricted except for the transmission of data and reports to—

(i) HCFA;

(ii) The State agency component that conducts surveys for purposes related to this function; and

(iii) Other entities if authorized by HCFA.

(2) Ensure that patient identifiable OASIS data is released only to the extent that it is permitted under the Privacy Act of 1974.

(e) *Provide training and technical support for HHAs.* The State agency or other entity designated by HCFA must—

(1) Instruct each HHA on the administration of the data set, privacy/confidentiality of the data set, and integration of the OASIS data set into the facility's own record keeping system;

(2) Instruct each HHA on the use of software to encode and transmit OASIS data to the State;

(3) Specify to a facility the method of transmission of data to the State, and instruct the facility on this method.

(4) Monitor each HHA's ability to transmit OASIS data.

(5) Provide ongoing technical assistance and general support to HHAs in implementing the OASIS reporting requirements specified in the conditions of participation for home health agencies; and

(6) Carry out any other functions as designated by HCFA necessary to maintain OASIS data on the standard State system.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.778, Medical Assistance Program)

Dated: November 3, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: December 15, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 99–1448 Filed 1–22–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 484

[HCFA–3007–F]

RIN 0938–AJ11

Medicare and Medicaid Programs: Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises the existing conditions of participation that home health agencies (HHAs) must meet to participate in the Medicare program. Specifically, this rule requires that each patient receive from the HHA a patient-specific, comprehensive assessment that identifies the patient's need for home care and that meets the patient's medical, nursing, rehabilitative, social and discharge planning needs. In addition, this final rule requires that as part of the comprehensive assessment, HHAs use a standard core assessment data set, the ''Outcome and Assessment Information Set'' (OASIS) when evaluating adult, non-maternity patients. These changes are an integral part of the Administration's efforts to achieve broad-based improvements in the quality of care furnished through Federal programs and in the measurement of that care.

EFFECTIVE DATE: These regulations are effective on February 24, 1999.

ADDRESSES: Mail written copies of comments related to information collection requirements to the following addresses:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attention: John Burke HCFA–3007–F, Fax number: 410–786–0262 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, D.C. 20503, Attention: Allison Herron Eydt, HCFA Desk Officer, Fax number: 202–395–6974 or 202–395–5167

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SUPPLEMENTARY INFORMATION:

I. Background

Home health services are covered for the elderly and disabled under the Hospital Insurance (Part A) and Supplemental Medical Insurance (Part B) benefits of the Medicare program and are described in section 1861(m) of the Social Security Act (the Act). These services must be furnished by, or under arrangement with, an HHA that participates in the Medicare program, and be provided on a visiting basis in the beneficiary's home. Services may include the following:

- Part-time or intermittent skilled nursing care furnished by or under the supervision of a registered nurse.
- Physical therapy, speech-language pathology, and occupational therapy.
- Medical social services under the direction of a physician.
- Part-time or intermittent home health aide services.
- Medical supplies (other than drugs and biologicals) and durable medical equipment.
- Services of interns and residents if the HHA is owned by or affiliated with a hospital that has an approved medical education program.
- Services at hospitals, SNFs, or rehabilitation centers when they involve equipment too cumbersome to bring to the home.

Section 1861(o) of the Act specifies certain requirements that a home health agency must meet to participate in the Medicare program. (Existing regulations at 42 CFR 440.70(d) specify that HHAs participating in the Medicaid program must also meet the Medicare conditions of participation.) In particular, section 1861(o)(6) of the Act provides that an HHA must meet the conditions of participation specified in section 1891(a) of the Act and such other conditions of participation as the Secretary finds necessary in the interest of the health and safety of patients of HHAs. Section 1891(a) of the Act establishes specific requirements for HHAs in several areas, including patient rights, home health aide training and competency, and compliance with applicable Federal, State, and local laws.

Under the authority of sections 1861(o), 1871 and 1891 of the Act, the Secretary has established in regulations, the requirements that an HHA must meet to participate in the Medicare program. These requirements are set forth at 42 CFR Part 484, Conditions of Participation: Home Health Agencies. Unless a condition is specifically limited to Medicare beneficiaries, the conditions of participation (COPs) apply to an HHA as an entity and to the services it furnishes to an individual under its care. Under section 1891(b) of the Act, the Secretary is responsible for assuring that the COPs, and their enforcement, are adequate to protect the health and safety of individuals under the care of an HHA and to promote the effective and efficient use of Medicare funds. To implement this requirement, State survey agencies generally conduct surveys of HHAs to determine whether they are complying with the conditions of participation.

II. Provisions of the Proposed Rule and Discussion of Public Comments

On March 10, 1997, we published two proposed rules in the **Federal Register** that proposed significant changes to the HHA COPs. The first proposed rule, Conditions of Participation for Home Health Agencies (62 FR 11004), set forth broad based revisions to the COPs with the goal of eliminating cumbersome process regulations and focusing on outcomes of care. In the preamble to that proposed rule, we discussed in detail our rationale for revising the COPs and the principles underlying our

proposed revisions. Specifically, we stated that the revised COPs will promote a partnership between HCFA and the rest of the health care community, and are based on the belief that we should retain only those regulations that represent the most cost-effective, least intrusive, and most flexible means of meeting HCFA's quality of care responsibilities. Also, they rely on the principle that making powerful data available to consumers and providers can produce a strong nonregulatory force to improve quality of care. One of the most significant provisions of the HHA COPs proposed rule was the requirement that each patient receive from the HHA a patient-specific, comprehensive assessment that identifies the patient's continuing need for home care, and that meets the patient's medical, nursing, rehabilitative, social and discharge planning needs.

The second proposed rule published on March 10, 1997, Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies (62 FR 11035), proposed that as part of the comprehensive assessment, HHAs use a standard core assessment data set, the ''Outcome and Assessment Information Set'' (OASIS), when evaluating adult, non-maternity patients. In the preamble to that rule, we discussed in detail the process we used to develop the OASIS including numerous definitional and methodological issues that had to be addressed before the OASIS was finalized. In addition, we also described expectations regarding the use of the OASIS both in the near future and in the long run. Both the proposal to revise the HHA COPs and the proposal requiring use of the OASIS are integral parts of the Administration's efforts to achieve broad-based improvements in the quality of care furnished through the Medicare and Medicaid programs and in the measurement of that care.

Subsequent to the publication of the two proposed rules discussed above, the Balanced Budget Act (Public Law 105–33 (BBA)) was enacted on August 5, 1997. It amended the Act to require the Secretary to establish a prospective payment system for home health services. Although the implementation of a prospective payment system will be delayed until all related systems achieve year 2000 compliance, we will still need to begin receiving the data to be used for standardizing the payment amounts as soon as possible. In order to implement this prospective payment system, it is necessary that we have data from HHAs to develop a reliable case mix adjustment system. Case mix adjustment modifies prospective payment rates to reflect the differences in the amount of services required by patients of different diagnosis and severity, and allows the payments to correspond more closely with expected resource use by patients. Section 4602(e) of the BBA provides that for cost reporting periods beginning on or after October 1, 1997, the Secretary may require HHAs to submit additional information that the Secretary considers necessary to develop reliable case mix adjustments. We intend for the OASIS to be the vehicle through which information for the case mix adjustments is collected. Thus, to facilitate the implementation of the prospective payment system, in this final rule, we are setting forth only that portion of the proposed COPs concerning comprehensive assessment. In addition, we are finalizing the proposed rule that requires use of the OASIS. Specifically, as discussed in detail below, we are requiring that HHAs complete a comprehensive assessment for each patient and that they incorporate the OASIS into their comprehensive assessment process.

In addition to publishing this rule, in today's issue of the **Federal Register**, we are also publishing regulations that require HHAs to electronically report OASIS data as a condition of participation. Because the prospective payment system must be implemented as soon as possible, we will need to begin receiving the data to be used for standardizing the payment amounts. The publication of this final rule and the rule concerning reporting requirements for OASIS will allow us enough lead time to be assured that the data we collect are consistent and complete for the purposes of computing valid case mix adjusters. Only then can we be confident that resulting payment levels are proper. Should computations be flawed and payments improper, incentives would be distorted and patient care could quite possibly suffer.

The immediate publication of rules requiring the collection and reporting of OASIS data and OMB approval of these requirements pursuant to the Paperwork Reduction Act of 1995 are essential because these data are required for the development of the home health prospective payment system, required by statute in October of 2000. Because OASIS data will form the basis for the case mix adjustment component of the prospective payment system, national OASIS data must be used in the extensive statistical analyses needed to calculate standardized prospective payment rates and estimate their impact. The process of rate development must take place in the early spring of 1999 for incorporation in a proposed rule. The proposed rule regarding the home health prospective payment system must be published by the fall of 1999 to allow for necessary comments and revisions prior to the publication of a final rule in the summer of 2000. Given the lag time between the publication of the OASIS rules and the receipt of viable national data by HCFA, we are already at the point where only two months of national data will be potentially available for use in the proposed rule and less than a year of data for the final rule. Further delays would reduce the amount of national data available for development of the prospective payment rates and thus seriously undermine the project plan aimed at implementation of the prospective payment system on October 1, 2000.

Our commitment to revising the COPs for HHAs to focus on patient-centered, outcome-oriented care remains unchanged. Once HHAs have become familiar with collecting and reporting OASIS data, we expect to publish a final rule that sets forth the remainder of the revisions to the HHA COPs, which we proposed in March, 1997. Following is a discussion of the provisions of the March 10, 1997 proposed rules concerning comprehensive assessment and use of the OASIS as well as our responses to public comments received on these issues. We will respond to comments concerning the other home health conditions, which were proposed in the March 10, 1997 **Federal Register**, in a separate rulemaking document.

A. Comprehensive Assessment

The Comprehensive Assessment of Patients COP reflects the patient-centered, interdisciplinary approach, and underscores our view that systematic patient assessment is essential to improving quality of care and patient outcomes. We believe that the comprehensive assessment requirements reflect standard practice for most HHAs. In addition, this condition requires HHAs to incorporate the use of OASIS in their comprehensive assessment.

We proposed to add a new § 484.55 to require that each patient receive from the HHA a patient-specific, comprehensive assessment that identifies the patient's need for home care and that meets the patient's medical, nursing, rehabilitative, social and discharge planning needs. For Medicare patients, identifying the need for home care would include assessment of the patient's eligibility for the home health benefit, including the patient's homebound status. (This verification of a patient's eligibility for Medicare home

health benefit including homebound status does not apply to Medicaid patients or private pay patients.) As a result of the utility of OASIS as a case mix adjuster, we have slightly modified the appropriate populations for whom the OASIS data should be collected. Because OASIS data is necessary for payment purposes, it must be collected for all Medicare beneficiaries except pediatric patients, including those groups for whom OASIS is not as useful for outcome measurement as for others. We expect HHAs will collect OASIS data on all patients served by the HHA *except* prepartum and postpartum patients, patients under 18, and patients who are not receiving personal care or health services (that is patients who are receiving only services such as housecleaning, cooking or laundry).

General Comments

Comment: One commenter expressed concern that the home care industry is facing many major changes at one time including revised COPs (which include a new set of standards requiring data driven performance improvement), implementation of OASIS, and the implementation of a prospective payment system that has not been designed to consider the costs of outcome measurement and performance improvement.

Response: We agree that change, even necessary change, is difficult, and we have endeavored to make the transition as smooth as possible. To that end, we published OASIS and the revised COPs in the **Federal Register** in March, 1997, to give HHAs and the industry an opportunity to begin familiarizing themselves with the data set and developing strategies for complying with the proposed COPs. We recognize that recent changes in the reimbursement system have made the implementation of the OASIS requirements a challenging prospect for some HHAs. However, as a result of the BBA, HCFA and HHAs are faced with the rapid implementation of a prospective payment system. As discussed above, OASIS data is critical to the development of case mix adjustments for the prospective payment system for HHAs, which has been mandated by the BBA. Without such data, there is a strong likelihood that HCFA could not obtain the case mix information that is absolutely essential for the establishment of a prospective payment system. Although we recognize that it may be difficult for HHAs to cope with the changes that would result from implementation of all the proposed COPs at one time, we cannot delay implementation of the OASIS requirements. Therefore, in this rule, we are finalizing only the condition that requires collection of OASIS information. The reporting requirements for OASIS data are published in a separate rule in today's issue of the **Federal Register**. We plan to finalize the remainder of the home health conditions in a later rulemaking document. We believe this approach will give HHAs the opportunity to concentrate on OASIS implementation.

Comment: One commenter suggested that assessment and care planning are intertwined and should remain together in a single COP.

Response: We believe that assessment and care planning are sequential steps in patient management, as one cannot develop a care plan without first assessing the patient. By creating a separate condition for the assessment process, we emphasize the importance of this cornerstone of patient management. We provide specific assessment requirements to support not only care planning, but also data critical to the development and operation of a prospective payment system.

Comment: One commenter stated the belief that the requirement to assess Medicare patients' homebound status when identifying patients' need for home care is restricting. The commenter further stated the belief that requiring a patient to be homebound in order to obtain Medicare benefits limits them to the point of institutionalizing them. Another commenter pointed out that the homebound criteria is not a requirement for non-Medicare patients. The commenter recommended that this be clearly stated in the surveyor interpretive guidelines.

Response: We recognize the commenters' concerns. However, sections 1814(a)(2)(C), and 1835(a)(2)(A) of the Act require a physician to certify that an individual be homebound, or confined to the home, in order to receive Medicare coverage for home health services. This requirement is consistent with the statute, and promotes program integrity because it requires HHAs to evaluate the Medicare patients' eligibility for the home health benefit. We agree that homebound status and other Medicare eligibility requirements do not apply to patients served by the HHA who are not receiving Medicare home health benefits. Therefore, we have revised the introductory text of § 484.55 to clarify that the HHA must verify the patient's eligibility for the Medicare home health benefit including homebound status only for Medicare home health beneficiaries. Verification of a patient's eligibility for Medicare home health benefit including homebound status does not apply to Medicaid patients, beneficiaries receiving Medicare outpatient services or private pay patients. Because the comprehensive assessment may not be completed at the time of the initial assessment visit, we have also revised paragraphs (a) and (b) to require the HHA to assess the patient's eligibility for the home health benefit at the initial evaluation visit, and at the time the comprehensive assessment is completed. In addition, we will ensure that HCFA guidance and surveyor training reflect this distinction in accordance with the commenter's request.

Comment: Many commenters favored the comprehensive assessment, but requested clarification on the sequence of the assessment process as specified in § 484.55.

Response: We believe that commenters found the structure of the condition confusing, as the requirements proposed at § 484.55(a) addressed drug regimen review as part of the comprehensive assessment, § 484.55(b) addressed the initial assessment visit, and § 484.55 (c), (d) and (e) returned to the subject of the comprehensive assessment. To improve clarity, we have revised the regulation to place assessment requirements in sequential order within the condition. We have also shortened the title of the proposed standard at § 484.55(c), Standard: Time frame for completion of the comprehensive assessment to Standard: Completion of the comprehensive assessment, in order to focus on the activity of completing the comprehensive assessment, rather than to focus on the timing of the activity. To further clarify the condition, we are removing language at § 484.55(d), which requires that the comprehensive assessment meet the needs of the patient and include information on the patient's progress toward clinical outcomes. We have incorporated this requirement into the introductory text of § 484.55.

The comprehensive assessment COP requires that a patient receive an initial assessment in order to determine the immediate care and support needs of the patient. The initial assessment visit corresponds to the registered nurse initial evaluation visit required under the skilled nursing condition of participation at § 484.30. The initial assessment visit is intended to ensure that the patient's most critical needs for home care services are identified and met in a timely fashion. We do not require that a comprehensive assessment be completed at this visit, although the HHA may choose to do so. If the HHA does not complete the

comprehensive assessment during the initial visit, then the comprehensive assessment must be completed and updated according to the time points at § 484.55(b) and (d). Section 484.55(e) requires that OASIS items be incorporated into the HHA's comprehensive assessment.

Therefore, in order to avoid misunderstandings regarding the initial assessment, the comprehensive assessment and the OASIS, we have rearranged the sequence of the process in § 484.55 to read as follows: § 484.55(a) Initial assessment visit; § 484.55(b) Completion of the comprehensive assessment; § 484.55(c) Drug regimen review; § 484.55(d) Update of comprehensive assessment; and § 484.55(e) Incorporation of OASIS data items.

Standard: Initial Assessment Visit

The regulation for the initial assessment visit set forth at proposed § 484.55(b) (now § 484.55(a) in accordance with the reorganization scheme discussed above) required that a registered nurse perform an initial assessment visit based on physician's orders to determine the immediate care and support needs of the patient either within 48 hours of referral, within 48 hours after patient's return home, or within 48 hours of the physician-ordered start of care date. We proposed that when rehabilitation therapy services are the only services ordered by the physician, the initial assessment would be made by the appropriate rehabilitation skilled professional.

We solicited comments on the appropriateness of using competent individuals other than a registered nurse or appropriate therapist to perform initial patient assessments. We also invited comments on the feasibility of permitting the delegation of nursing responsibilities within the scope of State practice acts to competent individuals.

Comment: Several commenters questioned the requirement that the initial assessment be completed within 48 hours. Commenters stated that compliance would be difficult for home care providers who serve rural areas, especially for weekend therapy coverage. Some commenters suggested that the time frame be extended to 72 hours, others suggested it be left up to the HHA. One commenter questioned how HHAs would demonstrate that the patient was seen in the required amount of time. However, another commenter pointed out that if a patient receives a visit 48 hours after the physician orders those services to begin, then the HHA is not complying with the plan of care.

Response: The requirement for the initial assessment to be completed within a 48-hour time frame is imperative for the safety of the patient. As the complexity of the care needs of patients increase, so does the need for a comprehensive assessment of the patient, and the importance of the development and implementation of an effective care plan becomes paramount. In addition, HHAs are often providing services that were once exclusively provided in a hospital or other institutional settings (for example, chemotherapy, intravenous treatments, and care for patients dependent on respirators). Thus, HHAs are often caring for patients with severe and complex health care needs who require high-tech services. Patients who are discharged from the hospital or referred for home health services should not be left unattended in the home for any extensive period of time, unless the physician determines that a later start of care date is suitable. If the physician orders that the patient begin receiving home health services on a specific date, then it is reasonable to expect the HHA to comply with that order. If there is no start of care date ordered, or if access to the patient or provision of services are difficult to provide within 48 hours of referral or discharge from the hospital, then the HHA must communicate that difficulty to the physician. The physician can then establish a start of care date that is appropriate to meet the needs of the patient and is acceptable to the HHA.

We expect that HHAs will develop administrative processes to track admissions and timeliness of service, and see such attention as a positive outcome of this requirement. HHAs are free to choose the method that works for them, given the size and patient population of the HHA. We agree with the commenter that allowing the HHA to delay services for 48 hours after the physician orders services to begin would promote noncompliance with physician orders. As a result of this comment, we have revised the requirement at § 484.55(a)(1) to state that the initial assessment visit must occur either within 48 hours of referral, or within 48 hours of a patient's return home, or on the start of care date ordered by the physician. To further clarify, if the HHA is notified of a patient referral for home care on Monday, and the patient is discharged from the hospital on Wednesday, we would expect the initial assessment visit to occur by Friday, unless the physician specifies an earlier time. However, if the physician orders the start of care to begin on the following Monday (5 days after hospital discharge and 7 days after the referral), the initial assessment must be rendered on that day. We have also revised paragraph § 484.55 (a)(1) to remove language that requires the registered nurse to complete the initial assessment ''based on physician's orders''. We believe this language is unnecessary, since all visits to the patient are made based on physician orders.

Comment: One commenter indicated that most HHAs will not allow 48 hours or longer to complete the initial assessment. The commenter stated that paperwork requirements, which differ from State to State, mandate that all information be obtained and reduced to writing as quickly as possible in order to obtain the physician's signature on the document in the required time frames.

Response: In this final rule, we require specific time frames for the initial assessment visit and completion of the comprehensive assessment because we believe that these requirements are predictive of good patient care, and proactive for the prevention of harm to the patient. We recognize that States may have regulations that require completion of the assessment earlier. However, we do not preclude agencies from completing their assessments prior to the mandated timeframes.

