1–29–99
Vol. 64 No. 19
Pages 4517–4776

# federal register

Friday
January 29, 1999

**Now Available Online via**

***GPO Access***

Free online access to the official editions of the *Federal Register, the Code of Federal Regulations* and other Federal Register publications is available on *GPO Access*, a service of the U.S. Government Printing Office at:

http://www.access.gpo.gov/nara/index.html

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

**Attention: Federal Agencies**

***Plain Language Tools Are Now Available***

The Office of the Federal Register offers Plain Language Tools on its Website to help you comply with the President's Memorandum of June 1, 1998—Plain Language in Government Writing (63 FR 31883, June 10, 1998). Our address is: http://www.nara.gov/fedreg

For more in-depth guidance on the elements of plain language, read ''Writing User-Friendly Documents'' on the National Partnership for Reinventing Government (NPR) Website at: http://www.plainlanguage.gov

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

**The seal of the National Archives and Records Administration authenticates the Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

**How To Cite This Publication:** Use the volume number and the page number. Example: 64 FR 12345.

## SUBSCRIPTIONS AND COPIES

| | |
|---|---|
| **PUBLIC** | |
| **Subscriptions:** | |
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **512–1806** |
| **General online information** | **202–512–1530; 1–888–293–6498** |
| **Single copies/back copies:** | |
| Paper or fiche | **512–1800** |
| Assistance with public single copies | **512–1803** |
| **FEDERAL AGENCIES** | |
| **Subscriptions:** | |
| Paper or fiche | **523–5243** |
| Assistance with Federal agency subscriptions | **523–5243** |

**NOW AVAILABLE ONLINE**

The October 1998 Office of the Federal Register Document Drafting Handbook

Free, easy online access to the newly revised October 1998 Office of the Federal Register Document Drafting Handbook (DDH) is now available at:

**http://www.nara.gov/fedreg/draftres.html**

This handbook helps Federal agencies to prepare documents for publication in the **Federal Register.**

For additional information on access, contact the Office of the Federal Register's Technical Support Staff.

Phone: 202–523–3447

E-mail: info@fedreg.nara.gov

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 64, No. 19

Friday, January 29, 1999

**Agency for Health Care Policy and Research**
NOTICES
Meetings:
Health care quality and effectiveness research, etc.; subcommittees, 4664–4665

**Agriculture Department**
*See* Federal Crop Insurance Corporation
*See* Food Safety and Inspection Service
*See* Forest Service
*See* Grain Inspection, Packers and Stockyards Administration
*See* Rural Utilities Service

**Antitrust Division**
NOTICES
National cooperative research notifications:
Advanced Lead-Acid Battery Consortium, 4704
Biotechnology Research & Development Corp., 4704–4705
CNgroup, 4705
Consortium for Plasma Science, LLC, 4705
Digital Imaging Group, 4705–4706
Dow Chemical Co., 4706
Enterprise Computer Telephony Forum, 4706
Frame Relay Forum, 4706–4707
Inter Company Collaboration for AIDS Drug Development, 4707
National Electrical Manufacturers Association, 4707–4708
National Electronics Manufacturing Initiative, 4708
National Shipbuilding Research Program, 4708
Open Group, L.L.C., 4708
Optical Internetworking Forum, 4709
Portland Cement Association, 4709
Semiconductor Research Corp., 4709–4710
Silicon Integration Initiative, Inc., 4710
Supercomputer Automotive Applications Partnership, 4710
VSI Alliance, 4710–4711

**Army Department**
*See* Engineers Corps

**Blind or Severely Disabled, Committee for Purchase From People Who Are**
*See* Committee for Purchase From People Who Are Blind or Severely Disabled

**Children and Families Administration**
NOTICES
Grants and cooperative agreements; availability, etc.:
Community Services Office; combined programs
Urban and rural community economic development program, 4665

**Commerce Department**
*See* International Trade Administration
*See* National Institute of Standards and Technology
*See* National Oceanic and Atmospheric Administration

**Committee for Purchase From People Who Are Blind or Severely Disabled**
NOTICES
Procurement list; additions and deletions, 4637, 4638

**Community Development Financial Institutions Fund**
NOTICES
Grants and cooperative agreements; availability, etc.:
Community development financial institutions program, 4753–4757

**Defense Department**
*See* Engineers Corps
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Interest and other financial costs, 4759–4760

**Education Department**
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4641–4642
State educational agencies; submission of expenditure and revenue data, etc., 4642–4643

**Employment and Training Administration**
NOTICES
Adjustment assistance:
Donnkenny Apparel, Inc., 4713–4714
Harsco Corp., 4714
Huber Lace & Embroidery Inc., 4714
John Deere Consumer Products, 4714
Rayonier, Inc., 4715
Adjustment assistance and NAFTA transitional adjustment assistance:
Rock Mount Instruments, Inc., et al., 4711–4713
NAFTA transitional adjustment assistance:
Automotive Logistics Services et al., 4715–4717
John Deere Consumer Products, 4717

**Employment Standards Administration**
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 4717–4718

**Energy Department**
*See* Federal Energy Regulatory Commission
*See* Western Area Power Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Environmental management science program; correction, 4643
Million solar roofs program for State and community partnerships, 4643
Meetings:
Basic Energy Sciences Advisory Committee, 4644

**Engineers Corps**
NOTICES
Environmental statements; availability, etc.:
Dare County, NC; Manteo (Shallowbag) Bay project, 4640
Environmental statements; notice of intent:
Missouri River between Fort Peck Dam, MT, and Gavins Point Dam, SD and NE; bank stabilization project, 4641

**Environmental Protection Agency**
RULES
Air pollutants, hazardous; national emission standards:
Secondary lead smelters, new and existing; compliance date extension, etc.; correction, 4570–4572
Air quality implementation plans; approval and promulgation; various States:
Georgia, 4568–4570
Hazardous waste:
Identification and listing—
Exclusions, 4590–4596
Hazardous waste program authorizations:
Nevada, 4596–4599
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Azoxystrobin, 4572–4577
Fenbuconazole, 4577–4584
Lambda-cyhalothrin, 4584–4590
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Georgia, 4605
Hazardous waste program authorizations:
Nevada, 4605
Toxic substances:
Significant new uses—
Diphenyl-2,4,6-trimethylbenzoyl phosphine oxide; withdrawn, 4605–4607
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 4647–4648
Weekly receipts, 4648–4649
Meetings:
Children's Health Protection Advisory Committee, 4649
Environmental Policy and Technology National Advisory Council, 4649–4650
Pesticide, food, and feed additive petitions:
Interregional Research Project, 4650–4652
Pesticides; experimental use permits, etc.:
Rhone-Poulenc AG Co., 4653
Reports and guidance documents; availability, etc.:
Printed wiring board cleaner technologies substitute assessment; making holes conductive, 4653

**Executive Office of the President**
*See* Trade Representative, Office of United States

**Farm Credit Administration**
NOTICES
Meetings; Sunshine Act, 4653–4654

**Federal Aviation Administration**
RULES
Airworthiness directives:
Allison Engine Co., 4525–4526
Empresa Brasileira de Aeronautica S.A., 4521–4523
McDonnell Douglas, 4523–4525
Class B airspace, 4527–4533
Restricted areas, 4534–4535

**Federal Communications Commission**
NOTICES
Meetings:
2000 World Radiocommunication Conference (WRC 2000) Advisory Committee, 4654

**Federal Crop Insurance Corporation**
NOTICES
Crop revenue coverage:
Corn, grain sorghum, soybeans, cotton, and rice, 4609–4632

**Federal Election Commission**
NOTICES
Meetings; Sunshine Act, 4654

**Federal Emergency Management Agency**
NOTICES
Disaster and emergency areas:
Illinois, 4654–4655

**Federal Energy Regulatory Commission**
NOTICES
Hydroelectric applications, 4645–4646
*Applications, hearings, determinations, etc.:*
Williams Natural Gas Co., 4644–4645

**Federal Reserve System**
NOTICES
Meetings; Sunshine Act, 4655

**Federal Retirement Thrift Investment Board**
NOTICES
Meetings; Sunshine Act, 4655

**Federal Trade Commission**
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4655–4659
Prohibited trade practices:
British Petroleum Co. p.l.c. et al., 4659–4664

**Federal Transit Administration**
NOTICES
Grants and cooperative agreements; availability, etc.:
Urban magnetic levitation transit technology development program, 4771–4776

**Financial Management Service**
*See* Fiscal Service

**Fiscal Service**
RULES
Financial management services:
Bonds secured by government obligations; acceptance in lieu of bonds with sureties, 4761–4765

**Fish and Wildlife Service**
PROPOSED RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority ):
Alaska Federal Subsistence Regional Advisory Councils; meetings, 4604–4605
Endangered and threatened species:
Preble's meadow jumping mouse, 4607–4608
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4696–4698
Endangered and threatened species permit applications, 4698

**Food and Drug Administration**
RULES
Animal drugs, feeds, and related products:
Dihydrostreptomycin tablets; CFR correction, 4540
Food additives:
Adhesive coatings and components—
Resinous and polymetric coatings; CFR correction, 4535
Adjuvants, production aids, and sanitizers—
Alkyl mono- and disulfanic acids, etc.; CFR correction, 4535
Human drugs:
Laxative products (OTC)—
Danthron and phenolphthalein; reclassification; tentative final monograph, 4535–4540
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4665–4667
Food for human consumption:
Food Chemicals Codex; 4th Edition—
New monographs and revisions, 4667–4668

**Food Safety and Inspection Service**
NOTICES
Meetings:
Codex Alimentarius Commission—
Food Additives and Contaminants Codex Committee, 4632–4633

**Forest Service**
PROPOSED RULES
Alaska National Interest Lands Conservation Act; Title VIII implementation (subsistence priority):
Alaska Federal Subsistence Regional Advisory Councils; meetings, 4604–4605
NOTICES
Environmental statements; notice of intent:
Mt. Baker-Snoqualmie and Wenatchee National Forests, WA, 4633–4635
Mt. Baker-Snoqualmie National Forest, WA, 4635
Meetings:
Willamette Provincial Interagency Executive Committee Advisory Committee, 4635

**General Services Administration**
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Interest and other financial costs, 4759–4760

**Grain Inspection, Packers and Stockyards Administration**
NOTICES
Agency designation actions:
Indiana, 4635–4636

**Health and Human Services Department**
*See* Agency for Health Care Policy and Research
*See* Children and Families Administration
*See* Food and Drug Administration
NOTICES
Scientific misconduct findings; administrative actions:
Briggs-Brown, Nellie, 4664
Thackeray, Robert J., R.N., M.P.H., 4664

**Housing and Urban Development Department**
RULES
Mortgage and loan insurance programs:
Multifamily mortgagees; electronic reporting requirements, 4767–4770
NOTICES
Agency information collection activities:
Proposed collection; comment request, 4668–4669
Grant and cooperative agreement awards:
Housing assistance payments (Section 8)—
Rental certificate and rental voucher programs, 4669–4696
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 4696

**Interior Department**
*See* Fish and Wildlife Service
*See* Land Management Bureau
*See* National Indian Gaming Commission
*See* National Park Service
*See* Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4696

**Internal Revenue Service**
RULES
Employment taxes and collection of income taxes at source:
Federal Insurance Contributions Act (FICA); taxation of amounts under employee benefit plans, 4542–4568
Federal Unemployment Tax Act (FUTA); taxation of amounts under employee benefit plans, 4540–4541

**International Trade Administration**
NOTICES
Countervailing duties:
Hot-rolled flat-rolled carbon-quality steel products from—
Brazil, 4638–4639

**International Trade Commission**
NOTICES
Import investigations:
Lamb meat, 4702
Meetings; Sunshine Act, 4702

**Justice Department**
*See* Antitrust Division
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 4702–4703
Pollution control; consent judgments:
Bennington Potters, Inc., et al., 4703–4704
Zabel, Anne, et al., 4704

**Labor Department**
*See* Employment and Training Administration
*See* Employment Standards Administration
*See* Labor Statistics Bureau
*See* Occupational Safety and Health Administration

**Labor Statistics Bureau**
NOTICES
Agency information collection activities:
Proposed collection; comment request, 4718–4719

**Land Management Bureau**
NOTICES
Closure of public lands:
Oregon, 4698–4699
Coal leases, exploration licenses, etc:
Oklahoma, 4699

Environmental statements; availability, etc.:
Glenwood Springs Resource Area, CO, 4699–4700
Rio Blanco County et al., CO; Colorado Sodium Products Development Project; correction, 4700

**National Aeronautics and Space Administration**
**PROPOSED RULES**
Federal Acquisition Regulation (FAR):
Interest and other financial costs, 4759–4760
**NOTICES**
Meetings:
Advisory Council
Space Science Advisory Committee, 4721–4722

**National Indian Gaming Commission**
**NOTICES**
Indian Gaming Regulatory Act:
Class III tribal gaming ordinances; approval, 4722–4723

**National Institute of Standards and Technology**
**NOTICES**
Inventions, Government-owned; availability for licensing, 4639

**National Oceanic and Atmospheric Administration**
**RULES**
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands groundfish, 4602–4603
Magnuson-Stevens Act provisions—
Regional fishery management councils; members nomination and appointment, 4599–4602
**NOTICES**
Meetings:
International Whaling Commission, 4639–4640

**National Park Service**
**NOTICES**
Agency information collection activities:
Proposed collection; comment request, 4700–4701

**Nuclear Regulatory Commission**
**NOTICES**
Reports and guidance documents; availability, etc.:
Enforcement actions; policy and procedure; discretion involving natural events; correction, 4727
*Applications, hearings, determinations, etc.:*
NDT Services, Inc., 4723–4725
Washington Public Power Supply System, 4725
Wolf Creek Nuclear Operating Corp., 4726

**Occupational Safety and Health Administration**
**NOTICES**
Grants and cooperative agreements; availability, etc.:
Susan Harwood training program; shipyards, 4719–4721

**Office of United States Trade Representative**
*See* Trade Representative, Office of United States

**Personnel Management Office**
**RULES**
Pay administration:
Premium pay; availability pay for criminal investigators, 4517–4521
**NOTICES**
Agency information collection activities:
Submission for OMB review; comment request, 4727
Privacy Act:
Systems of records, 4727–4728