Comment: Two commenters suggested that we consider patient choice and the patient's right to determine when the HHA will make the visit. A commenter offered an example of a patient who would have help at home until a designated point in time at which that help would cease. The commenter suggested that the patient should be able to request that home health services start as soon as help was no longer available.

Response: Section 1891(a)(1)(A) of the Act states that the patient has the right to be fully informed in advance about the care and treatment to be provided by the agency and the right to participate in planning care. Section 1861(m) of the Act requires that the individual receive services under a plan of care established and periodically reviewed by the physician. Therefore, we expect that the patient, the HHA and the physician will communicate in developing a plan of care that meets the patient's health needs, is considerate of the patient's concerns and can be delivered by the HHA. In the situation described by the commenter, we would expect that a later start of care date would be established by the physician if appropriate.

Comment: Several commenters disagreed with our proposed requirement that therapists can perform initial assessment visits. Commenters stated that, as the focal point for opening the case, the initial assessment should be performed only by a registered nurse, because the nurse has the broadest scope of clinical expertise. A few commenters stated that therapists, including occupational therapists, (but not therapy assistants) should be able to complete the initial assessment visit. Several commenters questioned who should complete the comprehensive assessment and asked that we clarify the requirement. One commenter stated that updates of the comprehensive assessment and completion of the OASIS at required intervals could be satisfactorily performed by a licensed practical nurse under RN supervision.

Response: We received many comments recommending both restriction (to registered nurses) and liberalization (to occupational therapists) of our current requirements. Section 484.30(a) states that the registered nurse make the initial evaluation visit; and, we agree that the broad scope of clinical expertise of the registered nurse is beneficial in conducting the initial evaluation. However, restricting the initial evaluation to the registered nurse only (when only a therapy service has been ordered by the physician) can be burdensome. In these instances, in an endeavor to allow flexibility, a physical therapist or speech language pathologist may conduct the initial evaluation visit in accordance with physician orders. This policy has been explained in interpretive guidelines, and is based on the proven ability of the physical therapist and/or speech language pathologist to conduct the initial visit.

At this time, we will make this policy explicit in regulation. As we have said above, the initial assessment visit and comprehensive assessment must be conducted by a registered nurse unless physical therapy or speech language pathology is the only required service for that patient. If that is the case, the physical therapist or speech-language pathologist can conduct these assessments. The staff requirements are the same for follow-up assessments and assessments at the time of transfers and discharges.

With regard to occupational therapists completing the initial assessment visit, we note that while Medicare pays for occupational therapy, eligibility for the Medicare home health benefit cannot be established based solely on the need for that service. The occupational therapist may complete the comprehensive assessment and its updates if the need for occupational therapy establishes program eligibility. The need for occupational therapy would not establish eligibility for the Medicare home health benefit, but could establish eligibility, for example, in some States under the Medicaid program. Conversely, the Medicare home health patient with multiple service needs can retain eligibility if, over time, the only remaining need is for occupational therapy. At that time, an occupational therapist can conduct the follow-up assessment as well as those associated with transfers and discharges. In the case of Medicaid patients, or Medicare patients receiving outpatient services, if the need for a single therapy service either establishes eligibility or allows eligibility to continue once it is otherwise established, the corresponding practitioner, (including a physical therapist, speech-language pathologist, or occupational therapist) can conduct any of the designated assessments.

We do not believe the comprehensive assessment can be completed by the licensed practical nurse in accordance with the COPs. The introductory text to § 484.55 requires that the comprehensive assessment meet the needs of the patient and include information on the patient's progress toward clinical outcomes. Thus, completing the comprehensive assessment involves an evaluation of the patient. In the current conditions of participation, patient evaluation is included in the duties of the registered nurse at § 484.30(a) and therapy services at § 484.32, but is not included in the duties of the licensed practical nurse at § 484.30(b). In response to comments, we have revised § 484.55(b)(2) to require that the registered nurse complete the comprehensive assessment.

Comment: Several commenters requested that we clarify the term ''appropriate therapist''. Commenters indicated that surveyors apply the Medicare restriction of occupational therapy as a qualifying skilled service to non-Medicare patients or those Medicare patients receiving outpatient services. Other commenters requested clarification regarding the inclusion of the occupational therapist as one of the disciplines to conduct the initial assessment visit.

Response: The appropriate therapist is the physical therapist or speech language pathologist; and, in some cases as indicated above, the occupational therapist. We have made this clarification in the regulatory text at § 484.55(a)(2). To further clarify, we have added a new paragraph (b)(3) to provide that the comprehensive assessment may be completed by the physical therapist, speech-language pathologist or occupational therapist if the need for occupational therapy establishes program eligibility.

Standard: Completion of the Comprehensive Assessment

At proposed § 484.55(c) (now § 484.55(b)) we specified the timeframe in which the HHA must complete the comprehensive assessment. We proposed that the HHA must complete the comprehensive assessment in a timely manner consistent with the patient's immediate needs, but no later than 5 working days after the start of care.

Comment: A few commenters questioned if the requirement for a comprehensive assessment with OASIS data applies to all payment sources, including managed care patients. Commenters also asked if managed care organizations (MCOs) will be responsible for supplying the follow-up to outcomes.

Response: The conditions of participation apply to the HHA, and thus to all patients served by the agency. Therefore, we would expect that managed care patients receive a comprehensive assessment, including OASIS items, where required in the COPs. With regard to MCO responsibility for follow-ups, we note that outcome reports generated from OASIS data will be sent directly to the HHA providing the services. At the discretion of the HHA, the HHA can work with the MCO to develop a plan for follow-ups to the outcome reports.

Comment: Several commenters disagreed with the requirement that the comprehensive assessment be completed within 5 working days after the start of care. Some commenters suggested the requirement be changed to 7 days. Other commenters disliked the term ''working days'', stating that every day is a working day for HHAs. These commenters suggested changing the requirement to 5 calendar days.

Response: We agree with commenters that the term ''working days'' may be misleading. HHAs provide care to patients in accordance with patient needs, and patient needs do not comply with the arbitrary limits of ''working days''. Therefore, we have revised § 484.55(b)(1) to change the term ''working days'' to ''calendar days'' in the requirement.

Comment: Two commenters requested that HCFA establish a standardized comprehensive assessment that must be used for all HHAs. The commenters felt

that this would improve efficiency for the HHA and the quality of patient assessment. Another commenter pointed out that HHAs must develop two comprehensive assessments; one for patients who require collection of OASIS items, and one for patients who do not need to have OASIS items included in their assessment. Commenters stated the belief that this can be confusing and potentially burdensome for the HHA.

Response: We do not believe that a standardized comprehensive assessment is necessary or useful to all HHAs. Our intent is that HHAs have the flexibility to use a comprehensive assessment that reflects the needs of their patient population. The standardized elements of the comprehensive assessment are the OASIS items that must be incorporated into the comprehensive assessment. We are aware that some provider, vendor and academic organizations have developed standard comprehensive assessments with the OASIS data set integrated into them. We expect that the availability of such standard assessments would be attractive to HHAs that do not want to develop their own. We do not require the HHA to develop different comprehensive assessments in order to accommodate OASIS data or varying clinical needs. The HHA is free to establish assessment policy and to develop the number and type of assessment forms that meet the individual HHA's needs.

Comment: One commenter stated that the OASIS follow-up must be completed by the same discipline that completed the initial OASIS to ensure reliability of the assessment.

Response: As discussed in the OASIS proposed rule, the University of Colorado has found the OASIS to be valid and reliable even when completed by different disciplines such as a nurse and physical therapist or speech language pathologist at subsequent time points. Therefore, we do not believe that the same discipline must complete the OASIS at every time point.

Standard: Drug Regimen Review

Under § 484.55(c) (proposed § 484.55(a)) drug regimen review, we proposed to incorporate the existing requirement concerning a drug regimen review from § 484.18(c). However, we clarify the requirements by eliminating the identification of ''adverse actions'' and ''contraindicated medications'' and substituting the more concise requirements of review for drug interactions, duplicative drug therapy and noncompliance with drug therapy. This modification narrows the scope of the drug regimen review, provides accountability, and focuses the assessment toward data predictive of a significant patient outcome. In this final rule, we are revising § 484.18(c), by removing the last sentence of the paragraph, which relates to review of the patient's medications. This requirement has been incorporated into § 484.55(c) (proposed § 484.55(a)).

Comment: Several commenters suggested that HCFA define the term ''drug regimen'' and questioned if this means all medications the patient is taking or only medication prescribed for an episode of treatment.

Response: We agree that the term ''drug regimen'' should be clarified. Therefore, we have revised this standard to reflect that drug regimen review is part of the comprehensive assessment of the patient and includes all medications the patient is using at the time of the assessment. This is an important safeguard for patients to evaluate compliance with drug therapy, to recognize and reduce the risk of complications from multiple medications, and prevent adverse drug interactions and unnecessary medication. If an adverse drug reaction should occur, the patient care provider should note the patient's side effects and or adverse reaction in the medical record, notify the patient's doctor, and, if possible, contact the pharmacy where the prescriptions were filled.

Comment: One commenter stated that the review of drugs, drug interactions, duplicative drug use, and noncompliance with the drug regimen is not necessary for patients receiving only aide services, as these patients are receiving their drug regimen from their physician and pharmacist.

Response: All patients, whether receiving skilled services or only aide services, receive their drug regimen from the physician. The drug regimen review is an integral part of the comprehensive assessment, and an important safeguard for patients who frequently receive medications from a variety of physicians and pharmacies. We believe that patients receiving aide services are likely to have multiple medications and therefore require this health and safety protection.

Comment: Several commenters stated that the standard concerning drug regimen review does not specify that the RN is responsible for the drug regimen review as part of the comprehensive assessment. Commenters were concerned that drug monitoring is beyond the scope of practice for therapists and stated that it should be the ongoing responsibility of the patient's physician and pharmacist in therapy-only cases. Another commenter stated that the therapist was capable of completing the drug regimen review and pointed out that therapists are currently doing so.

Response: Limiting the drug regimen review and completion of the comprehensive assessment to the registered nurse would be burdensome to the HHA, especially as the comprehensive assessment must be completed periodically. If a therapy-only patient admission has a drug regimen, we would expect the therapist to evaluate the patient's medications and patient knowledge during the initial assessment visit and bring any problems to the attention of the physician. We agree that management of drug therapy is the responsibility of the physician, regardless of whether the patient is receiving therapy-only services. We note that this is a continuation of our policy since regulations previously located at § 484.18(c) allowed the drug regimen review to be completed by the HHA nurse and therapist.

Standard: Update of the Comprehensive Assessment

Section 484.55(d) addresses the update of the comprehensive assessment. In this standard, we proposed to require that the comprehensive assessment must include information on the patient's progress toward clinical outcomes, and be updated and revised (1) as frequently as the patient requires but no less frequently than every 62 days from the start of care date, (2) when the patient's plan of care is revised for physician review, (3) within 48 hours of the patient's return home from the hospital, and (4) when the patient is discharged. The comprehensive assessment updates must include the appropriate OASIS items as indicated on the data set.

Comment: Several commenters objected to the requirement that the OASIS be completed for patients who are seen infrequently (for example, every two weeks, or monthly) in order to comply with the 57 to 62 day requirement. Commenters stated that this standard would require HHAs to provide additional skilled visits.

Response: In order to have data that is comparable across HHAs, OASIS data must be collected at uniformly defined time points including at recertification. We do not believe that this requirement will add to the number of skilled visits provided by the HHA. We understand that many HHAs arrange visit schedules to accommodate home health aide supervisory requirements and patient and care giver schedules. We would expect the HHA to similarly adjust the patient's visit schedule in order to

accommodate OASIS time points. As discussed in detail below, we have revised paragraph (d) by removing the proposed 62 day requirement. Instead, we provide that the comprehensive assessment must be completed every second calendar month beginning with the start of care date.

Comment: Several commenters objected to the requirement that the OASIS be completed within 48 hours of a patient's return home from a hospital, stating that this would be burdensome and duplicative of assessment information in the clinical progress notes. Other commenters stated that the comprehensive assessment and OASIS items should be completed after a hospital stay of 24 hours or more, as this would be more predictive of a significant patient event and less burdensome to the HHA. A few commenters questioned the sequence of events regarding collection of the OASIS data after the patient's return from the hospital.

Response: Hospitalization as an event is generally a good predictor of a deterioration in the patient's health status, and therefore should be captured in the OASIS data. HHAs that do not account for hospitalizations in their OASIS data collection may reflect poorer outcomes than those that do. Patients frequently improve rapidly upon returning home from the hospital, therefore it is important that the patient's health status at the time of discharge from the hospital be captured quickly. The 48-hour requirement is necessary, given the speed of changes in a patient's status after hospitalization. In addition, the importance of OASIS as a case mix adjuster makes it necessary, in the interest of the accuracy of patient data, for the HHA to assess the patient's true needs as quickly as possible upon discharge from the hospital. This standard is intended to ensure the timely and accurate assessment of patients who were not discharged from the HHA when they were admitted to the hospital, and have returned home.

We do not intend that the comprehensive assessment be duplicative of assessment information that is documented in the clinical progress notes. Rather, we expect the comprehensive assessment to *replace* assessment information that is transcribed in clinical progress notes. For example, if a nurse assesses and documents the status of a patient's surgical wound, ability to ambulate, presence of assistance in the home and ability to manage medications during the comprehensive assessment required upon return from a hospitalization, it is unnecessary, burdensome and counterproductive for the nurse to also document this information elsewhere in the clinical progress notes. We agree with the commenter that requiring that the comprehensive assessment (including the appropriate OASIS items) be completed after a hospital admission of 24 hours or more would be predictive of a significant patient event and less burdensome to the HHA. Therefore, we have revised § 484.55(d) to require that the comprehensive assessment (including administration of OASIS) be completed within 48 hours of the patient's return home from a hospital admission of 24 hours or more for any reason except diagnostic testing.

If home health care is resumed after a hospital admission (regardless of whether the patient was formally discharged from the HHA), the comprehensive assessment must include the OASIS items appropriate for assessment after a hospital admission. If the patient was not formally discharged from the HHA, the HHA should establish the next assessment time point at the end of the second calendar month interval that corresponds to the original start-of-care date. For example, if the start-of-care date is June 25th, the patient would be reassessed on August 25th.

If the patient is formally discharged from the HHA, the data collection proceeds on the basis of the new start-of-care date that followed the inpatient stay. For purposes of OASIS data collection, the HHA can establish its own internal policies regarding criteria for formal discharge versus interrupting home care services but maintaining the patient on the HHA admission roster.

Comment: Two commenters requested that HCFA define the update of the comprehensive assessment. The commenters asked if it is necessary to complete a full assessment and OASIS in the event that only one item has changed, if the patient has a planned re-hospitalization, or if the patient is chronically ill with frequent hospitalizations. Another commenter suggested that the HHA should only complete OASIS data related to the diagnostic or quality grouping of the patient, rather than all OASIS items.

Response: The diagnostic and quality groupings to which the commenter refers were made on aggregated patient data in the Medicare demonstration and discussed in the OASIS proposed rule (62 FR 11038). These groupings were created for research purposes and the HHAs in the demonstration did not vary OASIS data collection in order to accommodate these groupings. We believe the commenter misunderstood the purpose and utility of the quality groupings and the methodology of the Medicare demonstration. The update of the comprehensive assessment must, at a minimum, include completion of all follow-up data items of the OASIS and any changes in patient status. OASIS items must be re-assessed and documented regardless of whether the patient's status has changed.

It is only by doing an assessment that the caregiver can determine if a change in condition has occurred or if a change in treatment is warranted. For example, although a patient with testicular cancer may continue to be incontinent, other factors may change that would warrant a change in the care plan. Another example would be a diabetic patient who continues to require insulin therapy. An assessment would still be necessary to rule out any complications or other changes in the patient's physical or mental health that would warrant revision of the treatment plan.

For purposes of outcome measurement and case mix adjustment, it is important to capture stabilization of the patient's health as well as improved or deteriorated outcomes. Thus, the information must be collected in order to measure the patient's complete health status, not just to capture change. In addition, documentation of all the OASIS items is an important safeguard for data accuracy. In the Medicare demonstrations, HHAs with computer systems that allowed OASIS items to ''carry over'', rather than requiring re-entry every time, experienced poorer outcomes. Upon examination of the data, it was discovered that documenting OASIS by exception missed many of the subtle and interrelated improvements in the patient's health status. For the remainder of the comprehensive assessment that does not include the OASIS items, limiting documentation to the changes in the patient's assessment is acceptable. We have revised the introductory text of paragraph (d) to clarify that all updates and revisions of the comprehensive assessment include administration of the OASIS.

Comment: Several commenters expressed concern about the requirement for gathering OASIS data when the plan of care is revised for physician review, stating that this would require completion of a comprehensive assessment each time the physician's orders are changed. Other commenters stated that this requirement is duplicative of the requirement to update the assessment every 57–62 days.

Response: We agree with the commenter that the requirement at § 484.55(d)(2) is duplicative and have

eliminated it. It was not our intent to require the HHA to complete a comprehensive assessment whenever physician orders are changed, and therefore, the HHA is not required to complete the OASIS data set whenever the plan of care is revised. However, the HHA will still be required to complete a comprehensive assessment when there is a significant change (a major decline or improvement) in a patient's health status.

Comment: Commenters indicated that the completion of the OASIS should be based on the needs of the individual patient, rather than an arbitrary time frame.

Response: While the frequency of ongoing patient assessment is based on the needs of the individual patient, completion of the OASIS items at standardized time points is critical for comparable information and for a case mix system. To maintain a clear reporting timeframe that eliminates the variations of days in a month, we have revised the proposed 62 day requirement at paragraph (d)(1) to provide that the HHA must update the comprehensive assessment no less frequently than every second calendar month, beginning with the start of care date. The allowable completion dates for the first assessment and any subsequent follow-up assessments will be determined based on the start of care date. Follow-up assessments must be completed every two months that a patient is under care. For each month in which a follow-up assessment is due, it must be completed no earlier than five days before, and no later than one day before the calendar day on which care began. The new rule defines the completion date relative to the day of the month which marks every two-month anniversary of the start of care. Please note the following two examples:

Example 1: If the start of care date is March 1st, the first follow-up assessment must be completed between April 26th (five days before May 1st) and April 30th (1 day before May 1st). The second follow-up assessment must be completed between June 26th and June 30th.

Example 2: If the calendar day of the start of care exceeds the last day of a month in which a follow-up assessment is due, the completion dates are computed relative to the last day of the target month. For example, if the start of care date is December 31st, the first follow-up assessment must be completed between February 23 (five days before February 28th) and February 27th (one day before February 28th). This example assumes that the year is not a leap year. In a leap year, the completion date would fall between February 24th and February 29th.

Comment: One commenter suggested that the terms ''discharge'' and ''transfer'' be defined by HCFA in order to improve the accuracy of data. The commenter expressed concern over data accuracy issues, and encouraged HCFA to require accuracy of OASIS data collected.

Response: We agree that the term ''discharge'' should be clarified, since the COPs require update of the comprehensive assessment at discharge. For purposes of this requirement, the term ''discharge'' applies when the patient is officially released from home health care by the HHA, when the patient is transferred to another facility (such as a nursing home or hospital), or when the patient dies. If any of those events occur, then we would consider the patient to be discharged from the HHA and we expect the HHA to update the comprehensive assessment (including the appropriate OASIS items). A transfer occurs when the physician orders that the patient's care be assumed by another facility (for example, nursing home or rehabilitation hospital).

We also agree with the commenter that the data derived from the comprehensive assessment and OASIS will be meaningless unless they accurately reflect the patient's health status. Therefore, we have revised the introductory text at § 484.55 to require that the comprehensive assessment accurately reflect the patient's current status.

B. Use of the Outcome and Assessment Information Set (OASIS)

As discussed above, we published a proposed rule that proposed to require HHAs to incorporate the core standard assessment data set, called the ''Outcome and Assessment Information Set'' (OASIS), into their comprehensive assessment process. This proposed rule added a new paragraph (e), Standard: Incorporation of OASIS data items, to § 484.55. In the March 10, 1997 proposed rule (62 FR 11036), we discussed in detail the methods we used to develop and validate the OASIS items, as well as a demonstration project we established, which was conducted by the University of Colorado, to assess the value of the OASIS data set in targeting and guiding improvements in outcomes and satisfaction for HHA patients. In addition, we described both the short term and long term expectations for use of the data set. All public comments, including those comments received on the impact of the OASIS proposed rule have been summarized and are discussed below.

Standard: Incorporation of the OASIS Data Set

Section 484.55(e) provides that the HHA must incorporate the OASIS data set into its own assessment, using the language and groupings of the OASIS items. Integrating the OASIS items into the HHA's own assessment system in the order presented in the OASIS form would facilitate data entry of the items into data collection and reporting software. However, it is not mandatory that agencies integrate the items in any particular order. An HHA may integrate the OASIS items in such a way that best suits the agency's own assessment. OASIS data items include information regarding demographics and patient history, living arrangements, supportive assistance, sensory status, integumentary status, respiratory status, elimination status, neuro/emotional/behavioral status, activities of daily living, medications, equipment management, emergent care, and discharge. The OASIS data set includes only information necessary to measure outcomes of care. Our intent was not to develop a complete patient assessment but rather to identify standardized data elements that fit within the HHA's overall comprehensive assessment responsibilities; that is, the incorporation of the core standard assessment data set will complement the HHA's current approach to comprehensive assessment.

We intend that the OASIS become one of the most important aspects of the HHA's activities in providing patient care. By integrating a core standard assessment data set into its own more comprehensive assessment system, an HHA can use such a data set as the foundation for valid and reliable information for patient assessment, care planning, service delivery, and improvement efforts.

Comment: We received many comments in favor of OASIS, but some commenters were concerned about the length of the assessment process if OASIS items are included.

Response: We agree that the assessment would be lengthy if the OASIS is added to the HHA's routine assessment form. However, we emphasize the need to replace similar items/questions on the agency's own assessment. It is our understanding that some HHAs have simply appended the OASIS items to their current assessment without considering which OASIS items could replace similar items on the agency's assessment. Obviously this approach adds time to the assessment process, and renders the comprehensive assessment burdensome and

duplicative. We wish to make it clear that the OASIS is not intended to constitute a complete comprehensive assessment. Rather, the data set comprises items that are a necessary part of a complete comprehensive assessment and are essential to uniformly and consistently measuring patient outcomes. The OASIS items are already used in one form or another by virtually all HHAs that conduct thorough assessments. We therefore believe that HHAs should replace similar items with OASIS items to avoid lengthening the assessment unnecessarily. In fact, when OASIS items have been used to replace similar assessment items, HHAs in the demonstration project found that completing the integrated assessment adds little to no net time increase to the visit. In addition, HHAs have found it less burdensome to enter OASIS data items into a data collection software program when they are inserted in order into the HHA's comprehensive assessment. This approach increases the speed and accuracy of data entry.

Comment: Several commenters applauded HCFA's effort to bring about OASIS stating that, from experience, they had found that incorporating the OASIS data set into their assessment process has proven to be very beneficial in assisting health care professionals in identifying the medical necessity and services that patients require. Commenters stated the belief that the OASIS data set had been developed using sound scientific processes, and will provide a useful minimal set of data items for HHAs in assessing and demonstrating outcomes by promoting systemization and completeness.

Response: We agree with the commenters that OASIS data will be helpful to HHAs and assist them in planning and providing home health services. We appreciate the positive comments and support for OASIS.

Comment: Several commenters stated that OASIS should have been developed to be compatible with the Minimum Data Set (MDS) used in Nursing Homes and/or the Uniform Needs Assessment that is under development for use in hospitals. Commenters stated that such compatibility or a crosswalk is crucial as we strive to develop integrated systems and well coordinated care.

Response: The MDS and OASIS are different data sets, developed for different purposes, for different patient care settings, and to implement different statutory provisions. MDS was developed in 1990 to implement sections 1819(f)(6) (A) and (B) of the Act for Medicare and sections 1919(f)(6) (A) and (B) of the Act for Medicaid, which required nursing homes to perform a comprehensive assessment of long term care facility residents. The MDS was designed to function as a complete assessment to promote decision making, care plan development, and care plan implementation and evaluation. The structure of the MDS is designed to enhance resident care and promote the quality of a resident's life.

The OASIS data set was developed in 1993, in part to implement sections 1891(c)(2)(C) and 1891(d)(1) of the Act, which require as part of the home health assessment, a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care. OASIS is the designated assessment instrument (or instruments) for use by an agency in complying with the requirement. OASIS focuses on outcomes of care, and was developed as a system of outcome measures that could be used specifically for outcome-based quality improvement and evaluation in HHAs. OASIS, while helpful for patient assessment, is not a care planning tool, and was not designed to be a comprehensive patient assessment. In addition, research has shown that there may be several uses for OASIS data, one of which will provide HCFA with data for case mix adjustment and grouping in the development of the home health prospective payment system.

OASIS is the data set currently in use in many HHAs and is the fundamental data set being evaluated for case mix adjustments for the HHA prospective payment system. The OASIS data set reflects the care of the patient populations in the home setting, and MDS reflects the care and patient population of the nursing home setting. Therefore, it is unlikely that we can collectively attain perfect overlap between the MDS, OASIS, or other assessments under development. However, it is our goal to ultimately attain as much commonality across these data sets as possible so that patient health status might eventually be monitored across provider settings using a core set of data items within each data set.

HCFA is currently pursuing research that could ultimately help in developing an assessment instrument that can support a common assessment across settings. As our data sets are modified and improved over time, our goal is to incorporate common data elements and definitions within each of the instruments to the fullest extent possible. This will improve HCFA's and States' ability to track the characteristics and care needs of beneficiaries across the post-acute and long term care service continuum. Use of common data elements will also benefit patient care by facilitating transfer of information to the continuing care provider and minimizing providers' data collection burden.

We have already started the process of identifying areas in which increased coordination of data elements is possible as part of our uniform needs assessment instrument (UNAI) initiative. This activity entails review of the item labels, definitions and reliabilities for OASIS, the long term care minimum data set (MDS), and the MDS for post-acute care (MDS–PAC), which incorporates items common to the MDS and is currently being tested for potential implementation in rehabilitation hospitals. We expect to be able to identify some areas in which increased commonality is possible across OASIS and MDS items. Refined item labels and definitions will be available for use within the next versions of these instruments (e.g., construction of version 3.0 of the MDS will begin in mid-1999.)

Comment: Several commenters requested that we add items to the OASIS data set. Requests for additions included: data items tested during the development of the OASIS data set; discipline-specific services, interventions, the amount and frequency of visits and outcomes; various ostomies for elimination status; surgical and V-codes; and, additions to the answers listed for some items. Other commenters suggested that we change or eliminate answers for some items, or that we change the order of the OASIS items.

Response: At this time, any changes to the OASIS data set, or changes in the order of existing items, would require further validation and reliability testing, and revision of the outcome measures. However, HHAs are reminded that OASIS is a core data set of required items. While the OASIS items must be used as written, HHAs may choose to collect additional data on discipline-specific services, etc., as part of their comprehensive assessment, as long as the same OASIS items, and the same answer choices as appear in the current version of OASIS are incorporated into the agency's own assessment. We have revised § 484.55(e) to provide that the OASIS data items are determined by the Secretary and must be used as they appear, and as set forth in the current version of the OASIS.

Comment: One commenter expressed concern that client/caregiver learning ability is not addressed in OASIS, when

a great deal of HHA's staff time is spent teaching clients.

Response: OASIS is a data set for gathering data that provides valid, reliable information to measure selected home health outcomes. Due to the lack of scientific measures that capture teaching outcomes within the home health context, OASIS does not currently provide outcome data on clients' learning ability, nor is it intended to gather workload data on activities carried out by care givers. We agree that patient education is a frequent service that HHAs provide, and we remain interested in looking at pertinent measures at some point in the future. In the interim, HHAs are at liberty to add these kinds of items to their comprehensive assessment in order to capture those activities.

Comment: Several commenters stated that the OASIS primarily measures outcomes that reflect skilled services, and does not address the broad scope of patients served in home health. The commenter was concerned that OASIS is a work in progress, and questioned the appropriateness of mandating something that is not tested or finished.

Response: We agree that not all OASIS items address the needs of patients receiving supportive services or specialized populations (such as pediatric or maternal-child health), although many of the data items are useful for comparison and to risk adjust outcomes. However, contrary to this commenter's concern, OASIS has been extensively tested in the field for validity, reliability and case mix adjustment for almost a decade. Like any other data set (such as the MDS), the OASIS will evolve to meet changing program needs and to reflect changes in the health care environment and additional experience in program administration.

We share the industry's interest in the adoption of a useful and appropriate instrument with as little disruption to existing HHAs operations as possible. We also share the industry's interest in minimizing unnecessary paperwork and record keeping burdens, while at the same time, ensuring quality of care for beneficiaries. Paperwork and record keeping requirements must be cost effectively integrated into HCFA's survey and enforcement processes (both from the balanced perspectives of the public and private sectors), and must maximize available information technologies. In particular, we may reevaluate OASIS data and reporting needs for patient reassessments.

Comment: One commenter was concerned that in the future, HCFA may wish to require the use of OASIS data for persons served in their new Medicaid Managed Long Term Care plan.

Response: The requirements at § 484.55 apply to HHAs that participate in the Medicare and Medicaid programs, and the patients served by that HHA. Requirements for Medicaid home and community-based waiver programs vary from State to State, and are addressed by the individual State.

Comment: A few commenters stated that the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Community Health Accreditation Program (CHAP) data collection requirements should be considered, coordinated and approved by HCFA, which will minimize the data collection burden on HHAs. Commenters further stated that the relationship between JCAHO, CHAP and HCFA needs to be coordinated at the Federal level to ensure that data requirements are not duplicative, particularly since the goals of JCAHO, CHAP and HCFA are to foster and support a data driven quality assessment and performance improvement program in the home health care industry.

Response: HCFA has approved the deemed status option for use by HHA accreditation organizations (JCAHO and CHAP). This deemed status program ensures close coordination between HCFA and the HHA accrediting bodies. Once OASIS requirements become final, JCAHO and CHAP must adopt equivalent requirements for those HHAs that are accredited and certified in the Medicare program. In fact, JCAHO's ORYX measures, which have been approved by HCFA, contain the OASIS data set. CHAP has also incorporated OASIS into their accreditation program. In fact, in order for an accreditation organization to be granted deeming authority, its requirements must be comparable to those of HCFA. Therefore, there is no duplication of information.

Comment: One commenter suggested that Medicaid-eligible individuals' State/Medicaid ID number should be collected to allow analysis of data on dual eligible beneficiaries.

Response: The OASIS has a field that contains a patient ID number that is unique to the patient. HCFA requires OASIS data to be encoded and reported by the HHA, as provided in a separate rule in today's **Federal Register**, Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA–3006–IFC). In the interim, this rule does not preclude HHAs and States from using Medicaid ID numbers to identify the patient.

Comment: One commenter requested that we clarify what is meant by the ''current'' version of OASIS. The commenter asked if we were referring to the OASIS–A, OASIS–B, or OASIS+.

Response: As stated in the preamble to the proposed regulation, we urge HHAs currently using various versions of the OASIS, including ''partial'' versions, to focus on the version of the OASIS published in the March 10, 1997 proposed rule. While the content of OASIS has not changed, there may be a few changes in coding and identifier items as a result of the OASIS reporting system. The version of OASIS approved by the Secretary and for which we are seeking OMB approval is available on HCFA's website on the Internet for HHAs to download at http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm. As an alternative to Internet access, which is the most efficient method of obtaining the current version of the OASIS, agencies may contact their State agency or HCFA regional office home health representatives to request a paper copy of the data set for review. The current version of OASIS is a proposed information collection requirement pending OMB approval. We have summarized the Paperwork Reduction Act process below and have described the timeframes associated with that process.

We note that some HHAs participating in research and demonstration projects may be using other data collection data sets, which have been approved by the Secretary. HHAs in research and demonstration projects may be exempt from the requirement to use the OASIS as part of the comprehensive assessment process for the duration of the project. We intend to make these determinations on a case-by-case basis, depending on several factors including, the nature of the demonstration project, the data set used, payment implications for the HHA, quality concerns, and burden issues.

Comment: Several commenters questioned the collection of OASIS data for various types of patients. Some commenters recommended that the comprehensive assessment be collected only on patients who were medically unstable or require therapeutic treatment. Others suggested that HHAs not be required to collect OASIS information for patients receiving services for brief periods of time (with suggestions ranging from two to eight days), for limited services (such as dressing changes), for infrequent visits

(less frequently than every two weeks) and for long term patients. Commenters stated that the financial burden to the HHA outweighs the benefits of the data collected for these types of patients.

Response: We disagree. It is important that OASIS data be collected on the entire spectrum of patients seen by the HHA (stable and unstable, short-term and long-term, minimal services and extensive services, frequent visits and infrequent visits). Eliminating an entire subset of patients served by the HHA would harm the quality of care and services to beneficiaries, and skew the case mix adjuster system which could potentially result in undesirable payment incentives. In addition, we would expect HHAs to be interested in evaluating the quality, efficacy and efficiency of care delivered to all their patients.

Comment: Several commenters recommended that consideration be given to the type of patients for whom the OASIS is appropriate. Commenters stated that the proposed conditions recognize that the OASIS data set is not applicable to all populations served by the HHA (for 53 example, pediatric and maternal/child), and all services such as non-personal care, and educational services. Commenters suggested that we specify for whom OASIS data must be collected.

Response: OASIS data will be used for two purposes. Specifically, the data will be used as outcome measures to evaluate HHA quality of care, and to provide data for a case mix adjustment and grouping for the home health prospective payment system. When collection of the OASIS information was proposed, we required the data to be collected for those populations that were appropriate for outcome measurement. Therefore, in the preamble of the OASIS proposed rule, we discussed OASIS data collection for all patients except prepartum and postpartum patients, pediatric patients, and patients who are not receiving personal care or health services (that is, patients who are receiving only services such as housecleaning, cooking, or laundry). We did not exempt patients receiving educational services from OASIS collection, as patient teaching is a skilled service and patient education can affect outcomes of care such as medication management, pain management, or equipment management.

As a result of the BBA and the utility of OASIS as a case mix adjuster, OASIS must be collected on most patients, including public and private pay patients, *except* prepartum and postpartum patients, patients under age 18, and patients who are not receiving personal care or health services (that is, patients who are receiving only services such as cooking, housecleaning, or laundry services). Additionally, HHAs must collect OASIS data on both public and private pay patients because section 1891(b) of the Act requires the Secretary to assure that the COPs and other requirements are adequate to protect all individuals under the care of the HHA. As we gain experience with OASIS, we will consider adjusting the patient populations and/or data items collected, consistent with our statutory mandate.

Comment: One commenter had concerns regarding terminally ill patients for whom a decline in status (a poor outcome) is expected, and whether the HHA will be penalized because the outcomes show a decline over the course of care.

Response: For terminally ill patients, death is an expected outcome; thus, conclusions about the quality of care for a patient cannot be made solely on the basis of whether or not the patient improved. The OASIS collects information on the patient's prognosis regarding recovery from illness, functional status improvement and life expectancy, and outcome measures are adjusted to accommodate these patient characteristics. Thus, HHAs that care for a large number of patients with poor prognoses are not placed at a disadvantage when their performance is compared to another HHA that serves a healthier population. This process of adjusting for differences in patient characteristics (case mix adjustment) is an important aspect of the OASIS and is also an important function in a prospective payment system.

Comment: One commenter stated that it would be helpful to know what outcomes HCFA will want reported in the next set of rules, stating that it seems a waste of time for everyone to set a data reporting system, when HCFA may mandate electronic submission of the data. Another commenter expressed concern that there is no approved software for the OASIS data.

Response: As discussed above, as a result of the statutory requirement that we develop a prospective payment system for home health agencies, we expect that HHAs will begin reporting OASIS data to HCFA in the very near future, as specified in the interim final rule published separately in today's **Federal Register**. That regulation and subsequent implementing manuals will outline the hardware and software requirements for the transmission of OASIS data. Therefore, HHAs will be aware of the OASIS reporting requirements as they integrate OASIS data collection into the work of the HHA.

Comment: Two commenters expressed concern about patient privacy issues. One commenter stated that OASIS contains personal information that patients may be reluctant to provide. Another commenter expressed concern about the confidentiality of OASIS data being used for benchmarking among HHAs nationally. The commenter especially objected to the information being shared with managed care organizations.

Response: We expect HHAs to protect the confidentiality of patient-specific OASIS information in accordance with Federal and State privacy requirements, just as they would any other part of the patient record. The condition concerning patient rights at § 484.10 provides that the patient has the right to confidentiality of the clinical record. In addition, the condition concerning clinical records at § 484.48 requires HHAs to protect the clinical record against loss or unauthorized use. Health professionals and HHAs have always had access to personal information that is necessary to provide patient care, and we expect the HHA to vigorously address confidentiality concerns in compliance with State and Federal laws.

The OASIS data set contains assessment data that is normally collected by the HHA in the course of delivering services. Disclosure of this data must comport with both Federal and State privacy protections.

Comment: One commenter stated that there is a need for HHAs to track outcome data. Several commenters stated that OASIS appears well conceived, and expressed support for the creation of a national database for outcomes measurement and benchmarking.

Response: We appreciate support for our efforts to improve outcomes of care in home health. As stated previously in this preamble, and as a result of the BBA, we will develop the database supported by the commenters.

III. Provisions of the Final Rule

We are adopting the provisions of the HHA COPs proposed rule related to comprehensive assessment and the provisions of the OASIS proposed rule, with the following revisions:

Section 484.18

- We revised paragraph (c) by removing the last sentence of the paragraph, which relates to review of the patient's medication.

Section 484.55, Reorganization

• To clarify the condition, we have rearranged the order of the standards in § 484.55 as follows: § 484.55(a) Initial assessment visit; § 484.55(b) Completion of the comprehensive assessment; § 484.55 Drug regimen review; § 484.55(d) Update of the comprehensive assessment; and § 484.55(e) Incorporation of the OASIS data set.

Section 484.55, Introductory text

• We revised the introductory text to require that the comprehensive assessment must accurately reflect the patient's current health status; and, for Medicare patients, the home health agency must verify the patient's eligibility for the Medicare home health benefit, including homebound status at the time of the initial evaluation visit, and at the time of the completion of the comprehensive assessment.

• We have also incorporated into the introductory text language from paragraph (d), which requires that the comprehensive assessment include information regarding the patient's progress toward desired outcomes.

Section 484.55(a) (Proposed § 484.55(b))

• In response to public comments, we revised paragraph (a)(1) to provide that the initial assessment visit must occur either within 48 hours of referral, or within 48 hours of the patient's return home, or on the start of care date ordered by the physician.

• We added, at paragraph (a)(1), the requirement that for Medicare patients, the initial assessment visit must include a determination of the patient's eligibility for the home health benefit, including homebound status.

• We removed the proposed requirement at paragraph (a)(1) that the initial assessment visit must be performed based on physician's orders.

• We revised paragraph (a)(2) to clarify that when rehabilitation therapy service (speech language pathology, physical therapy, or occupational therapy) is the only service ordered by the physician, and if the need for that service establishes program eligibility, the initial assessment visit may be made by the appropriate rehabilitation skilled professional.

Section 484.55(b) (Proposed § 484.55(c))

• We revised the title of the standard to read ''Completion of the Comprehensive Assessment''.

• We revised paragraph (b)(1) to provide that the comprehensive assessment must be completed no later than 5 calendar days after the start of care date.

• We added a new paragraph, (b)(2), to provide that a registered nurse must complete the comprehensive assessment, and for Medicare patients determine eligibility for the Medicare home health benefit.

• We added a new paragraph (b)(3) to provide that when physical therapy or speech language pathology is the only service ordered by the physician, the physical therapist or speech language pathologist may complete the comprehensive assessment and that occupational therapists may complete the assessment when the need for occupational therapy establishes program eligibility.