**Postal Service**
**NOTICES**
Postage meters:
Information-based indicia program; performance criteria and security architecture for closed IBI systems, 4728

**Public Debt Bureau**
*See* Fiscal Service

**Public Health Service**
*See* Agency for Health Care Policy and Research
*See* Food and Drug Administration

**Rural Utilities Service**
**NOTICES**
Environmental statements; notice of intent:
Alabama Electric Cooperative, Inc., 4636–4637

**Securities and Exchange Commission**
**NOTICES**
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 4729–4730
*Applications, hearings, determinations, etc.:*
Public utility holding company filings, 4728

**Small Business Administration**
**NOTICES**
Disaster loan areas:
California, 4730
New York, 4731
Meetings; district and regional advisory councils:
Oregon, 4731

**State Department**
**NOTICES**
Foreign passports validity; list of countries, 4731–4732
Meetings:
International Economic Policy Advisory Committee, 4732

**Surface Mining Reclamation and Enforcement Office**
**PROPOSED RULES**
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 4604
**NOTICES**
Agency information collection activities:
Proposed collection; comment request, 4701
Environmental statements; availability, etc.:
Fall Creek Falls State Park, TN; unsuitability for mining operations, 4701–4702

**Surface Transportation Board**
**NOTICES**
Motor carriers:
Pooling agreements—
Groendyke Transport, Inc., et al., 4743–4744
Rail carriers:
Cost recovery procedures—
Productivity adjustment factor, 4744

**Trade Representative, Office of United States**
**NOTICES**
Generalized System of Preferences:
Competitive need limitations; import statistics; comment request, 4732–4742

**Transportation Department**
*See* Federal Aviation Administration

*See* Federal Transit Administration
*See* Surface Transportation Board
**NOTICES**
Aviation proceedings:
Hearings, etc.—
National Airlines, Inc., 4743

**Treasury Department**
*See* Community Development Financial Institutions Fund
*See* Fiscal Service
*See* Internal Revenue Service

**United States Information Agency**
**NOTICES**
Art objects; importation for exhibition:
Collecting Impressionism, 4744–4745

**Veterans Affairs Department**
**PROPOSED RULES**
Acquisition regulations:
Tax-free tobacco products, 4607
**NOTICES**
Agency information collection activities:
Proposed collection; comment request, 4745–4749
Submission for OMB review; comment request, 4749–4752, 4746

**Western Area Power Administration**
**NOTICES**
Central Valley Project, CA, and Salt Lake City Area Integrated Projects, UT; size of project-specific resource pools; comment request and meetings, 4646–4647

**Separate Parts In This Issue**

**Part II**
Department of Treasury, Community Development Financial Institutions Fund, 4753–4757

**Part III**
Department of Defense, General Services Administration, National Aeronautics and Space Administration, 4759–4760

**Part IV**
Department of Treasury, Fiscal Service, 4761–4765

**Part V**
Department of Housing and Urban Development, 4767–4770

**Part VI**
Department of Transportation, Federal Transit Administration, 4771–4776

**Reader Aids**

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

## CFR PARTS AFFECTED IN THIS ISSUE

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

**5 CFR**
550 ..... 4517

**14 CFR**
39 (3 documents) ..... 4521, 4523, 4525
71 ..... 4527
73 ..... 4534

**21 CFR**
175 ..... 4535
178 ..... 4535
310 ..... 4535
520 ..... 4540

**24 CFR**
200 ..... 4768
207 ..... 4768

**26 CFR**
31 (2 documents) ..... 4540, 4542
602 ..... 4542

**30 CFR**
**Proposed Rules:**
917 ..... 4604

**31 CFR**
225 ..... 4762

**36 CFR**
**Proposed Rules:**
242 ..... 4604

**40 CFR**
52 ..... 4568
63 ..... 4570
180 (3 documents) ..... 4572, 4577, 4584
261 ..... 4590
271 ..... 4596
**Proposed Rules:**
52 ..... 4605
271 ..... 4605
721 ..... 4605

**48 CFR**
**Proposed Rules:**
31 ..... 4760
829 ..... 4607

**50 CFR**
600 ..... 4599
679 (2 documents) ..... 4602
**Proposed Rules:**
17 ..... 4607
100 ..... 4604

# Rules and Regulations

Federal Register
Vol. 64, No. 19
Friday, January 29, 1999

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

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

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

**RIN 3206–AG47**

### Pay Administration; Premium Pay

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Personnel Management is issuing revised interim regulations on availability pay (a form of premium pay that applies to criminal investigators who are required to complete substantial amounts of unscheduled overtime duty) to incorporate the provisions of three laws that have become effective since interim regulations were first published on December 23, 1994. These statutory changes extend the coverage of availability pay to special agents employed in the Diplomatic Security Service of the Department of State and to pilots employed by the United States Customs Service who are law enforcement officers; permit any Office of Inspector General that employs fewer than five criminal investigators to elect to exclude those employees from availability pay; and provide alternative requirements for compensating overtime work and crediting unscheduled duty hours for special agents and other criminal investigators who provide protective services for Federal officials and other individuals.

**DATES:** *Effective date:* January 29, 1999.

*Applicability dates:* Except for availability pay for special agents employed by the Department of State, these regulations are applicable on January 29, 1999. Availability pay for special agents in the Diplomatic Security Service of the Department of State is applicable on January 31, 1999.

*Comments date:* Comments must be received on or before March 30, 1999.

**ADDRESSES:** Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, FAX: (202) 606–0824, or email: payleave@opm.gov.

**FOR FURTHER INFORMATION CONTACT:** James R. Weddel, (202) 606–2858, FAX: (202) 606–0824, or email: payleave@opm.gov.

**SUPPLEMENTARY INFORMATION:** Section 633 of the Treasury, Postal Service, and General Government Appropriations Act, 1995 (Pub. L. 103–329, September 30, 1994), amended title 5, United States Code, to provide for a form of premium pay called availability pay for criminal investigators. Availability pay became effective on the first day of the first pay period beginning on or after October 30, 1994, except that implementation was delayed until September 1995 for certain criminal investigators employed by Inspectors General. Criminal investigators receiving availability pay are exempt from the minimum wage and overtime pay provisions of the Fair Labor Standards Act of 1938, as amended (FLSA), and may not receive annual premium pay for administratively uncontrollable overtime (AUO) work authorized by 5 U.S.C. 5545(c)(2).

On December 23, 1994, the Office of Personnel Management (OPM) published interim regulations on availability pay in the **Federal Register** (59 FR 66149). We have received numerous comments on these interim regulations. We plan to address those comments, as well as any comments we receive on the revised interim regulations, when we publish final regulations. Therefore, it is not necessary to resubmit any comments that were submitted on the interim regulations published on December 23, 1994.

### Coverage of Special Agents in the Diplomatic Security Service

Section 407 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in section 101(b) in Division A of Pub. L. 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (October 21, 1998), amended 5 U.S.C. 5545a by adding a new subsection (k), which extends coverage of law enforcement availability pay to special agents of the Diplomatic Security Service in the Department of State. A provision identical to section 407 is also contained in section 2316 of the Foreign Affairs Reform and Restructuring Act of 1998, Division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. A conforming amendment was also made to 5 U.S.C. 5545a(a)(2) to delete a provision that previously excluded special agents in the Diplomatic Security Service from the definition of ''criminal investigator.''

As implemented in these interim regulations, availability pay applies to a law enforcement officer in the Diplomatic Security Service if one of the following criteria is met: (1) the employee is a special agent in a position properly classified in the GS–1811 occupational series; (2) the employee is a special agent in a position that has been properly determined by the Department of State to have a Foreign Service primary skill code of 2501; (3) the employee is a special agent who has been placed by the Department of State in a non-covered position on a long-term training assignment that will be career-enhancing for a current or future assignment as a Diplomatic Security Service special agent, provided the employee is expected to return to duties as a Special Agent in a Foreign Service position with a 2501 primary skill code or to a position properly classified in the GS–1811 series immediately following such training; or (4) the employee occupies a position in the Department of State in which he or she performs duties and responsibilities of a special agent requiring Foreign Service primary skill code 2501, pending the opening of a position with primary skill code 2501 and placement in that position as a Special Agent.

In addition, availability pay applies to a special agent with a Foreign Service personal primary skill code of 2501 (or whose position is properly classified in the GS–1811 series) if he or she meets all of the following three conditions:

(i) The individual is assigned outside the Department of State;

(ii) The assigned position would have a primary skill code of 2501 (or would be properly classified in the GS–1811 series under the General Schedule classification system based on OPM classification standards) if the position were under the Foreign Service (or General Schedule) in the Department of State; and

(iii) The individual is expected to return to a position as a special agent in the Diplomatic Security Service with a 2501 primary skill code (or to a position that is properly classified in the GS–1811 series) immediately following such outside assignment. (See the revised definition of *criminal investigator* in § 550.103.)

Availability pay does not apply to members of the Senior Foreign Service, Foreign Service Officers, or members of the Senior Executive Service. These groups of employees are not covered by subchapter V—Premium Pay—of chapter 55 of title 5, United States Code, including 5 U.S.C. 5545a, the legal authority for availability pay for criminal investigators. (See 5 U.S.C. 5541(2)(xiv), (xv), and (xvi).)

Section 407 also provides that no later than the effective date for availability pay for special agents, each special agent in the Diplomatic Security Service who is a criminal investigator (as defined in § 550.103), and the appropriate supervisory officer designated by the Secretary of State, must make an initial certification to the Secretary of State that the special agent is expected to meet the unscheduled duty hours requirement for availability pay in 5 U.S.C. 5545a(d). Section 5545a(d) provides that a criminal investigator must have an annual average of 2 unscheduled duty hours for each regular workday. Under section 407, General Schedule and Foreign Service special agents in the Diplomatic Security Service may not rely on 5 U.S.C. 5545a(d)(2)(B) to satisfy the unscheduled duty hour requirement in section 5545a(d)(1). These special agents may count only hours actually worked as unscheduled duty hours, not hours the agent was available for work. This requirement is reflected in §§ 550.182 (a) and (d).

Hours of availability are also not counted as hours of work for the purpose of determining overtime pay on an hourly basis under 5 U.S.C. 5542. Therefore, § 550.111(h) has been added to clarify this point.

In addition, section 407 provides that, while performing protective duties under the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)(3)), special agents of the Diplomatic Security Service may receive overtime pay on an hourly basis for all regularly scheduled overtime work (including the first 2 hours of overtime work on a regular workday), provided they perform, on the same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek. This change in law is reflected in §§ 550.103 (definition of ''protective duties''), 550.111(f)(2), and 550.182(b)(2).

Section 407 provides that in applying the requirement in 5 U.S.C. 5545a(h) that availability pay will be 25 percent of basic pay, any reference to basic pay will be considered to include, with respect to a special agent in the Diplomatic Security Service, amounts designated as ''salary.'' Therefore, § 550.185(a) has been amended to provide that availability pay is an amount equal to (1) 25 percent of a criminal investigator's rate of basic pay, as defined in § 550.103, including amounts designated as ''salary'' for special agents in the Diplomatic Security Service; or (2) a lesser amount to avoid exceeding the special maximum earnings limitation for law enforcement officers in 5 U.S.C. 5547(c). This special maximum earnings limitation for law enforcement officers is also found in § 550.107 and applies to all criminal investigators, including those who are special agents in the Diplomatic Security Service.

Section 407 amended 5 U.S.C. 5545a(h)(2)(A) with regard to special agents in the Diplomatic Security Service to provide that availability pay will be considered basic pay for the purposes of sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980, as amended, which pertain to Foreign Service retirement benefits. Therefore, a parallel paragraph has been added at § 550.186(b)(7).

Section 407 amended 5 U.S.C. 5545a(h)(2)(B) to provide that availability pay is also basic pay for any other purposes explicitly provided for by law or as OPM or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned) may prescribe by regulation. Therefore, a parallel provision has been added at § 550.186(b)(8).

Finally, section 407 requires the Director of OPM and the Secretary of State to determine that all regulations necessary to implement availability pay for special agents are in effect. The Director of OPM and the Secretary of State agree that, with the publication of these regulations, all regulations necessary to implement availability pay for special agents are in effect.

**Suspension of Availability Pay for Special Agents**

Special agents in the Diplomatic Security Service of the Department of State who are in the Foreign Service are not covered by the adverse action procedures in 5 U.S.C. 7512 and 5 CFR part 752. (See 5 U.S.C. 7511(b)(6) and 5 CFR 752.401(d)(6).) Therefore, the requirements in 5 U.S.C. 5545a(e)(2), which provide that involuntary reductions in pay resulting from a denial of certification for availability pay must be accomplished under the adverse action procedures in subchapter II of 5 U.S.C. chapter 75, are not applicable to special agents in the Foreign Service. Instead, § 550.184(e) has been amended to provide that involuntary suspension of availability pay for Foreign Service special agents, resulting from a denial or cancellation of certification for availability pay under § 550.184(d), will be administered under procedures established by regulations of the Department of State.

**Coverage in Offices of Inspectors General**

After the publication of the original interim availability pay regulations, section 901 of Pub. L. 104–19, July 27, 1995 (109 Stat. 230), amended section 5545a of title 5, United States Code, to add a new subsection (j), which provides that ''[n]otwithstanding any other provision of this section, any Office of Inspector General which employs fewer than 5 criminal investigators may elect not to cover such criminal investigators under this section.'' Therefore, § 550.181(a) has been amended, and § 550.181(b) has been added, to reflect the authority to exempt criminal investigators in Offices of Inspectors General with fewer than five criminal investigators. This authority became effective on July 27, 1995, the date of enactment of Pub. L. 104–19.

**Coverage of Customs Service Pilots Who Are Law Enforcement Officers**

After publication of the original interim availability pay regulations, section 902 of Pub. L. 104–19, July 27, 1995 (109 Stat. 230), amended section 5545a of title 5, United States Code, to add a new subsection (i), which provides that ''[t]he provisions of subsections (a)–(h) providing for availability pay shall apply to a pilot employed by the United States Customs Service who is a law enforcement officer as defined under section 5541(3).''