Section 484.55(c) (Proposed § 484.55(a))

We revised this paragraph by removing the term ''drug regimen review'' and providing that a comprehensive assessment must include a review of all medications the patient is using at the time of the assessment.

Section 484.55(d) (Same Paragraph Designation as Proposed)

• For the purpose of clarity, we made editorial changes to this paragraph. Specifically, we incorporated language previously located in paragraph (d) into the introductory text of § 485.55 and we removed language from paragraph (d)(1) and included it in the introductory text for paragraph (d).

• We have revised the introductory text of paragraph (d) to clarify that all updates and revisions of the comprehensive assessment include administration of the OASIS, as frequently as the patient's condition warrants, due to a major decline or improvement in the patient's health status.

• We revised paragraph (d)(1) to provide that the HHA must update the comprehensive assessment every second calendar month beginning with the start of care date.

• We removed the proposed requirement at paragraph (d)(2) that the comprehensive assessment must be updated when the care plan is revised for physician review.

• We redesignated proposed paragraph (d)(3) as (d)(2) and proposed paragraph (d)(4) as (d)(3).

• We revised redesignated paragraph (d)(2) to provide that the comprehensive assessment must be completed within 48 hours of the patient's return home from a hospital admission of 24 hours or more for any reason other than diagnostic tests.

Section 484.55(e) (Same Paragraph Designation as Proposed)

• We revised this paragraph to provide that the OASIS data items determined by the Secretary must be incorporated into the HHA's own assessment and must include: clinical record items, demographics and patient history, living arrangements, supportive assistance, sensory status, integumentary status, respiratory status, elimination status, neuro/emotional/behavioral status, activities of daily living, medications, equipment management, emergent care, and data items collected at inpatient facility admission or discharge only.

IV. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 through 612) unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, States and individuals are not considered small entities. HHAs, on the other hand, are considered small entities for the purposes of the RFA. Consequently, we are including a statement of impact on the effect that this final rule will have on HHAs. Also, we have discussed associated costs in detail in the Collection of Information Requirements section of this preamble. The impact associated with reporting of OASIS data will be in a separate rule in today's **Federal Register**.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operation of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is outside of a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural impact statement since we have determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

We also have examined the impacts of this final rule as required by section 202 of the Unfunded Mandates Reform Act. Section 202 of the Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for

inflation). As discussed in detail in this preamble, we estimate that the amount of the unfunded mandate associated with this final rule will result in an annual expenditure of less than $100 million to these governmental and private sectors. Therefore, we believe the law does not apply.

In this final rule, under § 484.55, we are requiring HHAs to use the core assessment data set, the ''Outcome and Assessment Information Set'' (OASIS) as part of the agency's comprehensive assessment; specific timeframes for the initial assessment; completion of the assessment; and, interim updates to the patient assessment. We believe that these requirements, though process-oriented, are predictive of good patient care and safety, as well as necessary to prevent harm to the patient. Our rationale for these timeframes is that by definition, a new patient who is referred to a home health agency for initiation of services is at a point of immediate and serious need. Likewise, as the complexity of the care needs of patients increase, so does the need for comprehensive assessment of the patient. The importance of the development and implementation of an effective care plan becomes paramount.

We believe that the timeframe requirements pose little or no additional burden on the HHA since assessments at these intervals would in all likelihood be performed in the absence of regulations. However, the timeframes serve as a strong performance expectation for HHAs that may not have adequate resources. If too many patient referrals occur together, effective service delivery to some patients could be delayed by the HHA's inability to see the patient quickly and to complete the needed comprehensive assessment. Thus, if an HHA recognizes that its workload renders it incapable of assessing a patient upon referral, the HHA must contact the patient's physician to arrange an appropriate start of care date or to determine if the patient requires immediate service.

In the March 10, 1997 proposed rule, we solicited comments on whether the specific timeframe requirements in § 484.55 are reasonable and consistent with current medical practice, and whether the timeframes should be used as benchmarks to ensure the timeliness of the assessment components, and to protect patient health and safety. In this final rule, we have addressed comments regarding timeframes in section V.A. of this preamble.

The existing COPs contain several requirements that address the need for patient assessment, including most notably an extensive, detailed list of items that are required to be covered in a plan of care, such as pertinent diagnoses, mental status, and functional limitations. (See § 484.18(a).) In this final rule, we emphasize the importance of the comprehensive assessment by establishing ''Comprehensive assessment of patients'' as a separate COP. We have specified the desired outcome of the assessment (that is, the identification of a patient's care needs). We have required the use of a specific assessment data set (OASIS) and we are allowing HHAs the flexibility to determine how best to meet patients' care needs. We believe that most HHAs now perform a comprehensive assessment for most of their patients as a current accepted practice. We need to balance the possible short-term increase in costs or other administrative burden, if any, on the HHA with the long-term fundamental positive effect on patient health resulting from an organized and timely comprehensive assessment.

We anticipate that HHAs will incur some costs associated with the implementation of this final rule. It is unknown at this time exactly how many HHAs will receive an adjustment to the per visit limits associated with these costs, which was announced in a **Federal Register** notice on August 11, 1998. Only HHAs that have not already reached the per beneficiary limits will benefit from these adjustments through the HHA interim payment system. We estimate that approximately 70% of HHAs will not receive an adjustment for the costs associated with implementing this final rule. Because these HHAs have reached their per beneficiary limits, they will not be reimbursed by Medicare for the costs associated with OASIS collection start up activities. Those HHAs still below these limits will be reimbursed by Medicare. However, we also expect that the HHAs that will not be reimbursed by Medicare will, to varying degrees, be reimbursed by a combination of the Medicaid program, private insurers and beneficiaries. A table projecting the costs to HHAs for the implementation of the use of the OASIS is included at section V.C.3. of this preamble. These costs are based on the assumption that implementation will be in fiscal years 1999 and 2000.

On August 11, 1998, we published in the **Federal Register** a notice with comment period that set forth the per visit and per beneficiary limitations for HHA costs (63 FR 42912). That notice included an OASIS offset adjustment factor to the per visit limitation to address these costs. In that notice, we asked for specific comments, including data, that would impact future decision making on HHA cost limitations. While, in the March 7, 1997 proposed rule, we indicated implementation in 1998 and an estimated start-up cost for 5 years, we now realize that implementation of the final rule will occur in fiscal years 1999 and 2000, and that the start-up costs associated with implementation of this final rule will be incurred by HHAs in existence, and participating in HCFA programs as of the effective date of the rule. Therefore, HHAs that are certified after the effective date of this final rule will not have established patient assessment protocols requiring change to meet the HCFA requirements. Accordingly, these HHAs will not have the corresponding start-up costs associated with a change of protocols. (See table 1 in section V.C. of this preamble.) We strongly believe that the benefits associated with the use of OASIS data will far outweigh its costs.

As discussed above, OASIS data will improve the delivery of quality care in the nation's HHAs in several ways. HHAs will find the information helpful in organizing care planning, and the increased specificity in patient assessment will assist agency staff to uniquely tailor a treatment plan to each individual patient. Also, this data will become an integral factor in the development of case mix adjusters for a home health agency prospective payment system, as authorized by sections 4602 and 4603 of BBA '97.

The Balanced Budget Act of 1997 requires HCFA to develop a prospective payment system (PPS) for home health. A prospective payment system pays providers based on the predicted costs of care, giving providers the incentive to provide care efficiently. In the home health PPS, beneficiaries will be classified into case mix groupings based on their predicted resource use, with each group having a specific payment rate.

In developing a sound classification system, HCFA must account for the factors that would influence the beneficiary's use of services. In the case of the hospital prospective payment system, this was done using Medicare claims data linked to diagnosis data. Because the majority of inpatient services are attributed to the medical diagnosis, Medicare claims provide enough information to classify patients for hospital payments.

Post-acute care services such as home health and skilled nursing facility services are influenced in part by the medical diagnosis. However, other factors have a strong influence in the use of post-acute care, such as the severity of illness and functional abilities. Therefore, a more comprehensive data source is needed

for proper patient classification. Because Medicare claims provide information only about diagnosis, age, gender, and race, a claims-based grouping would not adequately classify beneficiaries into payment groups.

The first attempt to design a prospective payment system for post-acute services was the case of skilled nursing facilities. Under this payment system, HCFA has used data from both claims and the Minimum Data Set (MDS) to classify patients into payment groups. Similarly, HCFA plans to use OASIS data in addition to claims data to construct the home health PPS. A classification system that takes into account severity of illness as well as functional abilities will help to ensure adequate payment for high-cost beneficiaries. If HCFA does not use OASIS data to identify case mix groups, then, on average, prospective payment amounts could be too low for beneficiaries who need assistance with many activities of daily living and too high for beneficiaries who need less assistance.

The Balanced Budget Act of 1997 also requires the amounts paid for each case mix group under PPS to be based on a standardized payment rate. HCFA is designing the case-mix classification system based on OASIS and claims data from a stratified sample of 90 HHAs. Standardization requires removing the effect of case mix from past payment levels for these 90 HHAs and from national payment levels. This helps to ensure that if case mix changes over time, or if resource use varies from region to region, payments in the PPS are adjusted accordingly. This process requires the same information that is used to classify patients into payment groups. Therefore, we must collect OASIS data from HHAs before HCFA can set standardized payment rates for a PPS.

The OASIS instrument has been in development for the past ten years. A large number of home health agencies have participated in its development and testing. The instrument has demonstrated its validity and reliability as an assessment and outcome measurement tool. In addition to its use as the basis for PPS, OASIS will assist agencies in improving their performance through outcomes-based assessment. The quality component of OASIS is crucial to ensuring that beneficiaries receive needed services under the home health PPS.

On a more global scale, once data from the OASIS are available in the form of standardized outcome reports, consumers, purchasers, providers, and HCFA will be able to use the information to evaluate quality of care across the full spectrum of HHAs. The home health industry can use the data for comparative performance assessment. HCFA and State survey agencies will be able to use the data on a continuous basis to identify providers that are not performing as well as others. This use will allow us to further progress in our efforts to develop a more efficient and targeted survey approach.

The impact of these final regulations will vary from HHA to HHA depending upon an HHA's current assessment process. The additional impact on HHA workload centers around collection of information and paperwork burden. There are no other requirements in this final rule that will impact HHAs. As discussed in detail and illustrated in the tables in section V.C. of this preamble, implementation requirements of § 484.55, will not have a significant overall effect on the economy.

Section 804(2) of Title 5, United States Code (as added by section 251 of Pub. L. 104–121), specifies that a ''major rule'' is any rule that OMB finds is likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic export markets.

Our estimation of the impact of this final rule does not meet the above definition of a major rule in Title 5, United States Code, section 804(2). Therefore it will not be forwarded to Congress for a 60-day review period.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are submitting to OMB the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. This is to ensure the timely availability and reporting of data as necessary for the development of a reliable case mix adjuster that is required by section 4603(a) of BBA '97 for the establishment of a prospective payment system for home health services in compliance with sections 4602 and 4603 of BBA '97. We cannot reasonably comply with normal clearance procedures because public harm is likely to result if the agency does not enforce the inclusion of OASIS elements into an HHA's comprehensive assessment requirement early enough to permit training and to enable HCFA to collect reliable OASIS data for the period beginning on January 1, 1999. This timeframe is necessary because a key aspect of creating a prospective payment rate system based on agency cost experience is the need to ''standardize'' the rates. The overall objective of standardization is to ensure that when the standardized payment rate for an episode of care is adjusted by the case-mix and the wage index, the results are consistent with the costs in the data base used to construct the prospective payment amounts. That is, when the average standardized payment rates are multiplied by the appropriate wage and case mix adjustment factors, and summed for all relevant episodes, the sum is equal to the total costs in the original data base. We know of no reliable way to accomplish this result except by using data from existing agencies. Because the payment system must be implemented, we will need to begin receiving the OASIS data to be used for standardizing the payment amounts as soon as possible.

The immediate publication of rules requiring the collection and reporting of OASIS data and OMB approval of these requirements pursuant to the Paperwork

Reduction Act of 1995 are essential because these data are required for the development of the home health prospective payment system, required by the BBA, in October of 2000. As stated earlier in this preamble, the process of rate development must take place in the early spring of 1999 for incorporation in a proposed rule. The home health prospective payment system proposed rule must be published by the fall of 1999 to allow for necessary comments and revisions prior to the publication of a final rule in the summer of 2000. Given the lag time between the publication of the OASIS rules and the receipt of viable national data by HCFA, we are already at the point where only two months of national data will be potentially available for use in the proposed rule and less than a year of data for the final rule. Further delays would reduce the amount of national data available for prospective payment rate development and thus seriously undermine the project plan aimed at implementation of the prospective payment system on October 1, 2000.

This notice explicitly seeks OMB reapproval, with revisions, of HCFA–R–39 (OMB # 0938–0365), ''Home Health Medicare Conditions of Participation Information Collection Requirements as Outlined in Regulation 42 CFR 484'', with a current expiration date of 11/30/2000. It should be noted that this revision includes the OASIS protocol that was proposed in HSQ–238–P, ''Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies'' (62 FR 11035). We are not only asking for approval of OASIS but also reapproval of the existing conditions of participation.

The version of OASIS approved by the Secretary and for which we are seeking OMB approval is available on HCFA's website on the Internet for HHAs to download at http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm. As an alternative to Internet access, which is the most efficient method of obtaining the current version of the OASIS, agencies may contact their State agency or HCFA regional office home health representatives to request a paper copy of the data set for review. Any future changes to OASIS will be submitted to OMB to review pursuant to the Paperwork Reduction Act of 1995, will be available on the HCFA website, and, when approved by OMB, available in hard copy from the National Technical Information Service (NTIS) at (703) 487–4650.

We are requesting OMB review and approval of these collection requirements within 16 working days from the date of publication of this regulation, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the addressees referenced in section V.A. of this preamble, within 15 working days from the date of publication of this regulation.

During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

A. Responses to Public Comments on Collection of Information Requirements

Comment: Commenters suggested that the proposed requirement at § 484.55(d)(2) to update comprehensive assessment forms on patients each time the plan of care is revised, would be unnecessary, burdensome, and costly.

Response: HCFA specified in the proposed regulation at § 484.55(d)(2) that the comprehensive assessment must be updated whenever the plan of care is revised for physician review. However, after further consideration, we agree with the commenter that the requirement to update comprehensive assessment forms each time the plan of care is revised, at proposed § 484.55(d)(2), is unnecessary and accordingly, we have not included the requirement in this final rule.

Comment: Some commenters suggested that OASIS data collection requirements are excessive, both in terms of the number of items and the frequency that the assessment must be performed. Commenters stated that this could result in increased visits, particularly for rural public health agencies.

Response: Findings from the Medicare OASIS demonstration indicate that, after completion of the learning curve, this data collection requirement does not impose ongoing burden on HHAs. Currently, it is common practice for agencies to conduct ongoing assessments of patients. While the frequency of ongoing patient assessment is based on the needs of the individual patient, completion of the OASIS items, which may be only part of the assessment, must be done at standardized time points for comparable data and for the development of case mix adjusters for use in the creation of prospective payment rates. We also disagree that the data collection requirements will increase visits. We have specified timeframes for assessment that are intended to provide the HHA flexibility, and to diminish burden.

Comment: Several commenters stated concerns regarding increased paperwork burden and the associated cost of producing new forms to include the OASIS items.

Response: We acknowledge that developing and reproducing new forms that incorporate the OASIS into an HHA's own comprehensive assessment may create start-up costs for the HHA. Medicare OASIS demonstration data indicates that an agency may incur costs of approximately $280 to revise the start of care, assessment updates, and discharge forms. (See table 2 below.) Therefore, in our start-up cost estimates, we have now included a one time printing cost of $280 for the first year.

Comment: One commenter suggested that we have underestimated the time for the learning curve as it relates to the OASIS. The commenter stated that the HHA staff will not be proficient in using the OASIS data after only 5 uses as estimated in the proposed rule.

Response: We recognize that learning curves may vary from HHA to HHA, and person to person, and that some agencies may take longer than our estimates to become familiar with the OASIS. Therefore, we have adjusted our estimate of the number of uses required for the staff to become proficient with OASIS to eight uses. Findings from the Medicare OASIS demonstration indicate that use of the OASIS initially adds approximately 15 minutes per person more than the time taken for an HHA's existing assessment protocol. Then, rather than project a time savings after the first 8 uses, as some research seems to suggest, we have estimated neither a gain nor loss to the completion time.

Comment: Several commenters suggested that 2.5 minutes is an underestimation of the additional time necessary, above the HHA's routine patient assessment, for completion of the OASIS. Other commenters recommended that HCFA's estimate of an additional 2.5 minutes to complete OASIS items should be increased to 3 minutes.

Response: We believe that our original estimate of 2.5 additional minutes required to complete a comprehensive assessment that includes the OASIS is inaccurate. We have heard from agencies that participated in the OASIS demonstration about a time savings of 1 minute per assessment. The ease with which OASIS items can be assimilated into a comprehensive assessment process is apparent because all of the OASIS items are typically included in any effective, relevant comprehensive assessment of a patient.

Our analysis of data indicates that after the initial learning curve, ongoing OASIS data collection poses no additional burden above the routine patient assessment. In fact, agencies that participated in the Medicare OASIS demonstration required one minute less overall for completion of the patient assessment that included the OASIS than HHAs that did not use OASIS-incorporated assessments. However, as stated above, for the purpose of estimating burden on the provider community, we have not factored in the time savings mentioned above.

Comment: Several commenters requested that HCFA guarantee the availability of OASIS software prior to implementation of the requirements for the use of OASIS as part of the Medicare conditions of participation for home health agencies.

Response: The required OASIS form is available on our website at the following address: http://www.hcfa.gov/medicare/hsqb/oasis/oasishmp.htm. HHAs may access the HCFA website and download the required OASIS for each data collection time point. For example, data sets are available for start of care, resumption of care following an inpatient facility stay, follow-up, discharge (not to an inpatient facility), transfer to inpatient facility (with or without agency discharge), and death at home. In addition, HCFA will provide software on its website that can be downloaded and used to collect and report OASIS data. This software, the Home Assessment Validation Entry (HAVEN), will include the data specifications, data dictionaries, OASIS, a user's manual for the OASIS, the HAVEN manual, and the HHA submission manual. Other educational materials for the HHA will also be posted on the HCFA website. This medium was chosen, and will be supported by HCFA to provide for direct access by HHAs, State agencies, software vendors, professional organizations, and other consumers. We encourage vendors and agencies to regularly review the website for information related to the computerization of OASIS and other HCFA-related home health issues. We will continue to promote processes for assuring accuracy in the software that we anticipate will evolve over time.

Comment: Many commenters agreed that the OASIS items are similar to those that most agencies assess for their patients and should impose a minimal burden once they have been successfully incorporated into an HHA's assessment process. However, commenters stated that HCFA underestimated the time necessary to integrate OASIS into existing assessment forms.

Response: We agree that OASIS items are similar to those that most agencies use for their patients and that the OASIS should impose only a minimal burden once successfully incorporated into the assessment process. We stated in the proposed regulation that for each HHA a clerical employee would take 16 hours to integrate the form. Ongoing research indicates that revising assessment forms to incorporate the OASIS items will require 12 hours of clinician expertise and involvement, and 4 hours of clerical assistance (for a total of 16 hours). Therefore, we have revised the estimates accordingly. Further discussion on the reassessment of the start-up requirements, along with corresponding revisions to the summary tables, are below in section V.C. of this preamble.

Various firms have developed an integrated clinical record (that is, OASIS items integrated with other items necessary for good clinical assessments) available for purchase. Based on an observation of the Medicare OASIS demonstration, approximately one half to two-thirds of agencies will purchase forms (to use ''as is'' or with minor modifications). Since an agency will have the option of purchasing integrated forms, or developing its own forms, we believe that the burden for the average agency to integrate the OASIS into its existing assessment forms will be less than the 16 hours we have estimated for inclusion of OASIS elements into assessment forms.

Comment: Many commenters expressed concern that HCFA substantially underestimated the time and cost required to train agency staff on implementing OASIS. Commenters also stated that the proposed rule referred to training only full time staff, did not consider the training of part-time or contracted staff, nor did it consider the cost of staff turnover.