Section 902 also provides that coverage of the designated Customs Service pilots under the law authorizing

availability pay became effective on the first day of the first applicable pay period that began on or after the 30th day following the date of enactment of Pub. L. 104–19. Pub. L. 104–19 was enacted on July 27, 1995. Therefore, section 902 became effective on the first day of the first pay period that began on or after August 26, 1995. The revised interim regulations reflect this change in law by adding ''[w]ho is a pilot employed by the United States Customs Service'' to the definition of *criminal investigator* in § 550.103.

**Overtime Pay for Criminal Investigators Who Perform Protective Duties**

After publication of the original interim availability pay regulations, section 531 of Pub. L. 104–52, November 19, 1995 (109 Stat. 496), amended section 5542 of title 5, United States Code, to add a new subsection (e), which provides that ''[n]otwithstanding subsection (d)(1) of this section, all hours of overtime work scheduled in advance of the administrative workweek shall be compensated under subsection (a) if that work involves duties as authorized by section 3056(a) of title 18, United States Code, and if the investigator performs, on that same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek.''

This amendment provides for payment of overtime pay on an hourly basis for all regularly scheduled overtime hours of work for criminal investigators performing protective duties authorized by section 3056(a) of title 18, including the first 2 overtime hours on a regular workday. However, payment of overtime pay for all regularly scheduled overtime hours worked is permitted only if the criminal investigator performs 2 hours of overtime work during the same workday that were not scheduled in advance of the administrative workweek. Hours of availability may not be substituted for the required unscheduled overtime work. This change in law became effective on November 19, 1995, the date of enactment, and is reflected in the revised interim regulations at §§ 550.103 (definition of protective duties), 550.111(f)(2), and 550.182(b)(2). (Note: Except for days on which employees perform protective duties authorized by section 3056(a) of title 18, United States Code, or by section 2709(a)(3) of title 22, United States Code, the first 2 overtime hours on a regular workday are always compensated by availability pay for criminal investigators, even if those overtime hours are regularly scheduled in advance of the administrative workweek.)

**Availability Pay Is Basic Pay for the Thrift Savings Plan**

Pub. L. 104–208, September 30, 1996, repealed 5 U.S.C. 8431 and amended 5 U.S.C. 8401(4) to provide that the term ''basic pay'' has the meaning given that term by 5 U.S.C. 8331(3) for the purpose of regulations issued by the Federal Retirement Thrift Savings Board. Paragraph (d) of section 628 of the Treasury and General Government Appropriations Act, 1999, as contained in section 101(h) in Division A of Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, amended 5 U.S.C. 8331(3) to add availability pay for a criminal investigator authorized by 5 U.S.C. 5545a to the definition of ''basic pay'' in 5 U.S.C. 8331(3). Since 5 U.S.C. 8431 was repealed in 1996, § 550.186(b)(5) has been revised to state that availability pay is basic pay for the purpose of the Thrift Savings Plan authorized by subchapter III of chapter 84 of title 5, United States Code.

**Waiver of Notice of Proposed Rule Making and Delay in Effective Date**

Pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and making this rule effective on the date of its publication in the **Federal Register**, except that regulations implementing availability pay for special agents in the Diplomatic Security Service will become effective on January 31, 1999. Section 407 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in section 101(b) in Division A of Pub. L. 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, provides that the amendments providing availability pay for special agents will take effect on the first day of the first applicable pay period that begins on or after the 90th day following the enactment of the Act, and on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect. This waiver is also appropriate because the attached changes in regulations update Office of Personnel Management regulations to make them consistent with the following changes in law that are already effective and have previously been implemented.

**E.O. 12866, Regulatory Review**

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

**Regulatory Flexibility Act**

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

**List of Subjects in 5 CFR Part 550**

Administrative practice and procedure, Claims, Government employees, Wages.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM is amending part 550 of title 5 of the Code of Federal Regulations as follows:

## PART 550—PAY ADMINISTRATION (GENERAL)

### Subpart A—Premium Pay

1. The authority citation for part 550, subpart A, is revised to read as follows:

**Authority:** 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105–277, 112 Stat. 2681–101 and 2681–828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

2. In § 550.103, the definition of *Criminal investigator* is revised, and a new definition of *Protective duties* is added in alphabetical order to read as follows:

**§ 550.103 Definitions.**

* * * * *

*Criminal investigator* means a law enforcement officer as defined in 5 U.S.C. 5541(3) and this section—

(1) Whose position is properly classified under the GS–1811 or GS–1812 series in the General Schedule classification system based on OPM classification standards (or would be so classified if covered under that system);

(2) Who is a pilot employed by the United States Customs Service;

(3) Who is a special agent in the Diplomatic Security Service in a position which has been properly determined by the Department of State to have a Foreign Service primary skill code of 2501;

(4) Who is a special agent in the Diplomatic Security Service who has been placed by the Department of State in a non-covered position on a long-term training assignment that will be career-enhancing for a current or future assignment as a Diplomatic Security

Service special agent, provided the employee is expected to return to duties as a special agent in a Foreign Service position with a 2501 primary skill code or to a position properly classified in the GS–1811 series immediately following such training;

(5) Who occupies a position in the Department of State in which he or she performs duties and responsibilities of a special agent requiring Foreign Service primary skill code 2501, pending the opening of a position with primary skill code 2501 and placement in that position as a special agent; or

(6) Who is a special agent in the Diplomatic Security Service with a Foreign Service personal primary skill code of 2501 (or whose position immediately prior to the detail was properly classified in the GS–1811 series) and who meets all of the following three conditions:

(i) The individual is assigned outside the Department of State;

(ii) The assigned position would have a primary skill code of 2501 (or would be properly classified in the GS–1811 series under the General Schedule classification system based on OPM classification standards) if the position were under the Foreign Service (or General Schedule) in the Department of State; and

(iii) The individual is expected to return to a position as a special agent in the Diplomatic Security Service with a 2501 primary skill code (or to a position that is properly classified in the GS–1811 series) immediately following such outside assignment.

* * * * *

*Protective duties* means duties authorized by section 3056(a) of title 18, United States Code, or by section 2709(a)(3) of title 22, United States Code.

* * * * *

3. In § 550.111, paragraph (f) is revised, and a new paragraph (h) is added to read as follows:

**§ 550.111 Authorization of overtime pay.**

* * * * *

(f)(1) Except as provided in paragraph (f)(2) of this section, for any criminal investigator receiving availability pay under § 550.181, overtime work means actual work that is scheduled in advance of the administrative workweek—

(i) In excess of 10 hours on a day containing hours that are part of such investigator's basic 40-hour workweek; or

(ii) On a day not containing hours that are part of such investigator's basic 40-hour workweek.

(2) Notwithstanding paragraph (f)(1) of this section, all overtime work scheduled in advance of the administrative workweek on a day containing part of a criminal investigator's basic 40-hour workweek must be compensated under this section if both of the following conditions are met:

(i) The overtime work involves protective duties authorized by section 3056(a) of title 18, United States Code, or section 2709(a)(3) of title 22, United States Code; and

(ii) The investigator performs on that same day at least 2 consecutive hours of overtime work that are not scheduled in advance of the administrative workweek and are compensated by availability pay.

(3) Any work that would be overtime work under this section but for paragraphs (f)(1) and (f)(2) of this section will be compensated by availability pay under § 550.181.

* * * * *

(h) Availability hours, as described in § 550.182(c), are not hours of work for the purpose of determining overtime pay under this section.

4. Section 550.181 is revised to read as follows:

**§ 550.181 Coverage.**

(a) Each employee meeting the definition of *criminal investigator* in § 550.103, and fulfilling the conditions and requirements of 5 U.S.C. 5545a and §§ 550.181 through 550.186, must receive availability pay to compensate the criminal investigator for unscheduled duty in excess of the 40-hour workweek based on the needs of the employing agency, except as provided in paragraph (b) of this section.

(b) Any Office of Inspector General that employs fewer than five criminal investigators may elect not to cover such criminal investigators under the availability pay provisions of 5 U.S.C. 5545a.

5. In § 550.182, paragraph (a) is revised; paragraphs (b) through (f) are redesignated as paragraphs (c) through (g), respectively; a new paragraph (b) is added; and the newly redesignated paragraph (d) is revised to read as follows:

**§ 550.182 Unscheduled duty.**

(a) *Unscheduled Duty Hours.* For the purpose of availability pay, unscheduled duty hours are those hours during which a criminal investigator performs work, or (except for a special agent in the Diplomatic Security Service) is determined by the employing agency to be available for work, that are not—

(1) Part of the 40-hour basic workweek of the investigator; or

(2) Regularly scheduled overtime hours compensated under 5 U.S.C. 5542 and § 550.111.

(b) *Regularly Scheduled Overtime Hours.* For criminal investigators receiving availability pay, regularly scheduled overtime hours compensated under 5 U.S.C. 5542 and § 550.111 are those overtime hours scheduled in advance of the investigator's administrative workweek, excluding—

(1) The first 2 hours of overtime work on any day containing a part of the investigator's basic 40-hour workweek, as required by § 550.111(f)(1)); or

(2) The first 2 hours of overtime work performing protective duties authorized by section 3056(a) of title 18, United States Code, or section 2709(a)(3) of title 22, United States Code, on any day containing a part of the investigator's basic 40-hour workweek, unless the investigator performs 2 or more consecutive hours of unscheduled overtime work on that same day.

* * * * *

(d) *Availability Hours.* To be considered available for work under paragraph (a) of this section, a criminal investigator must be determined by the employing agency to be generally and reasonably accessible to perform unscheduled duty based on the needs of the agency. Generally, the agency will place the investigator in availability status by directing the investigator to be available during designated periods to meet agency needs, as provided by agency policies and procedures. Placing the investigator in availability status is not considered scheduling the investigator for overtime hours compensated under 5 U.S.C. 5542 and § 550.111. Availability hours may include hours during which an investigator places himself or herself in availability status to meet the needs of the agency, subject to agency policies and procedures (including any requirements for after-the-fact validation or approval). A special agent in the Diplomatic Security Service may not be credited with availability hours and will be credited with only hours actually worked.

* * * * *

6. In § 550.184, paragraph (e) is revised to read as follows:

**§ 550.184 Annual certification.**

* * * * *

(e) An involuntary suspension of availability pay resulting from a denial or cancellation of certification under

paragraph (d) of this section is a reduction in pay for the purpose of applying the adverse action procedures of 5 U.S.C. 7512 and part 752 of this chapter, except for special agents in the Foreign Service. For special agents in the Foreign Service, an involuntary suspension of availability pay resulting from a denial or cancellation of certification under paragraph (d) of this section will be administered under procedures established by regulations of the Department of State.

* * * * *

7. In § 550.185, paragraph (a) is revised to read as follows:

**§ 550.185 Payment of availability pay.**

(a) Availability pay is paid only for periods of time during which a criminal investigator receives basic pay. Availability pay is an amount equal to the lesser of—

(1) 25 percent of a criminal investigator's rate of basic pay, as defined in § 550.103, including amounts designated as ''salary'' for special agents in the Diplomatic Security Service; or

(2) The maximum amount that may be paid to avoid exceeding the maximum earnings limitation on premium pay for law enforcement officers in 5 U.S.C. 5547(c).

* * * * *

8. In § 550.186, paragraph (b) is revised to read as follows:

**§ 550.186 Relationship to other payments.**

* * * * *

(b) Availability pay is treated as part of basic pay or basic salary only for the following purposes:

(1) 5 U.S.C. 5524a, pertaining to advances in pay;

(2) 5 U.S.C. 5595(c), pertaining to severance pay;

(3) 5 U.S.C. 8114(e), pertaining to workers' compensation;

(4) 5 U.S.C. 8331(3) and 5 U.S.C. 8401(4), pertaining to retirement benefits;

(5) Subchapter III of chapter 84 of title 5, United States Code, pertaining to the Thrift Savings Plan;

(6) 5 U.S.C. 8704(c), pertaining to life insurance;

(7) Sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980, as amended (Pub. L. 96–465), pertaining to Foreign Service retirement benefits; and

(8) For any other purposes explicitly provided for by law or as the Office of Personnel Management or the Secretary of State (for matters exclusively within the jurisdiction of the Secretary) may prescribe by regulation.

* * * * *

[FR Doc. 99–2153 Filed 1–27–99; 3:16 pm]

BILLING CODE 6325–01–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–386–AD; Amendment 39–11015; AD 99–01–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 99–01–12 that was sent previously to all known U.S. owners and operators of certain EMBRAER Model EMB–145 series airplanes by individual notices. This AD requires revisions to the Airplane Flight Manual to provide the flight crew with updated procedures for prohibiting use of the autopilot below 1,500 feet above ground level, emergency procedures for pitch trim runaway, and abnormal procedures for autopilot trim failure and stabilizer out of trim. This AD also requires installation of certain warning placards. This action is prompted by a report indicating that, during a flight test of a similar airplane model, the pitch trim monitoring subsystem malfunctioned internally. The actions specified by this AD are intended to prevent failure of the pitch trim system, which could cause undetected autopilot trim runaway, and consequent reduced controllability of the airplane, uncommanded autopilot disconnect, and excessive altitude loss.

**DATES:** Effective February 2, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–01–12, issued December 29, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 2, 1999.

Comments for inclusion in the Rules Docket must be received on or before March 1, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–386–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rob Cappezzuto, Aerospace Engineer, ACE–116A, Systems and Flight Test Branch, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 773–6071; fax (770) 703–6097.

**SUPPLEMENTARY INFORMATION:** On December 29, 1998, the FAA issued emergency AD 99–01–12, which is applicable to certain EMBRAER Model EMB–145 series airplanes.

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–145 series airplanes. The DAC advises that, during a flight test of a similar airplane model, equipped with a Honeywell Primus 1000 Integrated Avionics System, the pitch trim monitoring subsystem experienced an internal malfunction. The cause of the failure of this system has been attributed to a software error, which resulted in failure of the trim monitoring subsystem to detect a trim malfunction. This condition, if not corrected, could cause undetected autopilot trim runaway, which could result in reduced controllability of the airplane, uncommanded autopilot disconnect, and excessive altitude loss. If these conditions occur at low altitude, control of the airplane could be unrecoverable.