Response: After careful consideration, we have re-estimated the time and cost involved in training agency staff on the implementation of OASIS. Based on additional information we received from the Medicare OASIS demonstration, we have determined that training for OASIS data collection is necessary for two categories of HHA employee, an agency coordinator and the clinical staff. We estimate that the agency coordinator, specified as the individual who conducts training or clinical supervision for clinical staff, will need to read the OASIS manual (4 hours) and attend an 8-hour training session (for a total of 12 hours to train the coordinator). We also estimate that each clinical staff member in the agency will require an average of 3 hours of training, to include practice and retraining, if indicated. Additionally, we expect that training on data collection in general, data collection for follow-up assessments, and data auditing will be included within the 3 hours of staff training. In light of the Medicare demonstration, we have also re-estimated the total number of training hours stated in the March 10, 1997 proposed rule for the clinical staff to 3 hours (3 hours per clinical staff member). The estimated average training costs for each HHA have been increased to $1659 (that is, $144 more than the estimate of $1515 in the proposed rule). Training for part-time and contracted staff was considered; however, we calculate amounts for staff as full-time equivalents which encompasses HHAs' flexible staffing practices. Training costs associated with staff turnover should be considered part of an agency's normal operating costs.

Comment: Several commenters stated that in the proposed rule, HCFA did not accurately address the burden as it applies to the cost of developing the necessary educational programs, or the costs associated with preparing training materials.

Response: As part of the ongoing operating costs, an agency that wants to develop training and educational programs is free to do so. However, we have not developed cost estimates for additional training because individual agency training policies and needs vary to such a great degree.

Comment: Several commenters stated that the proposed rule provided no transition time for incorporation of OASIS into an agency's comprehensive patient assessment, or to develop related policies and procedures.

Response: Although HCFA did not specify an exact transition period, as discussed above in this preamble, requirements for a comprehensive assessment as a COP for HHAs and for the incorporation of OASIS into an HHA's patient assessment were published in the March 10, 1997 **Federal Register** in separate proposed rules. This final rule will become effective 30 days after the date of publication in the **Federal Register**.

Comment: A few commenters indicated that the timeframes for implementation will be cost prohibitive. Commenters also stated, that HCFA's estimated national HHA cost of $50 million dollars, although reimbursable, suggests a waste of taxpayer money and would unnecessarily raise the cost of health care.

Response: Fifty million dollars is a misstatement of what we estimated in the March 10, 1997 proposed rule. Our

final estimates of start-up costs indicate that HHA costs will decrease with the implementation of OASIS. As stated above, in the August 11, 1998 notice, we included an OASIS offset adjustment factor to the per visit limitation to address the costs. In that notice, we solicited specific comments, including data, that would impact future decision making on this issue. We believe the benefits of using the OASIS far outweigh the burden since the OASIS will promote standardization of information on patients. We believe that an HHA can integrate a core standard assessment data set (OASIS) into its own more comprehensive assessment system, then use that data set as the foundation for valid and reliable information for patient assessment, care planning, and service delivery. Also, we are using the OASIS data set to comply with section 1891(d)(1) of the Act, which gives the Secretary the authority to designate an assessment instrument for use by HHAs. As discussed above, OASIS data will support the BBA '97 requirement that mandates the implementation of a prospective payment system for HHAs. Therefore, we need OASIS data to develop case mix adjusters for standardizing HHA prospective payment amounts. To this end, we believe the prospective payment system will save taxpayer dollars.

Comment: Commenters suggested that use of the HCFA–485 form in conjunction with the OASIS is duplicative. They questioned whether information from the HCFA–485 will be sent to HCFA for use in the OASIS data base, whether the HCFA–485 form will be changed to a standardized format to make the information more useful to HHAs, or whether the HCFA–485 form will be discontinued.

Response: The HCFA–485 form and the OASIS are designed to serve two different purposes. The HCFA–485 is the plan of care form developed for payment purposes. It contains a certification statement that must be signed by the patient's physician, and the HHA must continue to maintain the HCFA–485 in the patient's medical records. The OASIS does not provide for the physician certification needed to authorize payments to HHAs for covered services.

B. Condition of Participation: Comprehensive Assessment of Patients (§ 484.55)—Discussion and Summary

The HHA condition of participation for the comprehensive assessment of patients at § 484.55 requires that each patient receive a comprehensive assessment that incorporates the exact use of the current version of the OASIS as part of the HHA's patient assessment. The OASIS includes only information necessary to measure outcomes of care for quality indicators. Accordingly, our intent is not to develop a complete patient assessment, but rather to identify standardized data elements that fit within the HHA's overall comprehensive assessment responsibilities. Therefore, we require that HHAs use the current version of the OASIS as specified in § 484.55(e). We believe this requirement is necessary to build a valid, reliable, comparable data set of outcomes. As discussed in the proposed rule, and elsewhere in this preamble, the items on the OASIS have undergone rigorous validity and reliability testing so that trained individuals can have confidence in incorporating the data items as part of their comprehensive assessment of patients. As long as the HHA staff conduct assessments accurately and use the measurement criteria specified for each item, in any HHA, the validity and reliability extend to the comparability of the data acquired using the same items to collect information from other patients. Altering the items or using a different data set, destroys the essential validity and comparability of the data collected. HHAs may distribute the OASIS items within the agency's own comprehensive assessment system as long as the items remain within the groupings as they appear in the current version, and as specified by the Secretary.

We intend for the OASIS to become one of the most important tools of the HHA's quality assessment and performance improvement efforts. By integrating a core standard assessment data set into the HHA's own more comprehensive assessment system, HHAs can use the data set as the foundation for valid and reliable information for patient assessment, care planning, and service delivery. Also, HHAs can use the data set to build a strong and effective quality assessment and performance improvement program. We believe, except as discussed below, that these requirements pose little or no burden for well managed HHAs since a comprehensive assessment would in all likelihood be performed in the absence of regulations. However, we acknowledge that the timeframes required by § 484.55 serve as a strong performance expectation for HHAs.

In summary, the information collection requirements in this final rule ensure that HHAs increase the precision of patient assessments and continue to demonstrate whether they meet the conditions of participation in the Medicare and/or Medicaid programs. The frequency of the revised information collection in the Medicare home health conditions of participation remain on an ''as needed'' basis. The affected public continues to be businesses or other for-profit and not-for-profit institutions. Due to changes in the number of certified home health agencies, as of March 1998, the number of respondents has increased to 10,492.

Except for the specific information collection for the OASIS for which we are requesting emergency approval from OMB (as discussed in detail below) we do not anticipate an increase in burden as a result of incorporating § 484.55 Condition of participation: Comprehensive assessment of patients into the HHA conditions of participation. In section V.A. of this preamble, we address public comments on the collection of information requirements of the comprehensive assessment of patients COP combined with comments on the use of the OASIS. However, we are interested in obtaining comments on the changes from the proposed rule regarding the currently approved home health conditions of participation information collection requirements, as referenced in this regulation, and on modifications of the burden discussed in detail in this section and summarized in tables below.

C. OASIS—Discussion and Summary

As discussed in section III. of this preamble, final regulations at § 484.55 will require HHAs to use the OASIS as part of a comprehensive assessment of the patient. In the proposed rule, we stated that the burden from requiring HHAs to collect OASIS data could be divided into the two categories of activities: those activities required for startup, and those required for ongoing data collection. The first burden category of activities that are required for startup include incorporating the OASIS data into an HHA's clinical records, initial adaptation to use of the OASIS, and training agency staff. After the initial startup activities, we stated that the second burden category arose from the ongoing collection of the OASIS data. Based on data obtained from the Medicare demonstration, we have reconsidered our original estimates, in addition to making technical mathematical corrections. While the overall actual burden has not increased from the proposed rule, our reassessment indicates that since OASIS implementation will occur in fiscal years 1999 and 2000, the burden estimate for subsequent years is zero. After the initial startup costs, HHAs will

have become familiar with OASIS, and its use will then be a common business practice for HHAs.

1. Startup Activities: Time and Cost

We expect HHAs to incorporate the OASIS data into their clinical records to minimize the documentation burden by not having to complete different forms with similar questions, and to increase the precision of patient assessments. Once the data items are incorporated into the clinical records, information can easily be collected at start of care and at each follow-up time point (that is, every two calendar months; within 48 hours after the return home from a hospital admission; and at discharge).

• Inclusion of OASIS Elements Into Assessment Forms

The following estimates are based on the experience of HHAs that participated in the development of the home health quality indicators.

We define an average-size HHA as having 18 clinicians and other service practitioners and 486 admissions per year. We estimate that the time required by an average-sized HHA to integrate OASIS into the HHA's assessment forms is approximately 16 hours. This 16 hours includes 8 hours required to revise the initial assessment forms, 4 hours to revise the clinical record forms for follow-up visits, and post hospital admissions. Many items in the discharge follow-up are identical to the follow-up assessment and the assessment within 48 hours after hospital admission, but there are several data elements associated with discharge that will result in an additional 4 hours for revisions of discharge forms. Thus, the total burden for clinical record forms revision is estimated to be 16 hours per agency for integration of OASIS items for all 4 data collection time points. This estimate includes time associated with pilot testing the revised forms and subsequent revisions as necessary.

In the proposed rule, we based our estimates on the assumption that only clerical staff would integrate the OASIS data elements into an HHA's assessment forms. However, research from the Medicare OASIS demonstration indicates that revising forms will require both clinical involvement and clerical assistance. Therefore, we now estimate that the cost for an average-size HHA to revise the clinical records will be $339, based on 12 hours at an hourly rate of $24.05 for clinician time, and 4 hours at an hourly rate of $12.50 for clerical time ((12 hrs. × $24.05/hr.) and (4 hrs. × $12.50/hr.)). The total national hours for revisions of patient assessment forms are now estimated to be 167,872 hours based on 10,492 Medicare certified HHAs as of March 1998 (16 hrs. × 10,492 HHAs), with an associated national cost of $3.6 million ((12 hrs. × $24.05/hr. × 10,492 HHAs) and (4 hrs. × $12.50/hr. × 10,492 HHAs)).

• Printing Forms

The time required to revise clinical records to include OASIS items will vary for each agency, depending on the nature of their current documentation. For example, HHAs that have developed their own forms using word processing software may find it easier to merge or replace items than those agencies without that capability. We stated in the preamble to the proposed rule that most HHAs are accustomed to revising patient assessments periodically, as new assessment protocols become available or as new requirements are implemented by accrediting bodies or regulators. Thus, we did not estimate costs for printing at that time. However, based on the Medicare OASIS demonstration, research data has shown that the need to revise the start of care, assessment updates, and discharge forms may create startup costs. The inclusion of OASIS items may add up to three pages to some of the HHA start of care forms, and may also cause HHAs to revise assessment update and discharge forms. HHAs participating in the demonstration estimated an average of $280 in printing costs. Therefore, we have included an additional one time estimated cost of $280 for the first year to print the following forms:

New patient/start of care:	
500 forms × 3 additional pages × .03/page	$45.00
Follow-up:	
250 forms × 9 total pages × .03/page	67.50
Discharge:	
500 forms × 10 total pages × .03/page	150.00
Stapling Charges	17.50
Total	280.00

HHAs currently print their start of care assessment forms which, prior to the implementation of this rule, have not been required to include OASIS items. The average HHA conducts its comprehensive assessment using forms that may vary in length from HHA to HHA. Based on the Medicare OASIS demonstration, we are aware that in order to comply with HCFA policy, an agency may need to print the start of care forms when OASIS items have been integrated; the revised forms may increase the length of an HHA's assessment form by 3 pages. Therefore, we have estimated the cost to print an additional 3 pages. Once OASIS items are included in an HHA's clinical record forms, we believe the HHA will have only minor subsequent revisions for any future OASIS releases.

• Staff Training

In the proposed rule, we estimated 3.5 hours as the necessary training time per nurse (or other clinical staff within each HHA) for the new OASIS record keeping. We have revised this estimate to 3 hours based on research conducted through the Medicare OASIS demonstration. The 3 hours have been allocated for training on data collection for the initial assessment, data collection for assessment at follow-up, data collection at discharge, and data auditing. In the proposed rule, we provided a breakout of the training hours. However, since training needs may differ from agency to agency, we have not specified within this final rule, a breakout of how the 3 hours of training should be used.

Part of the training described above would include an emphasis on data accuracy to ensure the production of meaningful outcome reports. Other procedures to be used by the agency to monitor data accuracy (including interdisciplinary comparisons and record reviews) require training as they are implemented. Several approaches to data auditing could be explained in 30 minute training sessions. The projected 3 hours of training time for staff is expected to cost an average HHA with 18 clinicians approximately $1,299 (3 hrs. × $24.05/hr. × 18 clinicians). The projected 12 hours of training for the OASIS coordinator is expected to cost $360 per HHA (12 hrs. × $30.00/hr. × 1 coordinator). These estimates are based on an average hourly rate of $24.05 for the clinical staff and of $30.00 for the

OASIS Coordinator. The total national training burden is estimated to be 692,472 hours ((3 hrs. × 18 staff) and (12 hrs. × 1 coordinator) × 10,492) across all certified HHAs, at a cost of $17.4 million ((3 hrs. × $24.05/hr. × 18 clinicians) and (12 hrs. × $30.00/hr. × 1 coordinator) × 10,492 HHAs).

Once HHA staff are familiar with the OASIS items, OASIS data collection does not impose a burden above the current patient assessments. OASIS data are collected using a combination of staff observation and patient/care giver interviews. Initially, the OASIS data collection may take additional time until the HHA clinicians become familiar with the precision and format of the items. Estimates from providers using clinical records with integrated OASIS items on the ''learning curve'' indicate that the use of the OASIS initially adds approximately 15 minutes to the start of care assessment. However, as discussed above, after using the OASIS approximately 8 times, the additional time required to complete a comprehensive assessment that incorporates the OASIS into an HHA's existing patient assessment is eliminated. Thus, the total learning curve (of 8 uses until familiar with OASIS) for an average HHA is estimated to be 36 hours (8 uses × .25 hr. × 18 clinicians), at a cost of about $866 per HHA, based on an average hourly rate of $24.05 per clinical staff for 18 clinicians (36 hrs. × $24.05/hr.).

2. Data Collection

Most items included in the OASIS require information that the majority of HHAs currently gather during patient assessments. However, the OASIS employs a more precise scale. For instance, most HHAs assess a patient's ability to bathe in the course of an assessment, but use only three levels (independent, needs moderate assistance, or dependent). The OASIS item for bathing requires that the clinician assesses each patient's bathing ability on a more precise six-level scale.

In order to measure outcomes, OASIS data are collected at uniformly defined time points (start of care, every two calendar months, and within 48 hours after return to home from a hospital admission for any reason except diagnostic testing). Some data items are unique to only one point in time (for example, selected items are collected only at patient discharge), while other data are collected at every time point. By collecting data using uniform data items and time points, specific information on individual patients is comparable and can be aggregated to produce agency-level outcome reports that permit comparisons between different groups of patients.

Since the proposed rule was published in the **Federal Register** on March 10, 1997, we have collected data from the Medicare OASIS demonstration that prompts us to revise our previous estimate of ongoing costs for initial care, follow-ups, post hospital admissions, and discharges. The data indicates that after the initial learning curve, OASIS data collection on an ongoing basis poses no additional burden above an HHA's routine patient assessment. Instead, agencies that participated in the University of Colorado's OASIS Time Survey and that completed comprehensive assessments incorporating the OASIS required one minute less overall for completion of the assessment than did the agencies that completed comprehensive assessments that did not include OASIS. Therefore, we have determined that providers using clinical records with integrated OASIS items will not need additional time on an ongoing basis for initial care or discharges. We have revised our estimates accordingly.

Based on the above findings, for the purposes of this analysis, it will not take any additional time to complete OASIS for the follow-up and post hospital admission items. In fact, we believe that the burden associated with completing these assessments will diminish with the incorporation of OASIS, after the learning curve.

Finally, as we stated earlier in this preamble, the OASIS will be updated and improved periodically after implementation. We anticipate these changes to be refinements of existing items and the addition and deletion of items depending on their value. We believe the implementation of later iterations of the OASIS will result in a very small one-time cost to HHAs.

3. Summary of Cost and Burden Estimates

The estimated total national start-up costs across all certified HHAs is $32,986,848. (See table 1 below). In this final rule, changes from the proposed rule burden estimates are based on updated data that show an increase in the number of certified HHAs, the addition of clinician involvement in the integration of OASIS into existing assessment forms, the addition of printing costs that research identified, and the inclusion of OASIS coordinator training.

The following 3 tables provide a summary of the statistics for start-up and ongoing costs, burden to the average HHA, and combined cost for all HHAs for the collection of OASIS data. The tables are as follows: (1) National Costs to HHAs for Implementation of the OASIS; (2) Breakdown of Agency Start-Up Costs; and (3) Hourly Breakdown and Computation of the Average OASIS Start-Up Costs per HHA.

1. NATIONAL COSTS FOR IMPLEMENTATION OF THE OASIS

Year FY	Number of agencies incurring start-up costs	Start-up costs @ $3144 per HHA (in millions)	Medicare costs (in millions)	Costs to other sources (in millions)
1999 and 2000[1]	10,492	$32.99	[2] $9.89	[2]$23.10
2001	0	0	0	0
2002	0	0	0	0
2003	0	0	0	0

These costs are based on the following assumptions:

[1] Implementation will be in fiscal years 1999 and 2000.

[2] Medicare will reimburse approximately 30% of HHAs for their reasonable Medicare share of start-up costs, based on the estimate that approximately 30% of HHAs will benefit from the add-on adjustment to per-visit cost limits, published on August 11, 1998 in an Interim Payment System Notice. This estimate is reflected by indicating that 30% of $32.99 million (or $9.89 million) will be reimbursed by Medicare. The remaining 70% of $32.99 million ($23.10 million) will most likely be absorbed by a combination of the Medicaid program, private insurers, and beneficiaries, to whom we expect the balance of HHAs to pass along these start-up costs. Because approximately 23% of HHA patients are Medicaid beneficiaries, we expect HHAs to try to have the Medicaid programs absorb up to 23% of this remaining $23.10 million.

2. BREAKDOWN OF AGENCY START-UP COSTS

Task	Agency costs (in dollars)	National costs (agency costs × 10,492 HHAs in millions of dollars)
Start-Up (One-Time Only) Costs		
Integration of OASIS into existing assessment forms:		
Clinician Input—12 hrs. × $24.05/hr	$289	$3.03
Clerical Input—4 hrs. × $12.50/hr	50	.52
Subtotal	339	3.55
Staff Training:		
Coordinator—		
12 hrs. × $30.00/hr. × 1 coordinator	360	3.78
Clinicians—		
3 hrs. × $24.05/hr. × 18 clinicians	1299	13.63
Subtotal	1659	17.41
Learning Curve:		
8 × .25 hr. × $24.05/hr. × 18 clinicians	866	9.09
Printing Costs	280	2.94
Total Start-Up Costs	3144	32.99

3. HOURLY BREAKDOWN AND COMPUTATION OF THE AVERAGE OASIS START-UP COSTS PER HHA

[Does not include costs for printing]

Task	Hours	Computation of average costs	Average cost (rounded to nearest dollar)
Integration of OASIS into existing assessment forms (revisions):			
Initial assessment forms	8.0	12 hrs. × $24.05/hr. (Avg. Clinician rate)	$289
Clinical forms (57–62 day and 48 hours post-hospital admission).	4.0	4 hrs. × $12.50/hr. (Avg. Clerical rate)	50
Discharge forms	4.0		
Sub-Total	16.0	Sub-Total	339
Staff Training:			
Coordinator Training for data collection at initial assessment, assessment at follow-up, at discharge, and data auditing.	12.0	12 hrs. × $30/hr. × 1 Coordinator	360
Clinical Staff Training for data collection at initial assessment, assessment at follow-up, collection at discharge, and data auditing.	54.0	3 hrs. × $24.05/hr. × 18 Clinicians	1299
Sub-Total	66.0	Sub-Total	1659
Learning Curve:			
Initial and next 7 Uses of the OASIS Data Collection (.25 hr./use). (8 × .25 hr. × 18 Clinicians).		2 hrs. x $24.05/hr. x 18 Clinicians.	
Sub-Total	36.0		866
Per HHA Total	118.0	Total	2864
Total National Hours	1,238,056	Total Costs	30,049,088

Note: HCFA has requested OMB approval of the Outcome and Assessment Information Set to support the use of collecting patient information as part of the conditions of participation for HHAs. The average start-up costs per HHA for the first years of implementation (FYs 1999 and 2000) is estimated to require 118.0 burden hours. Subsequent years will require approximately 79 burden hours per year. The average burden over a 3-year period is estimated to be 79 hours per year ((118.0 + 118.0 + 0) ÷3) for a national average of 828,862 burden hours per year (79 hours x 10,492 HHAs). While the overall actual burden has not increased from the proposed rule, the totals have been revised in the tables based on data from the Medicare OASIS demonstration, our reassessment on ongoing burden, and technical corrections to the tables published in the proposed rule. We estimate OASIS implementation will occur in fiscal years 1999 and 2000 at 118.0 hours each. The third year burden estimate is zero by which time the OASIS will have become a common business practice for HHAs. Therefore, we are requesting a three-year OMB approval for an average of 79 burden hours per year.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, and HCFA form number(s) and/or OMB numbers referenced above, to *paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within 15 working days from the date of this publication in the **Federal Register** to:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attention: John Burke HCFA–3007–F, Fax number: 410–786–0262, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, D.C. 20503, Attention: Allison Herron Eydt, HCFA Desk Officer, Fax number: 202–395–6974 or 202–395–5167

List of Subjects in 42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR chapter IV is amended as follows:

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

1. The authority citation for part 484 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

Subpart B—Administration

2. Section 484.18 is amended by revising paragraph (c) to read as follows:

§ 484.18 Condition of participation: Acceptance of patients, plan of care, and medical supervision.