### Explanation of Relevant Service Information

EMBRAER has issued Alert Service Bulletin S.B. 145–31–A010, dated December 15, 1998, which describes procedures for installation of certain warning placards on the left and right

sides of the cockpit glareshield panel to prohibit use of the autopilot below 1,500 feet above ground level (AGL). The DAC classified this alert service bulletin as mandatory and issued Brazilian Emergency Airworthiness Directive 98–12–01, dated December 21, 1998, in order to assure the continued airworthiness of these airplanes in Brazil.

### FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 99–01–12 to prevent failure of the pitch trim system, which could cause undetected autopilot trim runaway, and consequent reduced controllability of the airplane, uncommanded autopilot disconnect, and excessive altitude loss.

The AD requires installation of certain warning placards on the left and right sides of the cockpit glareshield panel to prohibit autopilot below 1,500 feet AGL. The installation of the placard is required to be accomplished in accordance with the alert service bulletin described previously.

In addition, the FAA has determined that a revision to the Airplane Flight Manual (AFM) is necessary to ensure that the Limitations Section of the AFM is changed to provide the flight crew with updated procedures prohibiting the use of the autopilot below 1,500 feet AGL, emergency procedures for pitch trim runaway, and abnormal procedures for autopilot trim failure and stabilizer out of trim.

This amendment is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on December 29, 1998, to all known U.S. owners and operators of certain EMBRAER Model EMB–145 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–386–AD.'' The postcard will be date stamped and returned to the commenter.

### Regulatory Impact

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**99–01–12 Empresa Brasileira de Aeronautica, S.A. (EMBRAER):** Amendment 39–11015. Docket 98–NM–386–AD.

*Applicability:* Model EMB–145 series airplanes, serial numbers 145004 through 145047 inclusive and 145049 through 145051 inclusive; certificated in any category; equipped with IC–600 having part number (P/N) 7017000–82402 or P/N 7017000–83402; excluding those airplanes on which the modification specified in any of the following Embraer service bulletins has been accomplished:

- Embraer Service Bulletin 145–22–0001, dated May 7, 1998;
- Embraer Service Bulletin 145–22–0004, Revision 01, dated July 30, 1998;
- Embraer Service Bulletin 145–31–0007, Revision 02, dated June 30, 1998.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the pitch trim system, which could cause undetected autopilot trim runaway, and result in reduced controllability of the airplane, uncommanded autopilot disconnect, and excessive altitude loss; accomplish the following:

(a) Within 20 flight hours after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD.

(1) Install warning placards, P/N 145–39641–001, on the left and right sides of the cockpit glareshield panel, using double-face tape (or similar), in accordance with Embraer Alert Service Bulletin S.B. 145–31–A010, dated December 15, 1998, which state:

''DO NOT OPERATE AUTOPILOT BELOW 1,500 FT A.G.L.''

(2) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) (in the ''AUTOPILOT'' section) to include the information contained in this paragraph of the AD. This may be accomplished by inserting a copy of this AD in the AFM.

**AUTOPILOT**

THE USE OF AUTOPILOT BELOW 1,500 FEET IS PROHIBITED.''

(3) Revise the Emergency Procedures Section of the FAA-approved AFM (in the ''PITCH TRIM RUNAWAY'' section) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

**PITCH TRIM RUNAWAY**

Immediately and simultaneously:
Control Column .....HOLD FIRMLY
Quick Disconnect Button .....PRESS AND HOLD
Pitch Trim Main System.....OFF
Pitch Trim Back Up System .....OFF
Quick Disconnect Button .....RELEASE

If control column forces are excessive, try to recover airplane control by turning one system on and trimming the airplane as necessary. Initiate with the backup system. Leave the failed system off.

If neither system is operative:
PITCH TRIM INOPERATIVE
Procedure .....COMPLETE
Autopilot.....OFF

Do not use the autopilot for the remainder of the flight.''

(4) Revise the Abnormal Procedures Section of the FAA-approved AFM (in the ''AUTOPILOT'' section) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

**AUTOPILOT TRIM FAILED**

PITCH TRIM RUNAWAY Procedure ..... PERFORM

**STABILIZER OUT OF TRIM**

PITCH TRIM RUNAWAY Procedure ..... PERFORM''

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

**Note 1:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation shall be done in accordance with Embraer Alert Service Bulletin S.B. 145–31-A010, dated December 15, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 2:** The subject of this AD is addressed in Brazilian airworthiness directive 98–12–01, dated December 21, 1998.

(e) This amendment becomes effective on February 2, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–01–12, issued December 29, 1998, which contained the requirements of this amendment.

Issued in Renton, Washington, on January 21, 1999.

**Darrell M. Pederson,**

*Acting Manager,*

*Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–1980 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–379–AD; Amendment 39–11016; AD 98–26–51]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes Modified in Accordance With Supplemental Type Certificate SA1802SO

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–26–51 that was sent previously to all known U.S. owners and operators of certain McDonnell Douglas Model DC–8 series airplanes by individual telegrams. This AD requires a revision to the Airplane Flight Manual to specify restrictions on operating if any pressurization anomaly is detected. This AD also requires a one-time inspection to detect discrepancies and cracking of the main deck cargo door in the immediate area of the bolts attaching the latch fittings, and repair, if necessary. This action is prompted by a report that a cabin pressurization anomaly was detected on a McDonnell Douglas Model DC–8 series airplane, and by subsequent investigation, which revealed fatigue cracking in the structure of the main deck cargo door. The actions specified by this AD are intended to detect and correct fatigue cracking in the structure of the main deck cargo door, which could result in cabin decompression of the airplane and loss of the main deck cargo door, and consequent reduced controllability of the airplane.

**DATES:** Effective February 3, 1999, to all persons except those persons to whom it was made immediately effective by telegraphic AD T98–26–51, issued December 18, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before March 30, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–379–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748.

**FOR FURTHER INFORMATION CONTACT:** Rany Azzi, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6080; fax (770) 703–6097.

**SUPPLEMENTARY INFORMATION:** On December 18, 1998, the FAA issued telegraphic AD T98–26–51, which is applicable to certain McDonnell Douglas Model DC–8 series airplanes

modified in accordance with Supplemental Type Certificate (STC) SA1802SO. That action was prompted by a report indicating that a cabin pressurization anomaly was detected on a McDonnell Douglas Model DC–8 series airplane modified in accordance with STC SA1802SO. Investigation revealed fatigue cracking in the structure of the main deck cargo door. Propagation of cracks on the frames and inner skin of the latch fitting supports could lead to severed frames and inner skin at the latch fitting supports of the main deck cargo door. This condition, if not corrected, could result in cabin decompression of the airplane and loss of the main deck cargo door, and consequent reduced controllability of the airplane.

## Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T98–26–51 to detect and correct fatigue cracking in the structure of the main deck cargo door, which could result in cabin decompression of the airplane and loss of the main deck cargo door, and consequent reduced controllability of the airplane. The AD requires a revision to the FAA-approved Airplane Flight Manual to specify restrictions on operating if any pressurization anomaly is detected. The AD also requires a one-time detailed visual inspection to detect discrepancies and cracking of the main deck cargo door in the immediate area of the bolts attaching the latch fittings, and repair, if necessary.

## Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on December 18, 1998, to all known U.S. owners and operators of McDonnell Douglas Model DC–8 series airplanes modified in accordance with STC SA1802SO. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–379–AD.'' The postcard will be date stamped and returned to the commenter.

## Regulatory Impact

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**98–26–51 McDonnell Douglas:** Amendment 39–11016. Docket 98–NM–379–AD.

*Applicability:* Model DC–8 series airplanes that have been converted from a passenger-carrying to a cargo-carrying (''freighter'') configuration in accordance with Supplemental Type Certificate (STC) SA1802SO.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the structure of the main deck cargo door, which could result in cabin decompression of the airplane and loss of the main deck cargo door, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 24 hours after the effective date of this AD, revise the Limitations Section of

the FAA-approved Airplane Flight Manual (AFM) to include the following information. This may be accomplished by inserting a copy of this AD into the AFM.

''IF ANY UNEXPECTED LOSS OF CABIN PRESSURE OCCURS, DO NOT INCREASE CABIN PRESSURE. IMMEDIATELY SELECT A HIGHER CABIN ALTITUDE AND, AS SOON AS POSSIBLE, DESCEND TO A LOWER FLIGHT ALTITUDE.''

(b) Except as provided by paragraph (d) of this AD, within 7 days after the effective date of this AD: Perform an internal detailed visual inspection to detect cracking or any discrepancy of the main deck cargo door in the immediate area of the bolts attaching the latch fittings. Inspect for cracking or any discrepancy of the skin in the immediate area of the fastener heads, and for loose or missing fasteners. In addition, prior to the internal detailed visual inspection, clean and degrease the inside structure where the latch fitting bolts attach to the frames, and perform a detailed visual inspection of the frames to detect cracking emanating from the bolt holes and at the bend radius of the frames.

**Note 2:** Removal of the inner skin of the main deck cargo door is not necessary to gain access and inspect for cracking emanating from the bolt holes and at the bend radius of the frames.

(c) Prior to accomplishment of the inspections required by paragraph (b) of this AD, notify an appropriate FAA Principal Maintenance Inspector of the date and time the inspection required by paragraph (b) of this AD is to be accomplished.

(d) For airplanes on which there have been reports of cabin pressurization anomalies or illuminations of the main deck cargo door warning light within 30 days prior to the effective date of this AD or within 7 days after the effective date of this AD: Perform the inspection required by paragraph (b) of this AD prior to further flight.

(e) If any discrepancy is detected during the inspections required by paragraph (b) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(f) Within 24 hours after accomplishment of the inspections required by paragraph (b) of this AD, or within 24 hours after the effective date of this AD, whichever occurs later, submit a report of the inspection results (both positive and negative findings) to the Manager, Atlanta ACO, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; fax (770) 703–6097. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the paperwork reduction act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2120–0056.

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

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

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) This amendment becomes effective on February 3, 1999, to all persons except those persons to whom it was made immediately effective by telegraphic AD T98–26–51, issued on December 18, 1998, which contained the requirements of this amendment.

Issued in Renton, Washington, on January 22, 1999.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99–2107 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–13–U

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–ANE–14–AD; Amendment 39–11017; AD 99–03–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Allison Engine Company Model AE 3007A and AE 3007A1/1 Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to Allison Engine Company Model AE 3007A turbofan engines, that currently requires reprogramming the Full Authority Digital Engine Control (FADEC) to software version VI.2. This amendment requires reprogramming the FADEC to a serviceable software version and reidentifying the FADEC assembly. This amendment is prompted by reports of at least seven uncommanded engine shutdowns, four of which occurred in flight, as a result of deficiencies in software version VI.2 on the AE 3007A engines and version VI.4 on the AE 3007A1/1 engines. The actions specified by this AD are intended to prevent an unintentional or uncommanded in-flight engine shutdown.

**DATES:** Effective February 16, 1999.

Comments for inclusion in the Rules Docket must be received on or before March 30, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–14–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Kyri Zaroyiannis, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–7836, fax (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** On June 9, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98–12–12, Amendment 39–10568 (63 FR 31338 June 9, 1998), to require programming the Full Authority Digital Engine Control (FADEC) with software version VI.2 (Allison Software part number 23068660; Allison FADEC assembly, with software VI.2 installed, part number 23068661). Additionally, the AD required that the FAA-approved Airplane Flight Manual be revised by incorporating the Embraer Flight Manual AFM 145/1153, Revision 14, dated May 7, 1998. These actions were prompted by reports of five in-flight engine shutdowns on Allison Engine Company AE 3007 series turbofan engines due to inadequate fault accommodation logic. That condition, if not corrected, could result in an unintentional or uncommanded in-flight engine shutdown.

Since the issuance of that AD, there have been at least seven uncommanded engine shutdowns, four of which occurred in flight, as a result of deficiencies in software version VI.2 on the AE 3007A engines and version VI.4 on the AE 3007A1/1 engines. Improved software version, VI.6A has been developed to address the deficiencies in software versions VI.2 and VI.4.

The compliance hourly schedule of this AD was chosen based on overall fleet risk assessment of a hazardous condition occurring, parts availability, and shop capacity. The compliance end date was chosen to further assure the desired level of safety of this action as affected by aircraft utilization variations throughout the fleet.

Since an unsafe condition has been identified that is likely to exist or develop on other Allison Engine Company AE 3007A and AE 3007A1/1 turbofan engines of the same type design, this AD supersedes AD 98–12–12 to require replacing FADEC

assemblies, P/N 23062835, 23069253, 23068661, and 23068670 with serviceable parts.

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

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–14–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10568, (63 FR 31338, June 9, 1998), and by adding a new airworthiness directive, Amendment 39–11017, to read as follows:

**99–03–03 Allison Engine Company:** Amendment 39–11017. Docket 98–ANE–14–AD. Supersedes AD 98–12–12, Amendment 39–10568.

*Applicability:* Allison Engine Company AE 3007A and AE 3007A1/1 turbofan engines. These engines are installed on, but not limited to the following airplanes: Embraer Model EMB–145, EMB–145ER, EMB–145MR, and EMB–145LR.

**Note 1:** This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent an unintentional or uncommanded in-flight engine shutdown, accomplish the following:

(a) Replace the Full Authority Digital Electronic Control (FADEC) assembly part numbers (P/N) 23062835, 23069253, 23068661, and 23068670, with serviceable parts within 200 flight hours after the effective date of this AD, but not later than April 30, 1999.

(b) Prior to further flight, revise the FAA-approved Airplane Flight Manual by incorporating Embraer EMB–145 U.S. Airplane Flight Manual, Document No. AFM–145/1153, pages 3–14, 3–36B, 4–1, and 4–11, and 4–12 of Revision 14, dated May 7, 1998, until all affected engines within that operator's fleet are in compliance with this AD.

(c) For the purpose of this AD, a serviceable part is any serviceable FADEC assembly except P/N's 23062835, 23069253, 23068661, or 23068670. This AD action eliminates FADEC assembly P/N's 23062835, 23069253, 23068661, or 2306867 from installation eligibility and continued use in service.

**Note 2:** Complete instructions for reprogramming and reidentifying the existing FADEC are contained in Rolls-Royce SB AE 3007A–73–021, Revision 1, dated December 23, 1998.

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

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on February 16, 1999.

Issued in Burlington, Massachusetts, on January 25, 1999.

**David A. Downey,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 99–2151 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–13–U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 97–AWA–6]**

**RIN 2120–AA66**

## Modification of the San Diego Class B Airspace Area; CA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the San Diego, CA, Class B airspace area. Specifically, this action lowers the upper limit of the San Diego Class B airspace area from 12,500 feet mean sea level (MSL) to 10,000 feet MSL; expands the western and eastern boundaries of the airspace area; and moves the southern boundary north to align with the POGGI Very High Frequency Omnidirectional Range Tactical Air Navigation (VORTAC). The FAA is taking this action to enhance safety, reduce the potential for midair collision, and to improve the management of air traffic operations into, out of, and through the San Diego Class B airspace area, while accommodating the concerns of airspace users.

**EFFECTIVE DATE:** 0901 UTC, July 15, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, 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:**

### Related Rulemaking Actions

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule in the **Federal Register** (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA (now known as Class B airspace area) primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in this final rule.

### Background

The Terminal Control Airspace area (now known as the Class B airspace area) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic operations by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increases the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of these airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of these airspace areas normally contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

### Public Input

On May 19, 1998, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (Airspace Docket 97–AWA–6; 63 FR 27519) proposing to modify the San Diego Class B Airspace Area, CA. The comment period for this NPRM closed on July 20, 1998.

The FAA received seven comments in response to the proposal. All comments received were considered before making a determination on this final rule. An analysis of the comments received and the FAA's response is summarized below.

### Discussion of Comments

The Air Line Pilots Association (ALPA) and the U.S. Marine Corps endorsed the proposed modification of the San Diego Class B airspace area as proposed, stating that the proposal will improve the safety, efficiency and the utility of airspace surrounding San Diego. Five other commenters endorsed the proposal, but included the recommendations discussed below.

One commenter stated that the instrument approach angle to Miramar Marine Corps Air Station (MCAS) is currently a nonstandard 3.25 degree angle and requested that this nonstandard angle be maintained to provide safe vertical separation for those aircraft operating below the Class B airspace area from aircraft inbound on the final approach. The commenter believed that the NPRM did not clearly provide notice that the FAA was proposing to change the instrument approach angle from 3.25 degrees to 3.00 degrees.

The FAA does not agree with this request. In 1995 the U.S. Navy lowered the approach angle from 3.25 degrees to a standard approach angle of 3.00 degrees. The nonstandard angle required aircraft conducting an instrument approach to maintain excessive descent rates on final approach. The base altitude in the vicinity of the approach is necessary to contain the high volume of turbo-jet arrivals and departures to and from Miramar MCAS. The continued use of a standard 3.0 degree approach angle provides aircraft operating under the Class B airspace area with safe vertical separation from aircraft on final approach to Miramar MCAS.

The San Diego Airspace Users Group (SDAUG) and the Aircraft Owners and Pilots Association (AOPA) requested that the triangular-shaped southeast corner of Area Q be eliminated from the Class B airspace area and included in the VFR corridor to provide a direct

route from the VFR corridor to Brown Field.

A review of this recommendation determined that the triangular-shaped corner of Area Q provided no operational advantage to ATC and could be eliminated. Therefore, the FAA has adopted this recommendation by removing the southeast corner of Area Q, where it borders Area P, from the Class B airspace area and included this area in the VFR corridor.

The SDAUG and AOPA stated that the proposed Class B Area I 3200-foot MSL floor would create a dangerous situation by squeezing the VFR traffic entering and exiting Gillespie Airport to/from the northeast, into a small band of airspace between 2900 feet and 3200 feet MSL. It was recommended that the Class D airspace area at Gillespie Field be lowered from its current 2900 feet MSL to 2400 feet MSL to eliminate a narrow 300-foot shelf of airspace between the Class B airspace in Area I and the Gillespie Field Class D airspace area.

The FAA agrees with this recommendation and has lowered the Gillespie Field Class D airspace area ceiling to 2400 feet MSL. This creates an 800-foot transition area under the Class B airspace area and over the Gillespie Class D airspace area for VFR aircraft.

The SDAUG and AOPA questioned the rationale for using Lindberg Field and Miramar MCAS as the primary airports to determine the 30–NM Mode C veil. They pointed out that Federal Aviation Regulation Part 91 Appendix D Section 1 states that location, not airport, is the basis for establishing the center of the veil. Based on this, they recommended that the San Diego Mode C veil reference point be changed from the designated airports Lindberg Field and Miramar MCAS to the Mission Bay VORTAC (MZB). These commenters contend that this would provide a method of Class B airspace area boundary simplification for navigation using Distance Measuring Equipment (DME) to define the 30–NM Mode C veil.

The FAA does not agree with this recommendation. Currently, Class B airspace is designated for airports, and legal descriptions are based on the airport reference point of a designated primary airport(s) as listed in Subpart B Federal Aviation Order 7400.9. Additionally, 14 CFR Section 91.215 (b)(2) states that all aircraft operating within 30 NM of an airport listed in Appendix D Section 1 must comply with the Mode C rule. Charts are provided for VFR navigation which contain a substantial number of visual landmarks such as highly visible roadways, landmarks, and other visual checkpoints easily identifiable from the air. These charts also include other navigation information to provide guidance in and around the Class B airspace area. The FAA believes that sufficient aeronautical information is available for VFR pilots to navigate in and around the Class B airspace area without sole reliance upon DME information to define the Mode C Veil when appropriately planned during preflight or in coordination with ATC.

The SDAUG and AOPA recommended several charting additions to the San Diego VFR Terminal Chart to assist pilots navigating in the San Diego area. Specifically, these commenters recommended the following: (1) Provide VOR radial DME table to define each corner of the Class B airspace area using local navigational aids (NAVAID's); (2) create a VFR terminal chart be similar to the Los Angeles terminal area chart; (3) publish recommended altitudes on the chart for the VFR corridor; (4) include new visual check points on the chart; (5) chart Area O as a 20 NM DME fix; (6) adjust the VFR flyway to reflect changes.

The FAA agrees with these recommendations because they will facilitate VFR operations in the San Diego area, and has taken action to include them on future San Diego VFR Terminal Area charts.

**The Rule**

This amendment to 14 CFR part 71 modifies the San Diego Class B airspace area. Specifically, this action lowers the upper limit of the San Diego Class B airspace area from 12,500 feet MSL to 10,000 feet MSL, expands the western and eastern boundaries, and moves the southern boundary northward to align with the POGGI VORTAC. The FAA is taking this action to improve the boundary definition and decrease the overall size of the Class B airspace area. The modification of the San Diego Class B airspace area includes a redundant system of boundary depiction to the maximum extent possible. The primary boundary definition uses latitude and longitude points (Global Positioning System [GPS] waypoints) and, wherever feasible, the boundaries are also aligned with reference to existing ground-based NAVAID's and prominent geographical landmarks. This modification of the San Diego Class B airspace area results in a net reduction in the size of the airspace area. These changes will improve efficiency of the airspace area and provide a clearer definition of Class B airspace area boundaries to aid those users who choose to remain outside of the Class B airspace area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

**Regulatory Evaluation Summary**

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this final rule: (1) Will generate benefits that justify its minimal costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. These analyses are summarized here in the preamble and the full Regulatory Evaluation is in the docket.

The FAA is modifying the San Diego Class B airspace area by lowering the ceiling from 12,500 feet MSL to 10,000 feet MSL, by expanding and moving lateral boundaries, and by modifying base altitudes. The FAA has determined that modification of the San Diego Class B airspace area will improve the efficiency of aircraft movement in the airspace and enhance safety for VFR and IFR airspace users while accommodating the operations of turbo-jet aircraft and helicopters at Marine Corps Air Station (MCAS) Miramar.

The modifications will generate several benefits for system users. These benefits include redefining the Class B airspace subareas, increased airspace for aircraft transitioning to and from satellite airports, improved containment within the Class B airspace area for turbo-jet aircraft arriving and departing MCAS Miramar, and reduced potential

for midair collisions in the San Diego terminal area.

The final rule will impose minimal costs on FAA or airspace users. Printing of aeronautical charts which reflect the changes to the Class B airspace area will be accomplished during a scheduled chart printing, and will result in no additional costs for plate modification and updating of charts. Notices will be sent to all pilots within a 100-mile radius of the San Diego International Airport at a total cost of $100.00 for postage. No staffing changes will be required to maintain the modified Class B airspace area.

The San Diego Class B airspace area will be designated by a redundant boundary depiction system which uses longitude and latitude points (GPS waypoints), existing NAVAIDs, and visual references to identify the airspace boundaries. These three options, two of which are available currently, will not cause airspace users to incur any additional equipment costs. Moreover, the overall reduction of the Class B airspace area will increase the airspace for nonparticipating aircraft operators thereby reducing the circumnavigation costs to GA aircraft operators. In view of the minimal cost of compliance, enhanced safety, and operational efficiency, the FAA has determined that the final rule will be cost-beneficial.

**Cost-Benefit Analysis**

The final rule will generate benefits to system users and the FAA in the form of improved flow of air traffic in the Class B airspace around the San Diego area.

Benefits of the Class B airspace changes will include clearer airspace boundaries along major roadways for VFR users; greater terrain clearance for VFR aircraft below the Class B airspace so as not to require flight over the ocean or near mountainous terrain; increased airspace available for VFR aircraft transitioning to and from satellite airports in the San Diego area; easier navigation for VFR aircraft around the Class B airspace area; and an overall reduction of the impact of the Class B airspace area on VFR traffic.

There will be a 5 to 10 percent increase in the amount of GA aircraft operating in uncontrolled airspace as a result of the overall decrease in the San Diego Class B airspace area. The FAA contends that this modification will reduce the cost of circumnavigation to nonparticipating operators.

A redundant system of airspace boundary depiction will be used. This means that longitude and latitude points (GPS waypoints), existing NAVAIDs, and visual landmarks will all be available for Class B boundary identification.

Furthermore, the final rule will improve the flow of air traffic and enhance the safety of turbo-jet aircraft. The rule will provide turbo-jet aircraft inbound to San Diego Lindbergh Airport (Runway 27) the optimum 300 foot per nautical mile descent gradient. Additionally, turbo-jet aircraft arriving and departing at MCAS Miramar and at San Diego Lindbergh Airport will experience improved containment during arrival and departure thereby reducing the potential for midair collisions in the congested airspace in the San Diego area.

**Costs**

The FAA has determined that implementation of the final rule will impose negligible costs on the agency and no additional costs on airspace users. No staffing changes will be required to maintain the altered Class B airspace. The final rule will not create any additional administrative costs for personnel, facilities, or equipment to the FAA. The FAA systematically revises IFR charts every 56 days and sectional and terminal area charts every six months. Printing the revised aeronautical charts to reflect the Class B airspace area changes around San Diego will be accomplished during regularly scheduled chart printings. Any costs associated with modifying the plates used to print the charts and printing the updated charts will be considered a normal cost of doing business.

The Western-Pacific Region will send a mailing to all pilots within a 100-mile radius of the San Diego International Airport as a routine public service. The cost for the postage for the mailing is $100.00.

Although many aircraft do not currently have GPS equipment, the Class B airspace depiction uses existing NAVAID's and visual references to identify the airspace boundaries. Therefore no additional costs will be imposed by using GPS waypoints for boundary identification. Thus, there will be no additional costs imposed on airspace users as a result of the San Diego Class B airspace modification.

**International Trade Impact Assessment**

The final rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

**Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA contends that there will be no additional costs imposed on aircraft operators as a result of using GPS waypoints for boundary identification. Although many aircraft do not currently have a GPS receiver, the redundant boundary depiction system also uses existing NAVAID's and visual references to identify the airspace boundaries for which GPS equipment is not required. Aircraft operators may navigate accurately using VORTAC radials and DME arcs, visually by using prominent geographic landmarks, or a combination of these options.

The FAA, in conducting this review of the final rule, has determined that the rule will not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

**Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final

agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million adjusted annually for inflation in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

## Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

## Federalism Implications

This rule will not have substantial direct effects on the States, the relationship between the National government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41695; October 30, 1987), it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Conclusion

The FAA has determined that there are benefits in the form of improved flow of both GA and military air traffic, and enhanced safety for aircraft operators in the Class B airspace area, especially to military aircraft. This final rule will reduce the size of the Class B airspace area around San Diego and provide more uncontrolled airspace for VFR operations. In addition, there will be minimal costs for a mailing to local pilots informing them of the alteration of the San Diego Class B airspace area. Because of the distinct benefits and minimal costs of the final rule, the FAA has determined that this final rule will be cost-beneficial.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## The Amendment

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

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

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

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

### § 71.1 [Amended]

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

*Paragraph 3000—Subpart B—Class B Airspace*

* * * * *

**AWP CA B San Diego, CA [Revised]**

San Diego (Lindbergh Field), CA (Primary Airport)
(Lat. 32°44′01″ N., long. 117°11′23″ W.)
MCAS Miramar, Miramar, CA (Primary Airport)
(Lat. 32°52′06″ N., long. 117°08′33″ W.)
POGGI VORTAC (PGY)
(Lat. 32°36′37″ N., long. 116°58′45″ W.)
Oceanside VORTAC (OCN)
(Lat. 33°14′26″ N., long. 117°25′04″ W.)
Julian VORTAC (JLI)
(Lat. 33°08′26″ N., long. 116°35′09″ W.)
Mission Bay VORTAC (MZB)
(Lat. 32°46′56″ N., long. 117°13′32″ W.)