* * * * *

(c) *Standard: Conformance with physician orders.* Drugs and treatments are administered by agency staff only as ordered by the physician. Verbal orders are put in writing and signed and dated with the date of receipt by the registered nurse or qualified therapist (as defined in § 484.4 of this chapter) responsible for furnishing or supervising the ordered services. Verbal orders are only accepted by personnel authorized to do so by applicable State and Federal laws and regulations as well as by the HHA's internal policies.

Subpart C—Furnishing of Services

3. Section 484.55 is added to subpart C to read as follows:

§ 484.55 Condition of participation: Comprehensive assessment of patients.

Each patient must receive, and an HHA must provide, a patient-specific, comprehensive assessment that accurately reflects the patient's current health status and includes information that may be used to demonstrate the patient's progress toward achievement of desired outcomes. The comprehensive assessment must identify the patient's continuing need for home care and meet the patient's medical, nursing, rehabilitative, social, and discharge planning needs. For Medicare beneficiaries, the HHA must verify the patient's eligibility for the Medicare home health benefit including homebound status, both at the time of the initial assessment visit and at the time of the comprehensive assessment. The comprehensive assessment must also incorporate the use of the current version of the Outcome and Assessment Information Set (OASIS) items, using the language and groupings of the OASIS items, as specified by the Secretary.

(a) *Standard: Initial assessment visit.* (1) A registered nurse must conduct an initial assessment visit to determine the immediate care and support needs of the patient; and, for Medicare patients, to determine eligibility for the Medicare home health benefit, including homebound status. The initial assessment visit must be held either within 48 hours of referral, or within 48 hours of the patient's return home, or on the physician-ordered start of care date.

(2) When rehabilitation therapy service (speech language pathology, physical therapy, or occupational therapy) is the only service ordered by the physician, and if the need for that service establishes program eligibility, the initial assessment visit may be made by the appropriate rehabilitation skilled professional.

(b) *Standard: Completion of the comprehensive assessment.* (1) The comprehensive assessment must be completed in a timely manner, consistent with the patient's immediate needs, but no later than 5 calendar days after the start of care.

(2) Except as provided in paragraph (b)(3) of this section, a registered nurse must complete the comprehensive assessment and for Medicare patients, determine eligibility for the Medicare home health benefit, including homebound status.

(3) When physical therapy, speech-language pathology, or occupational therapy is the only service ordered by the physician, a physical therapist, speech-language pathologist or occupational therapist may complete the comprehensive assessment, and for Medicare patients, determine eligibility for the Medicare home health benefit, including homebound status. The occupational therapist may complete the comprehensive assessment if the need for occupational therapy establishes program eligibility.

(c) *Standard: Drug regimen review.* The comprehensive assessment must include a review of all medications the patient is currently using in order to identify any potential adverse effects and drug reactions, including ineffective drug therapy, significant side effects, significant drug interactions, duplicate drug therapy, and noncompliance with drug therapy.

(d) *Standard: Update of the comprehensive assessment.* The comprehensive assessment must be updated and revised (including the administration of the OASIS) as frequently as the patient's condition warrants due to a major decline or improvement in the patient's health status, but not less frequently than—

(1) Every second calendar month beginning with the start of care date;

(2) Within 48 hours of the patient's return to the home from a hospital admission of 24 hours or more for any reason other than diagnostic tests;

(3) At discharge.

(e) *Standard: Incorporation of OASIS data items.* The OASIS data items determined by the Secretary must be incorporated into the HHA's own assessment and must include: clinical record items, demographics and patient history, living arrangements, supportive assistance, sensory status, integumentary status, respiratory status, elimination status, neuro/emotional/behavioral status, activities of daily living, medications, equipment management, emergent care, and data items collected at inpatient facility admission or discharge only.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.778, Medical Assistance Program)

Dated: November 3, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: December 15, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 99–1449 Filed 1–22–99; 8:45 am]

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federal register

Monday
January 25, 1999

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation; Cost Accounting Standards Post-Award Notification; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 98–003]

RIN 9000–AI23

Federal Acquisition Regulation; Cost Accounting Standards Post-Award Notification

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to reduce the subcontractor information that a contractor is required to provide to its cognizant contract administration office (CAO) when requesting the CAO to perform administration for Cost Accounting Standards (CAS) matters.

DATES: Comments should be submitted on or before March 26, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration FAR Secretariat (MVR) Attn: Laurie Duarte 1800 F Street, NW, Room 4035 Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.98–003@gsa.gov.

Please cite FAR case 98–003 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAR case 98–003.

SUPPLEMENTARY INFORMATION:

A. Background

Under 48 CFR 9903.202–8(a), the contractor or higher-tier subcontractor is responsible for administering the CAS requirements contained in its subcontracts. FAR 30.601(b) requires the contractor or subcontractor to transfer this responsibility to the cognizant administrative contracting officer (ACO). The clause at FAR 52.230–6, Administration of Cost Accounting Standards, contains the notification requirement that implements FAR 30.601(b).

Without this delegation of CAS responsibility from the contractor or subcontractor to the cognizant ACO, the contractor or subcontractor would be required to expend significant resources to oversee the CAS system for each of its subcontractors that are subject to CAS. Accordingly, it is essential that FAR 30.601(b) be retained. Since paragraph (e)(2) of FAR clause 52.230–6 is the only mechanism for notifying the cognizant ACO of the CAS administration delegation, it is essential that this post-award notification requirement also be retained. Although paragraph (e)(2) of FAR clause 52.230–6 should not be deleted in its entirety, this paragraph has been streamlined to include only the information essential to the CAS administration delegation. The coverage currently contained in paragraph (e)(2)(iv) is proposed for deletion because any changes in the subcontractor's cost accounting practices will be reported directly by the subcontractor to the subcontractor's cognizant contract administration office under the applicable subcontractor CAS solicitation clause and/or CAS subcontract clause(s) requirements.

If respondents are aware of any alternatives for post-award notification that would comply with FAR 30.601(b) but be less burdensome to contractors and subcontractors, they may include their alternatives with public comments on the proposed rule.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contracts and subcontracts with small businesses are exempt from all CAS requirements in accordance with 48 CFR 9903.201–1(b)(3). An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 98–003), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the proposed rule revises existing information collection requirements, resulting in a decrease in the estimated burden. Accordingly, a request for amendment of information collection requirements under approved Office of Management and Budget (OMB) Control Number 9000–0129 will be submitted to OMB under 44 U.S.C. 3501, *et seq.*, at the final rule stage. The proposed rule decreases the collection requirements currently approved under OMB Control Number 9000–0129, since the rule deletes the requirement to submit certain information at FAR 52.230–6(e)(2)(iv).

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .33 hours per response, including the time for reviewing instruction, 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: *Estimated number of respondents:* 271; *Responses per respondent:* 2; *Average burden per response:* 0.33; *Total burden hours:* 179; *Frequency of report:* On occasion.

D. Request for Comments Regarding Paperwork Burden

Members of the public are invited to comment on the recordkeeping and information collection requirements and estimates set forth above. Please send comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Mr. Peter N. Weiss, FAR Desk Officer, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Also send a copy of any comments to the FAR Secretariat at the address shown under **ADDRESSES.** Please cite the corresponding OMB Clearance Number in all correspondence related to the estimate.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: January 19, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Part 52 be amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.230–6 is amended by revising the date of the clause and paragraph (e) of the clause to read as follows:

52.230–6 Administration of Cost Accounting Standards.

* * * * *

Administration of Cost Accounting Standards (Date)

* * * * *

(e) For all subcontracts subject to the clauses at FAR 52.230–2, 52.230–3, or 52.230–5—

(1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

* * * * *

[FR Doc. 99–1513 Filed 1–22–99; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Monday
January 25, 1999

Part IV

Nuclear Regulatory Commission

10 CFR Parts 30, 40, et al.

Nuclear Information and Resource Service; Receipt of Petition for Rulemaking; Proposed Rules

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, and 70

[Docket No. PRM–50–65]

Nuclear Information and Resource Service; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Information and Resource Service. The petition has been docketed by the Commission and has been assigned Docket No. PRM–50–65. The petitioner requests that the NRC amend its regulations to require the shutdown of nuclear facilities that are not compliant with date-sensitive, computer-related issues regarding the Year 2000 (Y2K). The petitioner requests that the NRC take this action to ensure that Y2K issues will not cause the failure of nuclear safety systems and thereby pose a threat to public health and safety.

DATES: Submit comments by February 24, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7162 or Toll-Free: 1–800–368–5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received three related petitions for rulemaking, each dated December 10, 1998, submitted by the Nuclear Information Resource Service concerning various aspects of Y2K issues and nuclear safety. This petition requests that the NRC amend its regulations to require that nuclear facilities be shut down if they are not compliant with Y2K issues. The two related petitions would require nuclear power plant and major fuel cycle facilities to develop and implement adequate contingency and emergency plans to address potential system failures (PRM–50–66) and to provide reliable back-up sources of power for nuclear facilities (PRM–50–67).

Because of the nature of these petitions and the date-specific issues they address, the petitioner requests that the petitions be filed expeditiously and that public comment on the actions be limited to 30 days.

The Petitioner's Suggested Amendment

The petitioner requests that the NRC adopt the following text as a rule:

> Any and all facilities licensed by the Nuclear Regulatory Commission under 10 CFR Parts 30, 40, 50, and 70 shall be closed by 12 pm Eastern Standard Time, December 1, 1999, unless and until each facility has (a) fully and comprehensively examined all computer systems, embedded chips, and other electronic equipment that may be date-sensitive to ensure that all such systems that may be relevant to safety are Y2K compliant; (b) repaired, modified, and/or replaced all such systems that are not found to be Y2K compliant; (c) made available to the public all information related to the examination and repair, modification and/or replacement of all such systems; (d) determined, through full-scale testing, that all repairs, modifications, and/or replacements of all such systems are, in fact, Y2K compliant.

Discussion

The petitioner notes that in Generic Letter 98–01, the NRC has recognized the potential date-related problems that may affect a system or application (the Y2K problem). These potential problems include not representing the year properly, not recognizing leap years, and improper date calculations. These problems could result in the inability of computer systems to operate or to function properly. The petitioner states that the Y2K problem could potentially interfere with the proper operation of computer systems, microprocessor-based hardware, and software or databases relied on at nuclear power plants. The petitioner asserts that the Y2K problem could result in a plant trip and subsequent complications in tracking post-shutdown plant status and recovery due to a loss of emergency data collection. The petitioner is also concerned that power grids providing offsite power to nuclear stations could be impacted to the extent that localized and widespread grid failures could occur.

The petitioner acknowledges that the NRC has recognized the potential safety and environmental problems that could result if date-sensitive electronic systems fail to operate or provide false information. The petitioner also notes that NRC has, in Generic Letter 98–01, required its reactor and major fuel cycle facilities to report on their programs to ensure compliance with Y2K issues by July 1, 1999.

However, the petitioner asserts that the NRC has not made explicit how it will define compliance nor what it plans to do for facilities that cannot prove compliance. In the petitioner's suggested regulatory text, the petitioner defines compliance with Y2K issues as evaluation of all potential problems that may be safety-related, repair of all such problems, and full-scale testing of all solutions. The petitioner would also require full public disclosure of all evaluation, repair, and testing data so that it may be examined by independent experts and the public. Finally, the petitioner's suggested amendment would make it clear that nuclear facilities will be closed until they can demonstrate full compliance with Y2K issues.

The petitioner states that the NRC is obligated to act decisively to protect public health and safety and the environment. The petitioner believes that anything short of its suggested approach is insufficient to fulfill this obligation and that the NRC should adopt this suggested regulation as soon as possible.

Dated at Rockville, Maryland, this 15th day of January, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–1592 Filed 1–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–66]

Nuclear Information and Resource Service; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Information and Resource Service. The petition has been docketed by the Commission and has been assigned Docket No. PRM–50–66. The petitioner requests that the NRC amend its regulations to require every nuclear utility to conduct a full-scale emergency planning exercise that involves coping with a date-sensitive, computer-related failure resulting from a Year 2000 issue (Y2K). The petitioner requests that the NRC take this action to ensure that nuclear power plant licensees have developed and can implement adequate contingency and emergency plans to address major system failures that may be caused by a Y2K problem.

DATES: Submit comments by February 24, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7162 or Toll-Free: 1–800–368–5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received three related petitions for rulemaking, each dated December 10, 1998, submitted by the Nuclear Information Resource Service concerning various aspects of Y2K issues and nuclear safety. This petition requests that the NRC amend its regulations to require nuclear power plant and major fuel cycle facilities to develop and implement adequate contingency and emergency plans to address potential system failures. The two related petitions would require that nuclear facilities be shut down if they are not compliant with Y2K issues (PRM–50–65) and that nuclear facilities provide reliable back-up sources of power for nuclear facilities (PRM–50–67).

Because of the nature of these petitions and the date-specific issues they address, the petitioner requests that the petitions be filed expeditiously and that public comment on the actions be limited to 30 days.

The Petitioner's Suggested Amendment

The petitioner requests that the NRC adopt the following text as a rule:

All licensees subject to 10 CFR Part 50 and Appendix E will conduct a full-scale emergency planning exercise (as normally required under 10 CFR 50.47) during 1999. This exercise shall include a component that includes failure of one or more computer or other digital systems (this is popularly known as the ''Y2K bug'') on January 1, 2000, or other relevant date. Licensees that do not conduct, or that fail, this exercise shall close their facilities licensed under this part by December 1, 1999, until such time as the licensees have conducted a successful exercise.

The NRC shall publish and provide to each licensee, within 30 days of the date of this rule, a Regulatory Guide that outlines potential emergency exercise scenarios. The NRC shall publish and provide to each licensee, by December 1, 1999, a Regulatory Guide that describes the various scenarios that have been undertaken and the successful (and unsuccessful) responses to the problem posed.

Discussion

The petitioner states that although the probability of Y2K-related events occurring that would require emergency response and the implementation of contingency plans is unknown, it would fall within the range of safety matters for which NRC requires emergency planning exercises. Furthermore, the petitioner asserts that addressing Y2K-related problems will require the use of potentially unfamiliar contingency plans, relying on ingenuity to circumvent failure of essential communications systems or the failure of off-site emergency responders to perform their tasks effectively, and coping with issues not normally tested during emergency exercises.

The petitioner believes that it is prudent to require each licensee to conduct an exercise and that each exercise address a different aspect of the Y2K problem. The petitioner suggests that some exercises should test problems initiated by Y2K-related failures and that others should test problems exacerbated by Y2K-related failures. The petitioner believes that this would provide some familiarity with the possible range of issues that could develop and create an overall industry capability to address potential Y2K problems.

Under the petitioner's suggested regulation, the licensees would develop exercise scenarios that would be approved by the NRC in an expedited fashion and the NRC would publish and distribute regulatory guides that would outline potential emergency response scenarios and describe the scenarios that were tested and the successful responses to the problem posed.

The petitioner believes that this action would provide reasonable assurance that nuclear power plant licensees have developed and can implement adequate contingency and emergency plans to address major system failures that may be caused by the Y2K problem.

The petitioner also believes that other major fuel cycle facilities should be subject to a similar rule.

Dated at Rockville, Maryland, this 15th day of January, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–1593 Filed 1–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

[Docket No. PRM–50–67]

Nuclear Information and Resource Service; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Information and Resource Service. The petition has been docketed by the Commission and has been assigned Docket No. PRM–50–67. The petitioner requests that the NRC amend its regulations to require that nuclear facilities ensure the availability of electricity to power atomic reactor and other nuclear facility safety systems in the event of a date-sensitive, computer-related incident resulting from a Year 2000 issue (Y2K). The petitioner requests that the NRC take this action to ensure that reliable back-up sources of power are available in the event of a Y2K incident.

DATES: Submit comments by February 24, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7162 or Toll-Free: 1–800–368–5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received three related petitions for rulemaking, each dated December 10, 1998, submitted by the Nuclear Information Resource Service concerning various aspects of Y2K issues and nuclear safety. This petition requests that the NRC amend its regulations to provide reliable back-up sources of power for nuclear facilities. The two related petitions would require that nuclear power plant and major fuel cycle facilities be shutdown if they are not compliant with Y2K issues (PRM–50–65) and require that nuclear facilities develop and implement adequate contingency and emergency plans to address potential system failures (PRM–50–66).

Because of the nature of these petitions and the date-specific issues they address, the petitioner requests that the petitions be filed expeditiously and that public comment on the actions be limited to 30 days.

The Petitioner's Suggested Amendment

The petitioner requests that the NRC adopt the following text as a rule:

The Nuclear Regulatory Commission recognizes that date-sensitive computer programs, embedded chips, and other electronic systems that perform a major role in distributing, allocating, and ensuring electric power throughout the United States may be prone to failure beginning on January 1, 2000. Loss of all alternating current electricity from both the offsite power grid and onsite emergency generators (commonly known as ''station blackout,'') long has been identified by the NRC as among the most prominent contributors to risk for atomic reactors.

(1) For these reasons, the NRC requires of Part 50 and 70 licensees as of December 1, 1999: (a) that all emergency diesel generators that provide back-up power to nuclear licensees must be operational and remain operational; (b) that licensees that cannot demonstrate full operational capabilities of all emergency diesel generators must close until such time that full operational capabilities of emergency diesel generators are attained; (c) that all licensees must have a 60-day supply of fuel for emergency diesel generators.

(2) Further, to ensure adequate protection of public health and safety, the NRC requires that all licensees under these sections must provide alternate means of back-up power sufficient to ensure safety. These may include, but are not limited to: solar power panels, wind turbines, hydroelectric power, biomass power, and other means of generating electricity. These additional back-up systems must provide electricity directly to the licensee rather than to the broader electrical grid.

(3) Irradiated fuel pools are to be immediately classified as Class 1-E; back-up power systems must be sufficient to provide cooling for such pools.

Licensees which cannot demonstrate compliance with sections (1) and (2) must cease operations as of December 1, 1999, until compliance with these sections is attained.

Discussion

The petitioner acknowledges that the NRC has recognized the potential safety and environmental problems that could result if date-sensitive electronic systems fail to operate or provide false information. The petitioner also notes that NRC has required its reactor and major fuel cycle facilities to report on their programs to ensure compliance with Y2K issues by July 1, 1999.