Boundaries

*Area A.* That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the JLI 262° radial and the eastern edge of Warning Area 291 (W–291) (lat. 32°59′31″ N., long. 117°47′25″ W.); thence east via the JLI 262° radial to intercept the MZB 325° radial (lat. 33°02′13″ N., long. 117°26′14″ W.); thence southeast via the MZB 325° radial to intercept the JLI 257° radial (lat. 32°58′53″ N., long. 117°23′27″ W.); thence west via the JLI 257° radial to intercept the OCN 200° radial (lat. 32°57′02″ N., long. 117°32′35″ W.); thence south via the OCN 200° radial to the intersection of the OCN 200° radial and the eastern edge of W–291 (lat. 32°45′23″ N., long. 117°37′35″ W.); thence northwest via the eastern edge of W–291 to the point of beginning.

*Area B.* That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the eastern edge of W–291 and the OCN 200° radial (lat. 32°45′23″ N., long. 117°37′35″ W.); thence north via the OCN 200° radial to intercept the JLI 257° radial (lat. 32°57′02″ N., long. 117°32′35″ W.); thence east via the JLI 257° radial to intercept the OCN 182° radial (lat. 32°58′25″ N., long. 117°25′44″ W.); thence south via the OCN 182° radial to intercept the PGY 290° radial (lat. 32°45′02″ N., long. 117°26′17″ W.); thence east via the PGY 290° radial to the intersection of the PGY 290° radial and the 32°43′22″ latitude line (lat. 32°43′22″ N., long. 117°20′47″ W.); thence east via the 32°43′22″ latitude line to intercept the OCN 171° radial (lat. 32°43′22″ N., long. 117°19′15″ W.); thence south via the OCN 171° radial to intercept the PGY 279° radial (lat. 32°39′14″ N., long. 117°18′28″ W.); thence west via the PGY 279° to intercept the eastern edge of W–291 (lat. 32°41′27″ N., long. 117°35′27″ W.); thence northwest along the eastern edge of W–291 to the point of beginning.

*Area C.* That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 182° and the JLI 257° radials (lat. 32°58′25″ N., long. 117°25′44″ W.); thence east via the JLI 257° radial to intercept the MZB 325° radial (lat. 32°58′53″ N., long. 117°23′27″ W.); thence southeast via the MZB 325° radial to intercept the OCN 167° radial (lat. 32°54′08″ N., long. 117°19′31″ W.); thence south via the OCN 167° radial to intercept the MZB 310° radial (lat. 32°50′28″ N., long. 117°18′30″ W.); thence southeast via the MZB 310° radial to the Mission Bay VORTAC; thence west via the MZB 279° radial to intercept the OCN 171° radial (lat. 32°47′48″ N., long. 117°20′04″ W.); thence south via the OCN 171° radial to the intersection of the OCN 171° radial and the 32°43′22″ latitude line (lat. 32°43′22″ N., long. 117°19′15″ W.); thence west via the 32°43′22″ latitude line to intercept the PGY 290° radial (lat. 32°43′22″ N., long. 117°20′47″ W.); thence west via the PGY 290° radial to intercept the OCN 182° radial (lat. 32°45′02″ N., long. 117°26′17″ W.); thence north via the OCN 182° radial to the point of beginning.

*Area D.* That airspace extending upward from 1,800 feet MSL to and including 3,200 feet MSL and that airspace extending upward from 6,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of MZB 325° and the JLI 257° radials (lat. 32°58′53″ N., long. 117°23′27″ W.); thence southeast direct to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54′31″ N., long. 117°13′39″ W.); thence south direct to the intersection of I–5 and Genessee Avenue (lat. 32°53′13″ N., long. 117°13′40″ W.); thence south direct to the intersection of

Genessee Avenue and Route 52 (lat. 32°50′49″ N., long. 117°12′08″ W.); thence northwest direct to the intersection of the westerly extension of the Montgomery Field Runway 10L/28R centerline and the OCN 167° radial (lat. 32°53′11″ N., long. 117°19′15″ W.); thence north via the OCN 167° radial to intercept the MZB 325° radial (lat. 32°54′08″ N., long. 117°19′31″ W.); thence northwest via the MZB 325° radial to the point of beginning.

*Area E.* That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the MZB 008° and the JLI 252° radials (lat. 32°58′21″ N., long. 117°11′37″ W.); thence east via the JLI 252° radial to intercept the OCN 135° radial (lat. 32°59′32″ N., long. 117°07′24″ W.); thence southeast via the OCN 135° radial to intercept the MZB 027° radial (lat. 32°58′45″ N., long. 117°06′29″ W.); thence southwest via the MZB 027° radial to intercept the JLI 247° radial (lat. 32°56′45″ N., long. 117°07′35″ W.); thence southwest via the JLI 247° radial to intercept the MZB 008° radial (lat. 32°55′05″ N., long. 117°12′10″ W.); thence north via the MZB 008° radial to the point of beginning.

*Area F.* That airspace extending upward from the surface to and including 3,200 feet MSL and that airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54′31″ N., long. 117°13′39″ W.); thence southeast direct to the departure end of MCAS Miramar Runway 24R (lat. 32°51′49″ N., long. 117°09′55″ W.); thence east direct to the approach end of MCAS Miramar Runway 28 centerline (lat. 32°51′57″ N., long. 117°07′37″ W.); thence east direct to the intersection of the Gillespie Field Class D airspace area and a line extending west from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°51′14″ N., long. 117°03′03″ W.); thence southwest direct to the intersection of the Gillespie Field Class D airspace area and the MZB 065° radial (lat. 32°51′00″ N., long. 117°03′10″ W.); thence west direct to the intersection of Santo Road, Route 52, and the 32°50′25″ N. latitude line (lat. 32°50′25″ N., long. 117°05′48″ W.); thence west via the 32°50′25″ N. latitude line to the intersection of 32°50′25″ N. latitude line and Route 52 (lat. 32°50′25″ N., long. 117°09′50″ W.); thence northwest direct to the intersection of Route 52 and I–805 (lat. 32°50′50″ N., long. 117°10′40″ W.); thence west direct to the intersection of Route 52 and Genessee Avenue (lat. 32°50′49″ N., long. 117°12′08″ W.); thence northwest direct to the intersection of I–5 and Genessee Avenue (lat. 32°53′13″ N., long. 117°13′40″ W.); thence north via I–5 to the point of beginning.

*Area G.* That airspace extending upward from the surface to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 247° radials (lat. 32°57′38″ N., long. 117°05′10″ W.); thence southeast via the OCN 135° radial to intercept the south boundary line of the MCAS Miramar Class E airspace area (lat. 32°52′03″ N., long. 116°58′35″ W.); thence west along the southern boundary line to the intersection of the southern boundary line and the Gillespie Field Class D airspace area 4.3-mile arc (lat. 32°51′14″ N., long. 117°03′03″ W.); thence west direct to the approach end of MCAS Miramar Runway 28 (lat. 32°51′57″ N., long. 117°07′37″ W.); thence west direct to the departure end of MCAS Miramar Runway 24R (lat. 32°51′49″ N., long. 117°09′55″ W.); thence northwest direct to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54′31″ N., long. 117°13′39″ W.); thence northeast via the JLI 247° radial to the point of beginning.

*Area H.* That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 247° radial (lat. 32°57′38″ N., long. 117°05′10″ W.); thence northeast via the JLI 247° radial to intercept the OCN 130° radial (lat. 32°58′33″ N., long. 117°02′38″ W.); thence southeast via the OCN 130° radial to the PGY 005° radial (lat. 32°54′27″ N., long. 116°56′54″ W.); thence south via the PGY 005° radial to the southern boundary line of the MCAS Miramar Class E airspace area (lat. 32°52′18″ N., long. 116°57′07″ W.); thence west along the southern boundary line to intercept the OCN 135° radial (lat. 32°52′03″ N., long. 116°58′35″ W.); thence northwest via the OCN 135° radial to the point of beginning.

*Area I.* That airspace extending upward from 3,200 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 130° and the JLI 247° radials (lat. 32°58′33″ N., long. 117°02′38″ W.); thence northeast via the JLI 247° radial to intercept the OCN 127° radial (lat. 32°59′08″ N., long. 117°01′01″ W.); thence southeast via the OCN 127° radial to intercept the PGY 010° radial (lat. 32°55′11″ N., long. 116°54′52″ W.); thence south via the PGY 010° radial to the southern boundary line of the MCAS Miramar Class E airspace area (lat. 32°52′37″ N., long. 116°55′24″ W.); thence west along the southern boundary line to intercept the PGY 005° radial (lat. 32°52′18″ N., long. 116°57′07″ W.); thence north via the PGY 005° radial to intercept the OCN 130° radial (lat. 32°54′27″ N., long. 116°56′54″ W.); thence northwest via the OCN 130° radial to the point of beginning.

*Area J.* That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the southern boundary line of the MCAS Miramar Class E airspace area and the OCN 132° radial (lat. 32°52′28″ N., long. 116°56′13″ W.); thence southeast via the OCN 132° radial to intercept the JLI 201° radial (lat. 32°44′36″ N., long. 116°45′59″ W.); thence south via the JLI 201° radial to intercept the PGY 083° radial (lat. 32°37′37″ N., long. 116°49′08″ W.); thence west via the PGY 083° radial to the POGGI VORTAC; thence northeast via the PGY 069° radial to intercept the JLI 207° radial (lat. 32°38′25″ N., long. 116°53′13″ W.); thence northeast via the JLI 207° radial to intercept the MZB 099° radial (lat. 32°43′45″ N., long. 116°50′02″ W.); thence west via the MZB 099° radial to the Mission Bay VORTAC; thence via the MZB 310° radial to intercept the OCN 167° radial (lat. 32°50′28″ N., long. 117°18′30″ W.); thence north via the OCN 167° radial to intercept the westerly extension of the Montgomery Field Runway 10L/28R centerline (lat. 32°53′11″ N., long. 117°19′15″ W.); thence southeast direct to the intersection of Route 52 and Genessee Avenue (lat. 32°50′49″ N., long. 117°12′08″ W.); thence east direct to the intersection of Route 52 and I–805 (lat. 32°50′50″ N., long. 117°10′40″ W.); thence southeast direct to the intersection of Route 52 and the 32°50′25″ N. latitude line (lat. 32°50′25″ N., long. 117°09′50″ W.); thence east along the 32°50′25″ N. latitude line to the intersection of the 32°50′25″ N. latitude line, Route 52, and Santo Road (lat. 32°50′25″ N., long. 117°05′48″ W.); thence east direct to the intersection of the MZB 065° radial and the Gillespie Field Class D airspace area (lat. 32°51′00″ N., long. 117°03′10″ W.); thence northeast direct to the intersection of the Gillespie Field Class D airspace area and a line extending west from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°51′14″ N., long. 117°03′03″ W.); thence east via the southern boundary line to the point of beginning.

*Area K.* That airspace extending upward from 5,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 132° and the MZB 091° radials (lat. 32°46′31″ N., long. 116°48′29″ W.); thence east via the MZB 091° radial to intercept the JLI 191° radial (lat. 32°46′22″ N., long. 116°40′14″ W.); thence south via the JLI 191° radial to intercept the PGY 083° radial (lat. 32°38′20″ N., long. 116°42′04″ W.); thence west via the PGY 083° radial to intercept the JLI 201° radial (lat. 32°37′37″ N., long. 116°49′08″ W.); thence north via the JLI 201° radial to intercept the OCN 132° radial (lat. 32°44′36″ N., long. 116°45′59″ W.); thence northwest via the OCN 132° radial to the point of beginning.

*Area L.* That airspace extending upward from the surface to and including 10,000 feet MSL beginning at the intersection of the OCN 171° and the MZB 279° radials (lat. 32°47′48″ N., long. 117°20′04″ W.); thence east via the MZB 279° radial to the Mission Bay VORTAC; thence east via the MZB 099° radial to the MZB 099° radial 10 DME fix (lat. 32°45′21″ N., long. 117°01′49″ W.); thence south direct to the intersection of the MZB 10-mile arc and the easterly extension of the Lindbergh Field Runway 09/27 centerline (lat. 32°42′02″ N., long. 117°03′11″ W.); thence southwest direct to the intersection of the PGY 300° radial and the MZB 10-mile arc (lat. 32°39′47″ N., long. 117°05′13″ W.); thence northwest via the PGY 300° radial to the PGY 300° radial 13.5 DME fix (lat. 32°43′22″ N., long. 117°12′36″ W.) thence west direct to the OCN 171° radial 31.4 DME fix (lat. 32°43′22″ N., long. 117°19′15″ W.); thence north via the OCN 171° radial to the point of beginning; excluding the VFR corridor described as that airspace extending upward from 3,301 feet MSL to, but not including 4,700 feet MSL in an area beginning at the Mission Bay VORTAC; thence east direct to the intersection of I–8, I–805, and the MZB 099° radial (lat. 32°46′11″ N., long. 117°07′55″ W.); thence south direct to the intersection of I–5 and Highway 94 (lat. 32°42′49″ N., long. 117°08′51″ W.); thence southerly via I–5 to the intersection of I–5 and the PGY 300° radial (lat. 32°40′27″ N., long. 117°06′35″

W.); thence southwest direct to the intersection of the PGY 279° radial, the MZB 10-mile arc, and Silver Strand Boulevard (lat. 32°37′54″ N., long. 117°08′23″ W.); thence northwesterly via the Silver Strand Boulevard to the Hotel del Coronado (south end of Coronado Island) (lat. 32°40′51″ N., long. 117°10′41″ W.) thence north direct to the point of beginning.

*Area M.* That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 10 DME fix (lat. 32°45′21″ N., long. 117°01′49″ W.); thence east via the MZB 099° radial to the MZB 099° radial 13 DME fix (lat. 32°44′53″ N., long. 116°58′18″ W.); thence south direct to the intersection of the easterly extension of the Lindbergh Field Runway 09/27 centerline and the MZB 13-mile arc (lat. 32°41′11″ N., long. 116°59′42″ W.); thence southwest direct to the intersection of the MZB 13-mile arc and the PGY 300° radial (lat. 32°38′14″ N., long. 117°02′03″ W.); thence northwest via the PGY 300° radial to the intersection the PGY 300° radial and the MZB 10-mile arc (lat. 32°39′47″ N., long. 117°05′13″ W.); thence northeast direct to the intersection of the Lindbergh Field Runway 09/27 centerline and the MZB 10-mile arc (lat. 32°42′02″ N., long. 117°03′11″ W.); thence north direct to the point of beginning.

*Area N.* That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 13 DME fix (lat. 32°44′53″ N., long. 116°58′18″ W.); thence east via the MZB 099° radial to the MZB 099° radial 15 DME fix (lat. 32°44′34″ N., long. 116°55′58″ W.); thence south direct to the intersection of the easterly extension of the Lindbergh Field Runway 09/27 centerline and the MZB 15-mile arc (lat. 32°40′37″ N., long. 116°57′24″ W.); thence southwest direct to the intersection of the MZB 15-mile arc and the PGY 300° radial (lat. 32°37′13″ N., long. 116°59′58″ W.); thence northwest via the PGY 300° radial to the PGY 300° radial 13 DME fix (lat. 32°38′14″ N., long. 117°02′03″ W.); thence northeast direct to the intersection of the Lindbergh Field Runway 09/27 centerline and the MZB 13-mile arc (lat. 32°41′11″ N., long. 116°59′42″ W.); thence north direct to the point of beginning.

*Area O.* That airspace extending upward from 3,500 feet MSL to and including 10,000 feet MSL beginning at the MZB 099° radial 15 DME fix (lat. 32°44′34″ N., long. 116°55′58″ W.); thence east via the MZB 099° radial to intercept the JLI 207° radial (lat. 32°43′45″ N., long. 116°50′02″ W.); thence southwest along the JLI 207° radial to intercept the PGY 069° radial (lat. 32°38′25″ N., long. 116°53′13″ W.); thence southwest via the PGY 069° radial to the POGGI VORTAC; thence northwest via the PGY 300° radial to intercept the MZB 15-mile arc (lat. 32°37′13″ N., long. 116°59′58″ W.); thence northeast direct to the intersection of the MZB 15-mile arc and the easterly extension of the Lindbergh Field Runway 09/27 centerline (lat. 32°40′37″ N., long. 116°57′24″ W.); thence north direct to the point of beginning.

*Area P.* That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the PGY 279° radial and the eastern edge of W–291 (lat. 32°41′27″ N., long. 117°35′27″ W.); thence east via the PGY 279° radial to the intersection of the PGY 279° radial, the MZB 10-mile arc, and Silver Strand Boulevard (lat. 32°37′54″ N., long. 117°08′23″ W.); thence northeast direct to the intersection of I–5 and the PGY 300° radial (lat. 32°40′27″ N., long. 117°06′35″ W.); thence southeast via the PGY 300° radial to the POGGI VORTAC; thence west via the PGY 264° radial to the eastern edge of W–291 (lat. 32°33′40″ N., long. 117°31′13″ W.); thence north via the eastern edge of W–291 to the point of beginning.

*Area Q.* That airspace extending upward from 2,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 171° radial 31.4 DME fix (lat. 32°43′22″ N., long. 117°19′15″ W.); thence east direct to the intersection of the PGY 300° radial 13.5 DME fix (lat. 32°43′22″ N., long. 117°12′36″ W.); thence southeast via the PGY 300° radial to the intersection of I–5 and the PGY 300° radial (lat. 32°40′27″ N., long. 117°06′35″ W.); thence southwest direct to the intersection of the PGY 279° radial, the MZB 10-mile arc, and Silver Strand Boulevard (lat. 32°37′54″ N., long. 117°08′23″ W.); thence west via the PGY 279° radial to intercept the OCN 171° radial (lat. 32°39′14″ N., long. 117°18′28″ W.); thence north via the OCN 171° radial to the point of beginning; excluding that airspace contained in the VFR corridor as described in Area L.

*Area R.* That airspace extending upward from 4,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 135° and the JLI 257° radials (lat. 33°01′36″ N., long. 117°09′51″ W.); thence east via the JLI 257° radial to intercept the OCN 115° radial (lat. 33°03′53″ N., long. 116°58′19″ W.); thence via the OCN 115° radial to intercept the PGY 019° radial (lat. 33°00′13″ N., long. 116°49′06″ W.); thence south via the PGY 019° radial to intercept the OCN 121° radial (lat. 32°56′51″ N., long. 116°50′29″ W.); thence northwest via the OCN 121° radial to intercept the JLI 247° radial (lat. 33°00′25″ N., long. 116°57′28″ W.); thence southwest via the JLI 247° radial to intercept the MZB 027° radial (lat. 32°56′45″ N., long. 117°07′35″ W.); thence northeast via the MZB 027° radial to intercept the OCN 135° radial (lat. 32°58′45″ N., long. 117°06′29″ W.); thence northwest via the OCN 135° radial to the point of beginning.

*Area S.* That airspace extending upward from 6,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the JLI 262° and the MZB 325° radials (lat. 33°02′13″ N., long. 117°26′14″ W.); thence east via the JLI 262° radial to intercept the OCN 115° radial (lat. 33°05′14″ N., long. 117°01′43″ W.); thence southeast via the OCN 115° radial to intercept the JLI 257° radial (lat. 33°03′53″ N., long. 116°58′19″ W.); thence west via the JLI 257° radial to intercept the MZB 008° radial (lat. 33°01′21″ N., long. 117°11′07″ W.); thence south via the MZB 008° radial to intercept the JLI 247° radial (lat. 32°55′05″ N., long. 117°12′10″ W.); thence southwest via the JLI 247° radial to the intersection of I–5, I–805, and the JLI 247° radial (lat. 32°54′31″ N., long. 117°13′39″ W.); thence northwest direct to the intersection of the JLI 257° and the MZB 325° radials (lat. 32°58′53″ N., long. 117°23′27″ W.); thence northwest via the MZB 325° radial to the point of beginning.

*Area T.* That airspace extending upward from 3,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the OCN 127° and the JLI 247° radials (lat. 32°59′08″ N., long. 117°01′01″ W.); thence northeast via the JLI 247° radial to intercept the OCN 121° radial (lat. 33°00′25″ N., long. 116°57′28″ W.); thence southeast via the OCN 121° radial to intercept the PGY 019° radial (lat. 32°56′51″ N., long. 116°50′29″ W.); thence south via the PGY 019° radial to intercept a line extending east from the southern boundary of the MCAS Miramar Class E airspace area (lat. 32°53′14″ N., long. 116°51′58″ W.); thence west along the southern boundary line to intercept the PGY 010° radial (lat. 32°52′37″ N., long. 116°55′24″ W.); thence north via the PGY 010° radial to intercept the OCN 127° radial (lat. 32°55′11″ N., long. 116°54′52″ W.); thence northwest via the OCN 127° radial to the point of beginning.

*Area U.* That airspace extending upward from 3,800 feet MSL to and including 10,000 feet MSL beginning at the intersection of the MZB 008° and the JLI 257° radials (lat. 33°01′21″ N., long. 117°11′07″ W.); thence east via the JLI 257° radial to intercept the OCN 135° radial (lat. 33°01′36″ N., long. 117°09′51″ W.); thence southeast via the OCN 135° radial to intercept the JLI 252° radial (lat. 32°59′32″ N., long. 117°07′24″ W.); thence southwest via the JLI 252° radial to intercept the MZB 008° radial (lat. 32°58′21″ N., long. 117°11′37″ W.); thence north via the MZB 008° radial to the point of beginning.

Issued in Washington, DC, on January 21, 1999.

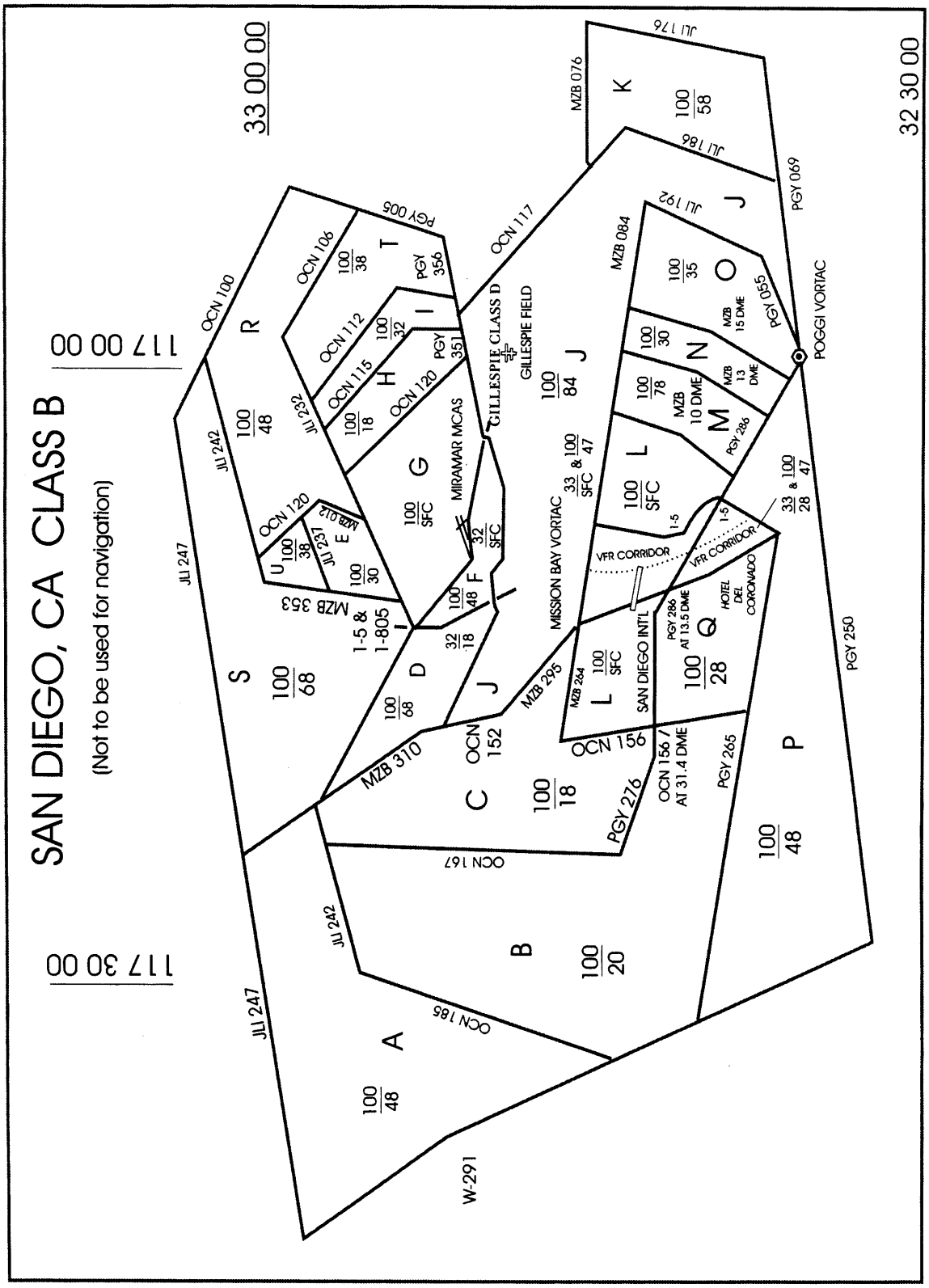
**Reginald C. Matthews,**

*Acting Program Director for Air Traffic Airspace Management.*

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

BILLING CODE 4910–13–P

**Appendix—San Diego, CA, Class B Airspace Area**




[FR Doc. 99–2135 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–13–C

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 73**

**[Airspace Docket No. 96–ASW–40]**

**RIN 2120–AA66**

## Amendments to Restricted Areas 5601D and 5601E; Fort Sill, OK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action raises the upper limit of Restricted Area 5601D (R–5601D) from the current 16,500 feet mean sea level (MSL) to Flight Level (FL) 400. Additionally, this action amends the times and days of designation for R–5601D and R–5601E when these areas may be activated without a prior issuance of a Notice to Airmen (NOTAM). These changes are necessary to accommodate high altitude/high angle bomb delivery training and to support weekday and night flying requirements.

**EFFECTIVE DATE:** 0901 UTC, March 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** Bil 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:**

### History

On November 10, 1997, the FAA proposed to amend 14 CFR part 73 to raise the upper limit of R–5601D and to expand the times and change the days of designation for R–5601D and R–5601E (62 FR 60463). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.56 of part 73 was republished in FAA Order 7400.8F dated October 27, 1998.

### The Rule

This amendment to 14 CFR part 73 raises the upper limit of R–5601D from the current 16,500 feet MSL to FL 400. The United States Air Force (USAF) requested this change to R–5601D in order to contain high-altitude jet aircraft bombing patterns in the Falcon Range target area located in R–5601C. Although R–5601C airspace extends to FL 400, there is not enough maneuvering airspace to allow jet aircraft to climb to the required delivery altitudes before final approach into the target area. Raising the upper limit of R–5601D to FL 400 will alleviate this airspace problem and allow for quality high altitude/high angle bomb delivery training, a USAF pilot requirement for ''mission ready'' status.

Additionally, this rule expands the times of designation and days of operation for R–5601D and R–5601E from the current ''Sunrise to sunset, Tuesday through Saturday; other times by NOTAM'' to ''Sunrise to 2200, Monday–Friday; other times by NOTAM.'' This expansion in the time of designation is necessary to accommodate a change in flying requirements by both the 301st Fighter Wing, Carswell Field, TX, and the 88th Training Wing at Sheppard AFB, TX. Although there will still be occasional weekend flying, most activity will occur during weekdays. The extension of flying times beyond sunset is necessary due to the USAF training requirement to fly night sorties. This action will not alter the horizontal boundaries or the designated purpose of the restricted areas.

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

The Department of the Army, with the concurrence of the Department of the Air Force, has requested that this airspace action be excluded from requirements for an Environmental Impact Statement and finding of no significant impact under Categorical Exclusion (CATEX) 2.3.35. The FAA considered the applicability of CATEX 2.3.35 to this action under the terms of the Memorandum of Understanding between the FAA and the Department of Defense (DOD), executed on January 26, 1998. The FAA also considered whether FAA CATEX 3(c) applies to this action, FAA Order 1050.1D, App.3, Para.3(c).