The petitioner is addressing a related problem concerning the availability of electricity to power atomic reactor and other safety systems. Electricity is required to operate atomic reactor safety and cooling systems. This electricity is provided by offsite sources, referred to by the petitioner as the overall electrical grid. The petitioner states that the NRC has long recognized that the loss of all alternating current from both onsite and offsite systems, known generally as ''station blackout'', is the most important contributor to risk at most atomic reactors. The petitioner notes that the NRC has required licensees to have back-up sources of onsite emergency power, normally multiple emergency diesel generators, capable of supplying the electricity necessary to operate essential safety systems.

The petitioner asserts that the emergency diesel generators used at atomic reactors have proven unreliable and are often out of service. The petitioner asserts that the unprecedented condition posed by the Y2K problem, coupled with the demonstrated and ongoing failures of emergency diesel generators, constitutes reasonable doubt that emergency fuel generators can be relied on. Therefore, the petitioner believes that the NRC should require all emergency diesel generators be operational, have a 60-day supply of fuel as of December 1, 1999, and that licensed facilities that cannot meet these requirements be closed.

The petitioner discusses the likelihood and potential consequences of a failure of all or a portion of the electric power grid in the United States. The petitioner recognizes that the failure of all or a portion of the electrical grid due to Y2K issues is well beyond the scope of NRC's authority. However, the petitioner states that the extended failure of all or a portion of the electrical grid would place severe stress on the current emergency diesel generator system of back-up power supply and that the failure of emergency diesel generators at one or more reactor sites could result in extended station blackouts and nuclear catastrophes. The petitioner asserts that this possibility is well within the range of probabilities for

which the NRC routinely requires action by its licensees. The petitioner further asserts that reliance on unreliable emergency diesel generators is insufficient under these conditions.

Therefore, the petitioner believes it is essential that the NRC take the type of regulatory action suggested in this petition on an expedited basis.

Dated at Rockville, Maryland, this 15th day of January, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–1594 Filed 1–22–99; 8:45 am]

BILLING CODE 7590–01–P

federal register

Monday
January 25, 1999

Part V

Department of Housing and Urban Development

24 CFR Parts 6, 180 and 570

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 6, 180, 570

[Docket No. FR 4092–F–02]

RIN 2501–AC28

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule establishes procedures to file a complaint for a claim of discrimination under HUD's community planning and development programs funded under Title I of the Housing and Community Development Act of 1974. The procedure is modeled on HUD's regulations implementing the prohibition against discrimination on the basis of disability and the regulations implementing the prohibition against discrimination on the basis of race, color, or national origin in Federal programs. The rule also provides that hearings on complaints be conducted in accordance with HUD's consolidated hearing procedures for civil rights claims. This rule is needed to inform members of the public how to file complaints and how HUD will act on their complaints. The rule also informs the public of HUD's procedures for conducting compliance reviews.

DATES: Effective date February 24, 1999.

FOR FURTHER INFORMATION CONTACT: Betsy Ryan, Office of Enforcement, Office of Fair Housing and Equal Opportunity, Room 5208, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–5000, telephone (202) 619–8041, ext. 6991. (This telephone number is not toll-free.) Hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On May 11, 1998, the Department published a proposed rule to implement the provisions of section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5321) (Title I), at 63 FR 26022. The comment period ended on July 10, 1998, and no public comments were received. This final rule makes only clarifying changes to that proposed rule.

Section 109 was modeled on the language of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1) (Title VI). Title VI prohibits discrimination on the bases of race, color, and national origin in any program or activity for which federal financial assistance is authorized under a law administered by the Department. However, unlike Title VI, which excludes employment practices except where employment is a primary purpose of the program, section 109 includes employment discrimination within its coverage. Section 109 was amended to direct that the existing prohibitions against discrimination on the basis of age and against discrimination on the basis of disability apply to Title I programs, and it was amended to add protection against discrimination on the basis of religion. (See complete history in the proposed rule preamble, published on May 11, 1998, 63 FR 26022.)

II. Changes From Proposed Rule

Only minor, clarifying changes are made to the May 11, 1998 proposed rule in the adoption of this final rule. The changes affect §§ 6.2, 6.3, and 6.11. To provide a complete version of the rule, this final rule republishes the language of the proposed rule, with minor clarifications.

The applicability section of the rule, § 6.2, did not specifically mention the Secretary's partial waiver of Section 109 with respect to programs for native Americans. A new paragraph (c) has been added, comparable to the paragraph dealing with Hawaiian Homelands. New paragraph (c) states that the section 109 protections against discrimination on the basis of race and national origin do not apply to grant recipients under the Native American Housing Assistance and Self-Determination Act, and it references the provision of the Indian Community Development Block Grant rule that already makes race and national origin restrictions inapplicable to Indian tribal entities.

The definition of Federal financial assistance found in § 6.3 contained a grammatical inconsistency, which is corrected in this rule.

At the proposed rule stage, § 6.11 was organized into two paragraphs. Paragraph (a) applied to complaints; paragraph (b) applied to compliance reviews. The provisions dealing with response after issuance of a letter of findings, informal resolution process, and right to file a civil action were all contained within paragraph (a), although these procedures actually are applied to compliance reviews as well. At this final rule stage, § 6.11 is reorganized to place the provisions applicable to both in separate new paragraphs (c), (d), (e), and (f), and the language is revised slightly to make it appropriate to apply to both situations. In light of these revisions, a paragraph that dealt with the issue of response to the letter of findings of noncompliance was removed from the paragraph on compliance reviews because it was redundant.

This final rule makes no substantive changes to the process provided in the proposed rule.

III. Findings and Certifications

Public Reporting Burden

The information collection requirements in § 6.6 of this rule are already imposed on Recipients of Title I assistance under existing regulations at 24 CFR 91.105, 91.115, 570.491, and 570.506. These information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Numbers 2506–0117 and 2506–0077. This rule incorporates these recordkeeping requirements, but does not require duplication of this information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Coordination

The Department of Justice has reviewed and approved this final rule under Executive Order 12250.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Environmental Impact

In accordance with 24 CFR 50.19(c)(3) of the HUD regulations, the policies and procedures in this rule set out nondiscrimination standards and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act under 24 CFR 50.19(c)(3).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication, and by approving it certifies that this final rule would not

have a significant economic impact on small entities. The purpose of this rule is to provide for the enforcement of Section 109 of the Housing and Community Development Act of 1974, as amended, as it applies to recipients of Federal financial assistance from the Department of Housing and Urban Development. The rule will not have any meaningful impact on small entities. The entities that receive assistance under Title I of the Housing and Community Development Act, to which this rule applies, are either States or ''entitlement jurisdictions'', all of which have populations of greater than 50,000 and consequently do not fall within the definition of small entities. In addition, we note that the proposed rule preamble specifically invited comment on alternatives to the compliance procedure for small entities that might be less burdensome to them. There was no response.

Executive Order 13083, Federalism

The Department has determined that, under section 1 of Executive Order 13083, Federalism, the policies contained in this rule are not policies that have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, the requirements of this final rule are directed to Title I programs and activities, and do not impinge upon the relationship between the Federal government and State and local governments. Accordingly, the final rule is not subject to review under the Order.

Catalog

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.406.

List of Subjects

24 CFR Part 6

Administrative practice and procedure, Civil rights, Community development block grants, Equal employment opportunity, Grant programs—housing and community development, Investigations, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 180

Administrative practice and procedure, Aged, Civil rights, Fair housing, Individuals with disabilities, Intergovernmental relations, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Urban renewal, Virgin Islands.

Accordingly, subtitle A and chapters I and V of title 24 of the Code of Federal Regulations are amended as follows:

1. A new Part 6 is added, to read as follows:

PART 6—NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Subpart A—General Provisions

Sec.
6.1 Purpose.
6.2 Applicability.
6.3 Definitions.
6.4 Discrimination prohibited.
6.5 Discrimination prohibited—employment.
6.6 Records to be maintained.

Subpart B—Enforcement

6.10 Compliance information.
6.11 Conduct of investigations.
6.12 Procedure for effecting compliance.
6.13 Hearings and appeals.

Authority: 42 U.S.C. 3535(d) 42 U.S.C. 5309.

Subpart A—General Provisions

§ 6.1 Purpose.

The purpose of this part is to implement the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. Section 109 does not directly prohibit discrimination on the bases of age or disability, and the regulations in this part 6 do not apply to age or disability discrimination in Title I programs. Instead, section 109 directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504) apply to programs or activities funded in whole or in part with Federal financial assistance. Thus, the regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs, apply to disability and age discrimination in Title I programs.

§ 6.2 Applicability.

(a) This part applies to any program or activity funded in whole or in part with funds under title I of the Housing and Community Development Act of 1974, including Community Development Block Grants—Entitlement, State and HUD-Administered Small Cities, and Section 108 Loan Guarantees; Urban Development Action Grants; Economic Development Initiative Grants; and Special Purpose Grants.

(b) The provisions of this part and sections 104(b)(2) and 109 of Title I that relate to discrimination on the basis of race shall not apply to the provision of Federal financial assistance by grantees under this title to the Hawaiian Homelands (42 U.S.C. 5309).

(c) The provisions of this part and sections 104(b)(2) and 109 of Title I that relate to discrimination on the basis of race and national origin shall not apply to the provision of Federal financial assistance to grant recipients under the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101). See also, 24 CFR 1003.601(a).

§ 6.3 Definitions.

The terms *Department, HUD,* and *Secretary* are defined in 24 CFR part 5. Other terms used in this part 6 are defined as follows:

Act means the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301–5320).

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Award Official means the HUD official who has been delegated the Secretary's authority to implement a Title I funded program and to make grants under that program.

Complete complaint means a written statement that contains the complainant's name and address, identifies the Recipient against which the complaint is made, and describes

the Recipient's alleged discriminatory action in sufficient detail to inform HUD of the nature and date of the alleged violation of section 109. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Federal financial assistance means: (1) Any assistance made available under title I of the Housing and Community Development Act of 1974, as amended, and includes income generated from such assistance, and any grant, loan, contract, or any other arrangement, in the form of:

(i) Funds;

(ii) Services of Federal personnel; or

(iii) Real or personal property or any interest in or use of such property, including:

(A) Transfers or leases of the property for less than fair market value or for reduced consideration; and

(B) Proceeds from a subsequent transfer or lease of the property if the Federal share of its fair market value is not returned to the Federal Government.

(2) Any assistance in the form of proceeds from loans guaranteed under section 108 of the Act, but does not include assistance made available through direct Federal procurement contracts or any other contract of insurance or guaranty.

Program or activity (funded in whole or in part) means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government; or

(ii) The entity of a State or local government that distributes Federal financial assistance, and each department or agency (and each State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other post-secondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to the corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is described in paragraphs (1), (2), or (3) of this definition, any part of which is extended Federal financial assistance.

Recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision; any public or private agency, institution, organization, or other entity; or any individual, in any State, to whom Federal financial assistance is extended, directly or through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign, or transferee thereof. Recipient does not include any ultimate beneficiary under any program or activity.

Responsible Official means the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

Section 109 means section 109 of the Housing and Community Development Act of 1974, as amended.

Title I means title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5321).

§ 6.4 Discrimination prohibited.

(a) Section 109 requires that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance, on the grounds of race, color, national origin, religion, or sex.

(1) A Recipient under any program or activity to which this part applies may not, directly or through contractual, licensing, or other arrangements, take any of the following actions on the grounds of race, color, national origin, religion, or sex:

(i) Deny any individual any facilities, services, financial aid, or other benefits provided under the program or activity;

(ii) Provide any facilities, services, financial aid, or other benefits that are different, or are provided in a different form, from that provided to others under the program or activity;

(iii) Subject an individual to segregated or separate treatment in any facility, or in any matter of process related to the receipt of any service or benefit under the program or activity;

(iv) Restrict an individual's access to, or enjoyment of, any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity;

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirements or conditions that the individual must meet in order to be provided any facilities, services, or other benefit provided under the program or activity;

(vi) Deny an individual an opportunity to participate in a program or activity as an employee;

(vii) Aid or otherwise perpetuate discrimination against an individual by providing Federal financial assistance to an agency, organization, or person that discriminates in providing any housing, aid, benefit, or service;

(viii) Otherwise limit an individual in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other individuals receiving the housing, aid, benefit, or service;

(ix) Use criteria or methods of administration that have the effect of subjecting persons to discrimination or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to persons of a particular race, color, national origin, religion, or sex; or

(x) Deny a person the opportunity to participate as a member of planning or advisory boards.

(2) In determining the site or location of housing, accommodations, or facilities, a Recipient may not make selections that have the effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, religion, or sex. The Recipient may not make selections that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of section 109 and of this part 6.

(3)(i) In administering a program or activity in which the Recipient has discriminated on the grounds of race, color, national origin, religion or sex, the Recipient must take any necessary steps to overcome the effects of prior discrimination.

(ii) In the absence of discrimination, a Recipient, in administering a program or activity, may take any steps necessary to overcome the effects of conditions that resulted in limiting participation by

persons of a particular race, color, national origin, religion, or sex.

(iii) After a finding of noncompliance, or after a Recipient has reasonable cause to believe that discrimination has occurred, a Recipient shall not be prohibited by this section from taking any action eligible under subpart C of 24 CFR part 570 to ameliorate an imbalance in benefits, services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to remedy discriminatory practices or usage.

(iv)(A) Notwithstanding anything to the contrary in this part, nothing contained in this section shall be construed to prohibit any Recipient from maintaining or constructing separate living facilities or restroom facilities for the different sexes in order to protect personal privacy or modesty concerns. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can, in the interest of personal privacy or modesty, only be performed by a member of the same sex as those receiving the services.

(B) Section 109 of the Act does not directly prohibit discrimination on the basis of age or disability, but directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 apply to Title I programs and activities. Accordingly, for programs or activities receiving Federal financial assistance, the regulations in this part 6 apply to discrimination on the bases of race, color, national origin, religion, or sex; the regulations at 24 CFR part 8 apply to discrimination on the basis of disability; and the regulations at 24 CFR part 146 apply to discrimination on the basis of age.

§ 6.5 Discrimination prohibited—employment.

(a) *General.* A Recipient may not, under any program or activity funded in whole or in part with Federal financial assistance, directly or through contractual agents or other arrangements including contracts and consultants, subject a person to discrimination in the terms and conditions of employment. Terms and conditions of employment include advertising, interviewing, selection, promotion, demotion, transfer, recruitment and advertising, layoff or termination, pay or other compensation, including benefits, and selection for training.

(b) *Determination of compliance status.* The Assistant Secretary will follow the procedures set forth in this part and 29 CFR part 1691 and look to the substantive guidelines and policy of the Equal Employment Opportunity Commission when reviewing employment practices under Section 109.

§ 6.6 Records to be maintained.

(a) *General.* Recipients shall maintain records and data as required by 24 CFR 91.105, 91.115, 570.490, and 570.506.

(b) *Employment.* Recipients shall maintain records and data as required by the Equal Employment Opportunity Commission at 29 CFR part 1600.

(c) Recipients shall make available such records and any supporting documentation upon request of the Responsible Official.

(Approved by the Office of Management and Budget under control numbers 2506–0117 and 2506–0077.)

Subpart B—Enforcement

§ 6.10 Compliance information.

(a) *Cooperation and assistance.* The Responsible Official and the Award Official will provide assistance and guidance to Recipients to help them comply voluntarily with this part.

(b) *Access to data and other sources of information.* Each Recipient shall permit access by authorized representatives of HUD to its facilities, books, records, accounts, minutes and audio tapes of meetings, personnel, computer disks and tapes, and other sources of information as may be pertinent to a determination of whether the Recipient is complying with this part. Where information required of a Recipient is in the exclusive possession of any other agency, institution, or person, and that agency, institution, or person fails or refuses to furnish this information, the Recipient shall so certify in any requested report and shall set forth what efforts it has made to obtain the information. Failure or refusal to furnish pertinent information (whether maintained by the Recipient or some other agency, institution, or person) without a credible reason for the failure or refusal will be considered to be noncompliance under this part.

(c) *Compliance data.* Each Recipient shall keep records and submit to the Responsible Official, timely, complete, and accurate data at such times and in such form as the Responsible Official may determine to be necessary to ascertain whether the Recipient has complied or is complying with this part.

(d) *Notification to employees, beneficiaries, and participants.* Each Recipient shall make available to employees, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the program or activity under which the Recipient receives Federal financial assistance and make such information available to them in such manner as the Responsible Official finds necessary to apprise such persons of the protections against discrimination assured them by Section 109 and this part.

§ 6.11 Conduct of investigations.

(a) *Filing a complaint*—(1) *Who may file.* Any person who believes that he or she has been subjected to discrimination prohibited by this part may file, or may have an authorized representative file on his or her behalf, a complaint with the Responsible Official. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the Responsible Official.

(2) *Confidentiality.* Generally, the Responsible Official shall hold in confidence the identity of any person submitting a complaint, unless the person submits written authorization otherwise. However, an exception to maintaining confidentiality of the identity of the person may be required to carry out the purposes of this part, including the conduct of any investigation, hearing, or proceeding under this part.

(3) *When to file.* Complaints shall be filed within 180 days of the alleged act of discrimination, unless the Responsible Official waives this time limit for good cause. For purposes of determining when a complaint is filed under this part, a complaint mailed to the Responsible Official via the U.S. Postal Service will be deemed filed on the date it is postmarked. A complaint delivered to the Responsible Official in any other manner will be deemed filed on the date it is received by the Responsible Official.

(4) *Where to file complaints.* Complaints must be in writing, signed, addressed to the Responsible Official, and filed with (mailed to or otherwise delivered to) the Office of Fair Housing and Equal Opportunity at any HUD Office.

(5) *Content of complaints.* Each complaint should contain the complainant's name, address, and phone number; a description or name, if available, of the Recipient alleged to have violated this part; an address where the violation occurred; and a description of the Recipient's alleged discriminatory action in sufficient detail

to inform the Responsible Official of the nature and date of the alleged violation of this part.

(6) *Amendments to complaints.* Amendments to complaints, such as clarification and amplification of allegations in a complaint or the addition of other Recipients, may be made by the complainant or the complainant's authorized representative at any time while the complaint is being considered, and any amendment shall be deemed to be made as of the original filing date.

(7) *Notification.* To the extent practicable, the Responsible Official will notify the complainant and the Recipient of the Responsible Official's receipt of a complaint within 10 calendar days of receipt of a complete complaint. If the Responsible Official receives a complaint that is not complete, the Responsible Official will notify the complainant and specify the additional information that is needed to make the complaint complete. If the complainant fails to complete the complaint, the Responsible Official will close the complaint without prejudice and notify the complainant. When a complete complaint has been received, the Responsible Official, or his or her designee, will assess the complaint for acceptance, rejection, or referral to an appropriate Federal agency within 20 calendar days.

(8) *Resolution of complaints.* After the acceptance of a complete complaint, the Responsible Official will investigate the complaint, attempt informal resolution, and, if resolution is not achieved, the Responsible Official will notify the Recipient and complainant, to the extent practicable within 180 days of the receipt of the complete complaint, of the results of the investigation in a letter of findings sent by certified mail, return receipt requested, containing the following:

(i) Findings of fact and a finding of compliance or noncompliance;

(ii) A description of an appropriate remedy for each violation believed to exist; and

(iii) A notice of the right of the Recipient and the complainant to request a review of the letter of findings by the Responsible Official. A copy of the final investigative report will be made available upon request.

(b) *Compliance reviews*—(1) *Periodic Compliance Reviews.* The Responsible Official may periodically review the practices of Recipients to determine whether they are complying with this part and may conduct on-site reviews. The Responsible Official will initiate an on-site review by sending to the Recipient a letter advising the Recipient of the practices to be reviewed; the programs affected by the review; and the opportunity, at any time before a final determination, to submit information that explains, validates, or otherwise addresses the practices under review. In addition, the Award Official will include, in normal program compliance reviews and monitoring procedures, appropriate actions to review and monitor compliance with general or specific program requirements designed to implement the requirements of this part.

(2) *Time period of the review.* (i) For the Entitlement program, compliance reviews will cover the three years before the date of the review.

(ii) For the Urban Development Action Grant (UDAG) program, the compliance review is applicable only to UDAG loan repayments or other payments or revenues classified as program income. UDAG repayments or other payments or revenues classified as miscellaneous revenue are not subject to compliance review under this part. (*See* 24 CFR 570.500(a).) The compliance review will cover the time period that program income is being repaid.

(iii) For the State and HUD-Administered Small Cities programs, the compliance review will cover the four years before the date of the review.

(iv) For all other programs, the time period covered by the review will be four years before the date of the review.

(v) On a case-by-case basis, at the discretion of the Responsible Official, the above time frames for review can be expanded where facts or allegations warrant further investigation.

(3) *Early compliance resolution.* On the last day of the on-site visit, after the compliance review, the Recipient will be given an opportunity to supplement the record. Additionally, a prefinding conference may be held and a summary of the proposed findings may be presented to the Recipient. In those instances where the issue(s) cannot be resolved at a prefinding conference or with the supplemental information, a meeting will be scheduled to attempt a voluntary settlement.

(4) *Notification of findings.* (i) The Assistant Secretary will notify the Recipient of Federal financial assistance of the results of the compliance review in a letter of findings sent by certified mail, return receipt requested.

(ii) *Letter of findings.* The letter of findings will include the findings of fact and the conclusions of law; a description of a remedy for each violation found; and a notice that a copy of HUD's final report concerning its compliance review will be made available, upon request, to the Recipient.

(c) *Right to a review of the letter of findings.* (1) Within 30 days of receipt of the letter of findings, any party may request that a review be made of the letter of findings, by mailing or delivering to the Responsible Official, Room 5100, Office of Fair Housing and Equal Opportunity, HUD, Washington, DC 20410, a written statement of the reasons why the letter of findings should be modified.

(2) The Responsible Official will send by certified mail, return receipt requested, a copy of the request for review to all parties. Parties other than the party requesting review and HUD shall have 20 days from receipt to respond to the request for review.

(3) The Responsible Official will either sustain or modify the letter of findings or require that further investigation be conducted, within 60 days of the request for review. The Responsible Official's decision shall constitute the formal determination of compliance or noncompliance.

(4) If no party requests that the letter of findings be reviewed, the Responsible Official, within 14 calendar days of the expiration of the time period in paragraph (a)(9)(i) of this section, will send a formal written determination of compliance or noncompliance to all parties.

(d) *Voluntary compliance time limits.* The Recipient will have 10 calendar days from receipt of the letter of findings of noncompliance, or such other reasonable time as specified in the letter, within which to agree, in writing, to come into voluntary compliance or to contact the Responsible Official for settlement discussions. If the Recipient fails to meet this deadline, HUD will proceed in accordance with §§ 6.12 and 6.13.

(e) *Informal resolution/voluntary compliance*—(1) *General.* It is the policy of HUD to encourage the informal resolution of matters. A complaint or a compliance review may be resolved by informal means at any time. If a letter of findings is issued, and the letter makes a finding of noncompliance, the Responsible Official will attempt to resolve the matter through a voluntary compliance agreement.

(2) *Objectives of informal resolution/voluntary compliance.* In attempting informal resolution, the Responsible Official will attempt to achieve a just resolution of the matter and to obtain assurances, where appropriate, that the Recipient will satisfactorily remedy any violations of the rights of any complainant, and will take such action as will assure the elimination of any

violation of this part or the prevention of the occurrence of such violation in the future. If a finding of noncompliance has been made, the terms of such an informal resolution shall be reduced to a written voluntary compliance agreement, signed by the Recipient and the Responsible Official, and be made part of the file. Such voluntary compliance agreements shall seek to protect the interests of the complainant (if any), other persons similarly situated, and the public.

(3) *Right to file a private civil action.* At any time in the process, the complainant has the right to file a private civil action. If the complainant does so, the Responsible Official has the discretion to administratively close the investigation or continue the investigation, if he or she decides that it is in the best interests of the Department to do so. If the Responsible Official makes a finding of noncompliance and an agreement to voluntarily comply is not obtained from the Recipient, the procedures at §§ 6.12 and 6.13 for effecting compliance shall be followed.

(f) *Intimidatory or retaliatory acts prohibited.* No Recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by this part, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, compliance review, proceeding, or hearing under this part.

§ 6.12 Procedure for effecting compliance.

(a) Whenever the Assistant Secretary determines that a Recipient of Federal financial assistance has failed to comply with Section 109(a) or this part and voluntary compliance efforts have failed, the Secretary will notify the Governor of the State or the Chief Executive Officer of the unit of general local government of the findings of noncompliance and will request that the Governor or the Chief Executive Officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the Governor or the Chief Executive Officer fails or refuses to secure compliance, the Secretary will:

(1) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) Exercise the powers and functions provided by Title VI;

(3) Terminate or reduce payments under Title I, or limit the availability of payments under Title I to programs or activities not affected by the failure to comply; or

(4) Take such other actions as may be provided by law, including but not limited to, the initiation of proceedings under 24 CFR part 24 or any applicable proceeding under State or local law.

(b) *Termination, reduction, or limitation of the availability of Title I payments.* No order terminating, reducing, or limiting the availability of Title I payments under this part shall become effective until:

(1) The Secretary has notified the Governor of the State or the Chief Executive Officer of the unit of general local government of the Recipient's failure to comply in accordance with paragraph (a) of this section and of the termination, reduction or limitation of the availability of Title I payments to be taken;

(2) The Secretary has determined that compliance cannot be secured by voluntary means;

(3) The Recipient has been extended an opportunity for a hearing in accordance with § 6.13(a); and

(4) A final agency notice or decision has been rendered in accordance with paragraph (c) of this section or 24 CFR part 180.

(c) If a Recipient does not respond to the notice of opportunity for a hearing or does not elect to proceed with a hearing within 20 days of the issuance of the Secretary's actions listed in paragraphs (b)(1), (2) and (3) of this section, then the Secretary's approval of the termination, reduction or limitation of the availability of Title I payments is considered a final agency notice and the Recipient may seek judicial review in accordance with section 111(c) of the Act.

§ 6.13 Hearings and appeals.

(a) When a Recipient requests an opportunity for a hearing, in accordance with § 6.12(b)(3), the General Counsel will follow the notification procedures set forth in 24 CFR 180.415. The hearing, and any petition for review, will be conducted in accordance with the procedures set forth in 24 CFR part 180.

(b) After a hearing is held and a final agency decision is rendered under 24 CFR part 180, the Recipient may seek judicial review in accordance with section 111(c) of the Act.

PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS

2. The heading of part 180 is revised to read as set forth above.

3. The authority citation for 24 CFR part 180 continues to read as follows:

Authority: 29 U.S.C. 794; 42 U.S.C. 2000d-1, 3535(d), 3601–3619, 5301–5320, and 6103.

4. In § 180.100, the paragraph (c) designation is removed and a new paragraph (c) is added immediately above the definition for Agency; and the definitions of ''*Federal financial assistance*,'' ''*Non-Fair Housing Act matters*,'' and ''*Recipient*'' are revised to read as follows:

§ 180.100 Definitions.

* * * * *

(c) Other terms used in this part are defined as follows:

* * * * *

Federal financial assistance has the meaning provided in 24 CFR 1.2, 6.3, 8.3, or 146.7, as applicable.

* * * * *

Non-Fair Housing Act Matters refers to proceedings under this part pursuant to:

(1) Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000d-1) and the implementing regulations at 24 CFR part 1;

(2) Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8;

(3) The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6103) and the implementing regulations at 24 CFR part 146; or

(4) Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301–5321) and the implementing regulations at 24 CFR part 6.

* * * * *

Recipient has the meaning provided in 24 CFR 1.2, 6.3, 8.3, or 146.7, as applicable.

* * * * *

5. Section 180.105 is amended by removing ''and'' at the end of paragraph (a)(3), by removing the period at the end of paragraph (a)(4) and adding ''; and'' in its place, and by adding a new paragraph (a)(5), to read as follows:

§ 180.105 Scope of rules.

(a) * * *

(5) Section 109 of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5321) and implementing regulations at 24 CFR part 6.

* * * * *

6. In § 180.310, paragraph (a) is revised to read as follows:

§ 180.310 Parties.

(a) Parties to proceedings under this part are HUD, the respondent(s), and any intervenors. Respondents include persons named as such in a charge issued under 24 CFR part 103 and Recipients/applicants named as

respondents in hearing notices issued under 24 CFR parts 1, 6, 8 or 146 and notices of proposed adverse action under this part.

* * * * *

7. In § 180.415, the section heading and paragraph (a) are revised to read as follows:

§ 180.415 Notice of proposed adverse action regarding Federal financial assistance in non-Fair Housing Act matters.

(a) *Filing and service*. Within 10 days after a Recipient/applicant has requested a hearing, as provided for in 24 CFR parts 1, 6, 8, or 146, the General Counsel shall file a notice of proposed adverse action with the Chief Docket Clerk and serve copies (with the additional information required under paragraph (b) of this section) on all respondents and complainants.

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

8. The authority for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

9. Section 570.602 is revised to read as follows:

§ 570.602 Section 109 of the Act.

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

10. In § 570.913, a heading is added to paragraph (a) and the introductory text of paragraph (a) is revised to read as follows:

§ 570.913 Other remedies for noncompliance.

(a) *Action to enforce compliance.* When the Secretary acts to enforce the civil rights provisions of Section 109, as described in § 570.602 and 24 CFR part 6, the procedures described in 24 CFR parts 6 and 180 apply. If the Secretary finds, after reasonable notice and opportunity for hearing, that a recipient has failed to comply substantially with any other provisions of this part, the provisions of this section apply. The Secretary, until he/she is satisfied that there is no longer any such failure to comply, shall:

* * * * *

Dated: January 12, 1999.

Andrew Cuomo,

Secretary.

[FR Doc. 99–1621 Filed 1–22–99; 8:45 am]

BILLING CODE 4210–32–P

federal register

Monday
January 25, 1999

Part VI

Department of Education

Office of Educational Research and Improvement (OERI), Star School Program; Notice Inviting Applications and Application Review Procedures for New Awards for Fiscal Year 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.203F]

Office of Educational Research and Improvement (OERI), Star Schools Program; Notice Inviting Applications and Application Review Procedures for New Awards for Fiscal Year 1999

Purpose of Program: The purpose of the Star Schools program is to encourage improved instruction in mathematics, science, foreign languages, and other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient persons, and individuals with disabilities through the use of distance learning technologies.

Eligible Applicants: Only eligible applicants that include at least one local educational agency in the proposed project may apply under this competition. Eligible telecommunications partnerships must be organized on a statewide or multistate basis. Eligible entities include:

(1) A public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of title I of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 103–352 (ESEA); or

(2) A partnership that will provide telecommunications services and includes three or more of the following entities. At least one of the agencies must be a local educational agency, as described in paragraph (A) below, or a State educational agency:

(A) A local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of title I of the ESEA or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(c) of the ESEA;

(B) A State educational agency;

(C) Adult and family education programs;

(D) An institution of higher education or a State higher education agency;

(E) A teacher training center or academy which provides teacher preservice and inservice training, and receives Federal financial assistance or has been approved by a State agency;

(F) A public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or a public broadcasting entity with experience of this type; or

(G) A public or private elementary or secondary school.

Application Available: January 26, 1999.

Deadline for Receipt of Applications: March 26, 1999.

Note: All applications must be received on or before this date. Applications not received by the deadline date will not be considered for funding unless the applicant can show proof that the application was (1) sent by registered or certified mail no later than five days before the deadline date; or (2) sent by commercial carrier not later than two days before the deadline date. The following are acceptable as proof of mailing: (1) a legibly dated U.S. Postal Service postmark, (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the Secretary. This requirement takes exception to the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.102.

Deadline for Intergovernmental Review: May 25, 1999.

Available Funds: $9,850,000.

Estimated Range of Awards: $1,000,000–$2,000,000.

Estimated Average Size of Awards: $2,000,000.

Maximum Award: The Secretary will not consider an application that proposes a budget exceeding $2 million per year or amounts exceeding $10 million for five years.

Estimated Number of Awards: 4–5.

Project Period: Up to 60 months. Please note that all applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will negotiate at the time of the initial award the funding levels for each year of the grant award.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except 34 CFR 75.102(a) and (b)(1)), 77, 79, 80, 81, 82, 85, 86, and (b) 34 CFR 299.

Supplementary Information: The Star Schools program is authorized by the ESEA, Title III, Part B (20 U.S.C. 6891–6900). The Star Schools program provides quality, cost-effective instruction through distance education technologies to more than 2,000,000 learners annually in 50 states and U.S. territories. Although the program began with small rural schools, it is now equally valuable to schools in large urban areas. To ensure that learners are prepared for the 21st century, it is imperative that the traditional instructional model is transformed to an active-learner, more collaborative-based model. Star Schools projects have harnessed the power of emerging technologies such as the Internet, CD–ROM, videoconferencing, virtual environments and interactive software to achieve this transformation. Consequently, the Star Schools program reaches a diverse group of students to create an inclusive, effective learning experience for the 21st century learner.

Application Review Procedures

The Secretary will use a two-tier process for reviewing applications in this competition. In the first tier, all applications submitted will be reviewed. The ten applications with the highest scores in the first tier will be reviewed in the second tier. In the event of a tie for tenth in the rank order in the first tier, the top nine applications plus all those applications tied for tenth will be considered in the second tier. The same evaluation criteria will be used in each tier. The Secretary will select applications for funding on the basis of the rank ordering of applications in the second tier. In all other respects, the Secretary will follow the procedures set out in the Education Department General Administrative Regulations (EDGAR), 34 CFR Part 75, in reviewing applications. This process takes exception, in part, to EDGAR, 34 CFR 75.217.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these modifications to EDGAR, concerning the deadline for receipt of applications and the application review process, make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking is not required.

(The valid OMB control number for this collection of information is 1850–0623.)

For Further Information Contact: Joseph Wilkes or Tawanna Coles, U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW.,

Washington, DC 20208–5544. Telephone 202–208–3882. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request by contacting either contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting either contact person identified in this notice. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 6891–6900.

Dated: January 19, 1999.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 99–1618 Filed 1–22–99; 8:45 am]

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1940–1949	(869–034–00019–3)	33.00	Jan. 1, 1998
1950–1999	(869–034–00020–7)	40.00	Jan. 1, 1998
2000–End	(869–034–00021–5)	24.00	Jan. 1, 1998
8	(869–034–00022–3)	33.00	Jan. 1, 1998
9 Parts:			
1–199	(869–034–00023–1)	40.00	Jan. 1, 1998
200–End	(869–034–00024–0)	33.00	Jan. 1, 1998
10 Parts:			
0–50	(869–034–00025–8)	39.00	Jan. 1, 1998
51–199	(869–034–00026–6)	32.00	Jan. 1, 1998
200–499	(869–034–00027–4)	31.00	Jan. 1, 1998
500–End	(869–034–00028–2)	43.00	Jan. 1, 1998
11	(869–034–00029–1)	19.00	Jan. 1, 1998
12 Parts:			
1–199	(869–034–00030–4)	17.00	Jan. 1, 1998
200–219	(869–034–00031–2)	21.00	Jan. 1, 1998
220–299	(869–034–00032–1)	39.00	Jan. 1, 1998
300–499	(869–034–00033–9)	23.00	Jan. 1, 1998
500–599	(869–034–00034–7)	24.00	Jan. 1, 1998
600–End	(869–034–00035–5)	44.00	Jan. 1, 1998
13	(869–034–00036–3)	23.00	Jan. 1, 1998
14 Parts:			
1–59	(869–034–00037–1)	47.00	Jan. 1, 1998
60–139	(869–034–00038–0)	40.00	Jan. 1, 1998
140–199	(869–034–00039–8)	16.00	Jan. 1, 1998
200–1199	(869–034–00040–1)	29.00	Jan. 1, 1998
1200–End	(869–034–00041–0)	23.00	Jan. 1, 1998
15 Parts:			
0–299	(869–034–00042–8)	22.00	Jan. 1, 1998
300–799	(869–034–00043–6)	33.00	Jan. 1, 1998
800–End	(869–034–00044–4)	23.00	Jan. 1, 1998
16 Parts:			
0–999	(869–034–00045–2)	30.00	Jan. 1, 1998
1000–End	(869–034–00046–1)	33.00	Jan. 1, 1998
17 Parts:			
1–199	(869–034–00048–7)	27.00	Apr. 1, 1998
200–239	(869–034–00049–5)	32.00	Apr. 1, 1998
240–End	(869–034–00050–9)	40.00	Apr. 1, 1998
18 Parts:			
1–399	(869–034–00051–7)	45.00	Apr. 1, 1998
400–End	(869–034–00052–5)	13.00	Apr. 1, 1998
19 Parts:			
1–140	(869–034–00053–3)	34.00	Apr. 1, 1998
141–199	(869–034–00054–1)	33.00	Apr. 1, 1998
200–End	(869–034–00055–0)	15.00	Apr. 1, 1998
20 Parts:			
1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
400–499	(869–034–00057–6)	28.00	Apr. 1, 1998
500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
§§ 1.0-1–1.60	(869–034–00077–1)	26.00	Apr. 1, 1998
§§ 1.61–1.169	(869–034–00078–9)	48.00	Apr. 1, 1998
§§ 1.170–1.300	(869–034–00079–7)	31.00	Apr. 1, 1998
§§ 1.301–1.400	(869–034–00080–1)	23.00	Apr. 1, 1998
§§ 1.401–1.440	(869–034–00081–9)	39.00	Apr. 1, 1998
§§ 1.441-1.500	(869-034-00082-7)	29.00	Apr. 1, 1998
§§ 1.501–1.640	(869–034–00083–5)	27.00	Apr. 1, 1998
§§ 1.641–1.850	(869–034–00084–3)	32.00	Apr. 1, 1998
§§ 1.851–1.907	(869–034–00085–1)	36.00	Apr. 1, 1998
§§ 1.908–1.1000	(869–034–00086–0)	35.00	Apr. 1, 1998
§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
2–29	(869–034–00089–4)	36.00	Apr. 1, 1998
30–39	(869–034–00090–8)	25.00	Apr. 1, 1998
40–49	(869–034–00091–6)	16.00	Apr. 1, 1998
50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0-42	(869–034–00098–3)	36.00	July 1, 1998
43-end	(869-034-00099-1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–032–00163–4)	31.00	Oct. 1, 1997
1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
44	(869–032–00165–1)	31.00	Oct. 1, 1997
45 Parts:			
1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–032–00170–7)	26.00	Oct. 1, 1997
41–69	(869–032–00171–5)	22.00	Oct. 1, 1997
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–032–00173–1)	27.00	Oct. 1, 1997
140–155	(869–032–00174–0)	15.00	Oct. 1, 1997
156–165	(869–032–00175–8)	20.00	Oct. 1, 1997
166–199	(869–032–00176–6)	26.00	Oct. 1, 1997
200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–032–00180–4)	27.00	Oct. 1, 1997
40–69	(869–032–00181–2)	23.00	Oct. 1, 1997
70–79	(869–032–00182–1)	33.00	Oct. 1, 1997
80–End	(869–032–00183–9)	43.00	Oct. 1, 1997
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–032–00186–3)	35.00	Oct. 1, 1997
3–6	(869–032–00187–1)	29.00	Oct. 1, 1997
7–14	(869–032–00188–0)	32.00	Oct. 1, 1997
15–28	(869–032–00189–8)	33.00	Oct. 1, 1997
29–End	(869–032–00190–1)	25.00	Oct. 1, 1997
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–032–00192–8)	50.00	Oct. 1, 1997
186–199	(869–032–00193–6)	11.00	Oct. 1, 1997
200–399	(869–032–00194–4)	43.00	Oct. 1, 1997
400–999	(869–032–00195–2)	49.00	Oct. 1, 1997
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–032–00197–9)	14.00	Oct. 1, 1997
50 Parts:			
1–199	(869–032–00198–7)	41.00	Oct. 1, 1997
200–599	(869–032–00199–5)	22.00	Oct. 1, 1997
600–End	(869–032–00200–2)	29.00	Oct. 1, 1997

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–034–00049–6)	46.00	Jan. 1, 1998
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.