The DOD's CATEX 2.3.35 excludes all military training routes for subsonic operations that have a base altitude of 3,000 feet above ground level (AGL) or higher. This action raises the altitude of the area from 16,000 feet AGL to FL 400. Additionally, no extraordinary circumstances exist that warrant the preparation of an environmental assessment. The requirements for CATEX 2.3.35 are therefore satisfied because the proposed changes would affect altitudes above 3,000 feet AGL.

In addition, FAA CATEX 3(c) applies to this action because it involves the minor adjustment of raising an altitude in special use airspace. This action raises the vertical boundaries of the affected airspace but does not alter the horizontal boundaries, nor does it change the frequency of activity conducted within the restricted areas for the designated purpose. Therefore, the FAA has determined that this action qualifies for CATEX 3(c) in accordance with FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts.''

### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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.

**§ 73.56 [Amended]**

2. Section 73.56 is amended as follows:

* * * * *

**R–5601D Fort Sill, OK [Amended]**

By removing the current ''Designated altitudes. 500 feet AGL to 16,500 feet MSL'' and substituting ''Designated altitudes. 500 feet AGL to FL 400'' and also by removing ''Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM'' and substituting ''Time of designation. Sunrise to 2200, Monday through Friday; other times by NOTAM.''

**R–5601E Fort Sill, OK [Amended]**

By removing the current ''Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM'' and substituting ''Time of designation. Sunrise to 2200, Monday through Friday; other times by NOTAM.''

* * * * *

Issued in Washington, DC, on January 25, 1999.

**Reginald C. Matthews,**

*Acting Program Director for Air Traffic Airspace Management.*

[FR Doc. 99–2136 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 178

## Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

*CFR Correction*

In Title 21 of the Code of Federal Regulations, parts 170 to 199, revised as of April 1, 1998, make the following corrections:

1. In § 178.3130(b), on page 364, in the second column, in the first line of number 2 under Alkyl mono- and disulfonic acids, correct ''be'' to read ''to'', and in the same column, at the end of the fourth paragraph, after the words ''such foods have a pH'', add the words ''above 5.0''.

2. In § 178.3620(c)(3), on page 384, in the first column, in the first full paragraph, line 14, after the words ''Loosen the'' correct ''top'' to read ''topmost'' and add the following:

* * * * *

''few millimeters of each adsorbent layer with the end of a metal rod before the addition of the next layer. Continue packing in this manner until all the 14 grams of the adsorbent is added to the tube. Level off the top of the adsorbent by pressing down firmly with a flat glass rod or metal plunger to make the depth of the adsorbent bed approximately 12.5 centimeters in depth. Turn off the vacuum and remove the suction flask. Fit the 500–milliliter reservoir onto the top of the chromatographic column and prewet the column by passing 100 milliliters of isooctane through the column. Adjust the nitrogen pressure so that the rate of descent of the isooctane coming off the column is between 2–3 milliliters per minute. Discontinue pressure just before the last of the isooctane reaches the level of the adsorbent. (Caution: Do not allow the liquid level to recede below the adsorbent level at any time.) Remove the reservoir and decant the 5–milliliter isooctane concentrate solution onto the column and with slight pressure again allow the liquid level to recede to barely above the adsorbent level. Rapidly complete the transfer similarly with two 5–milliliter portions of isooctane, swirling the flask repeatedly each time to assure adequate washing of the residue. Just before the final 5–milliliter wash reaches the top of the adsorbent, add 100 milliliters of isooctane to the reservoir and continue the percolation at the 2–3 milliliters per minute rate. Just before the last of the isooctane reaches the adsorbent level, add 100 milliliters of 10 percent benzene in isooctane to the reservoir and continue the percolation at the''

* * * * *

2.In § 178.3910(a)(2) table, on pages 406 and 407, in the first column, under ''List of substances'', correct the second, third, and fifth entries to read as follows:

* * * * *

α–Butyl–Ω–hydroxypoly(oxypropyl–ene) (CAS Reg. No. 9003-13–8) having a minimum molecular weight of 1000.

α–Lauroyl–Ω–hydroxpoly (oxyethylene) (CAS Reg. No. 9004–81–3) having a minimum molecular weight of 200.

* * * * *

*alpha*–Alkyl–*omega*–hydroxypoly–(oxyethylene) produced by the condensation of 1 mole of $C_{12-}C_{15}$ straight chain primary alcohols with an average of 3 moles of ethylene oxide (CAS Reg. No. 68002–97–1).

* * * * *

[FR Doc. 99–55505 filed 1–28–99; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 175

## Indirect Food Additives: Adhesives and Components of Coatings

*CFR Correction*

In Title 21 of the Code of Federal Regulations, parts 170 to 199, revised as of April 1, 1998, on page 157, second column, § 175.300 is corrected in paragraph (b)(3)(vii)(*a*) by correcting the CAS Reg. No. for 1,4–cyclohexanedicarboxylic to read ''(CAS Reg. No. 1076–97–7)''.

[FR Doc. 99–55504 filed 1–28–99; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 310

**[Docket No. 78N–036L]**

**RIN 0910–AA01**

## Laxative Drug Products for Over-the-Counter Human Use

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule establishing that the over-the-counter (OTC) stimulant laxative ingredients danthron and phenolphthalein are not generally recognized as safe and effective and are misbranded. FDA is issuing this final rule as part of its ongoing review of OTC drug products after considering data and information on the safety of danthron and phenolphthalein.

**EFFECTIVE DATE:** January 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Cheryl A. Turner, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In the **Federal Register** of March 21, 1975 (40 FR 12902), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC laxative, antidiarrheal, emetic, and antiemetic drug products, together with the recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products (the Panel), which was the advisory review panel that evaluated data on the active ingredients in these classes. In the advance notice of proposed rulemaking, the Panel recommended Category I (generally recognized as safe and effective and not misbranded) status for the OTC stimulant laxative ingredients danthron and phenolphthalein (40 FR 12902 at 12908 to 12910). The agency concurred with the Panel's Category I classification of these ingredients in the tentative final monograph published in the **Federal Register** of January 15, 1985 (50 FR 2124 at 2152 to 2156).

In the **Federal Register** of September 2, 1997 (62 FR 46223), FDA reopened

the administrative record and proposed to amend the tentative final monograph for OTC laxative drug products to reclassify danthron and phenolphthalein from Category I to Category II (not generally recognized as safe and effective or misbranded) and to add these ingredients to a list of nonmonograph active ingredients. Interested persons were invited to submit comments on or before October 2, 1997. Data and information received after the administrative record was reopened are on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

This final rule declares OTC laxative drug products containing the active ingredients danthron or phenolphthalein to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)), for which an application or abbreviated application (hereinafter called application) approved under section 505 of the act (21 U.S.C. 355) and 21 CFR part 314 is required for marketing. In the absence of an approved application, products containing these drugs for laxative use also would be misbranded under section 502 of the act (21 U.S.C. 352).

The final rule amends part 310 (21 CFR part 310) to include the laxative active ingredients danthron and phenolphthalein by adding new § 310.545(a)(12)(iv)(B). Because a safety problem has been identified for OTC drug products containing danthron and phenolphthalein, this final rule is effective on the date of its publication in the **Federal Register**. Therefore, on or after January 29, 1999, no OTC drug products that are subject to this final rule may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved application.

Nineteen comments were received in response to the proposed rule on danthron and phenolphthalein. All comments addressed phenolphthalein. Copies of the comments received are on public display in the Dockets Management Branch (address above).

## II. The Agency's Conclusions on the Comments

1. Three comments agreed that phenolphthalein should be removed from OTC laxative drug products because of the public health importance of this matter and the need for prompt closure by FDA. Eight comments contended that phenolphthalein should remain in OTC laxative drug products because the National Toxicology Program (NTP) data (Ref. 1) were insufficient to determine whether phenolphthalein posed a risk to humans, and because phenolphthalein has been safely and effectively used for many years. Several consumers indicated that they will not be able to find another laxative ingredient as effective as phenolphthalein, and believed that their health will be affected if they can no longer use phenolphthalein.

As stated in this document, the agency concludes that phenolphthalein is not safe and not of sufficient medical value to outweigh the potential risks associated with its OTC use. As there are at least 25 other laxative ingredients available for OTC use, the agency concludes that consumers have access to sufficient alternative laxatives.

2. Four comments offered alternatives to removing phenolphthalein from OTC laxative drug products. Three comments argued that stronger warning statements on the phenolphthalein product label and public education would adequately alert consumers of the potential health risk to humans and emphasize appropriate use of the drug.

The agency concludes that stronger warning statements and public education will not change the potential risk of using phenolphthalein and that this risk is not acceptable given the benefit for laxative use in the OTC target population.

3. Three manufacturers contended that actual carcinogenic effects of phenolphthalein in humans have not been determined and recommended that studies be conducted to evaluate the safe use of phenolphthalein in humans. One manufacturer stated that these additional data may take 2 to 3 years to obtain and recommended a moratorium on the decision to remove phenolphthalein from OTC laxative drug products. One manufacturer offered to conduct a case control human surveillance safety study. Two manufacturers recommended that FDA or another agency conduct studies to evaluate the safe use of phenolphthalein in humans.

The agency notes that it is the manufacturer's responsibility to conduct studies to determine whether phenolphthalein is safe for human use. Because of public health concerns, the agency disagrees that phenolphthalein should remain on the market while further human safety studies are being conducted and is stopping initial introduction or initial delivery for introduction into interstate commerce of OTC laxative drug products containing phenolphthalein as of the date this final rule is published in the **Federal Register**.

4. Two manufacturers submitted comments (Refs. 2 through 8) questioning the validity of the NTP data (Ref. 1). They argued that: (1) The studies failed to demonstrate a proposed mechanism of genotoxic action for phenolphthalein that is relevant to humans, (2) alternative mechanisms were not considered, (3) the data obtained from the p53 deficient mouse study are inconsistent with what was expected based on the 2-year carcinogenicity studies, (4) the NTP data do not provide a sufficient basis for FDA to draw firm conclusions regarding the potential human carcinogenicity of phenolphthalein, and (5) there are no relevant human data to draw any firm conclusions regarding potential risk of phenolphthalein in humans.

One comment submitted four consultant reports (Refs. 2 through 5), which reanalyzed the NTP data. One report by Roe (Ref. 3) directed criticisms primarily at the p53 deficient mouse study and the ''null'' mouse, which lacks both wild type p53 alleles. Roe dismissed the positive genotoxicity results as apparent only under conditions of toxicity or in some cases as an estrogenic effect. Roe also rejected the findings of genotoxicity demonstrated for phenolphthalein in the Chinese Hamster Ovary (CHO) cell chromosome aberrations assays, in the several positive in vivo micronucleus assays, and in the mutation and chromosomal aberration findings in the Syrian hamster embryo cells (SHE) transformation assay by Tsutsui et al. (Ref. 9).

Two reports from CanTox U.S., Inc., (Refs. 2 and 4) concurred with the estrogenic mechanism of carcinogenesis proposed by Roe. CanTox proposed that an aneugenic effect may be involved and questioned the validity of the mutagenicity data presented by Tsutsui et al. (Ref. 9) for the SHE cell assay, noting that the control data were not different from the treated groups.

One comment included a position paper on phenolphthalein from the European Agency for the Evaluation of Medicinal Products, Committee for Proprietary Medicinal Products (CPMP) (Ref. 7). The CPMP argued that while carcinogenicity and genotoxicity for phenolphthalein were confirmed by data from a transgenic mouse model, the systemic exposures to active drug, both in the conventional rodent bioassays and p53 mouse, appeared to be well in excess of those likely to be encountered in normal human use. CPMP stated that the extent of risk to humans cannot be established without adequate mechanistic data addressing whether a threshold exists for the carcinogenic

effects in mice and the in vivo genotoxic effects. CPMP added that it was unable to verify from original data FDA's statement that the ''systemic exposures in rodents were approximately fortyfold to seventyfold and sixtyfold to hundredfold the human exposure for rats and mice, respectively.''

Another comment (Ref. 8) also reanalyzed the NTP data and concluded that phenolphthalein was a genotoxic carcinogen in rodents. No new information was submitted.

The comments did not submit any new data, but focused on interpreting findings that already were available. The issue of carcinogenicity through a genotoxic mechanism was discussed in the proposed rule (62 FR 46223 at 46224) and at the April 30, 1997, FDA Center for Drug Evaluation and Research (CDER) Carcinogenicity Assessment Committee (CAC) meeting (Ref. 10). The CAC concluded that the study in p53 heterozygous mice supports other evidence that phenolphthalein may be carcinogenic through a genotoxic mechanism. There was a clear dose-dependent increase in the incidence of thymic lymphoma in the p53 assay, confirming one of the primary tumors of concern to the CAC based on its original evaluation of the 2-year assay data. These tumors occurred at doses that showed no other signs of toxicity. Further, the CAC believed that the results of several of the assays and data support a genotoxic clastogenic mechanism. Phenolphthalein was positive in chromosome aberration tests and showed chromosomal abnormality and hypoxanthine phosphoribosyltransferase (hprt) mutations in the SHE cell assay, where nontoxic doses caused cell transformation, mutations, and chromosome aberration. The p53 protein accumulation in the nucleus of thymic lymphoma cells of the original 2-year mouse bioassay, coupled with the deletion of the wild type p53 allele in the thymic lymphomas of p53 mice, is indicative of interaction with the p53 gene as a target site. In vivo, repeated exposure resulted in micronuclei in both the original bioassay and in p53 mice studies. In the p53 mice, an increase in peripheral blood micronucleus occurred even at the low doses (about 15 times the human exposure) with increased duration of treatment without establishing a no effect dose. Further, the exposures used to demonstrate these in vivo and in vitro genotoxic effects were in the range that could occur with human laxative use.

With regard to use of the p53 assay and its usefulness for quantitative risk assessment, NTP used the p53 heterozygous mouse assay to test phenolphthalein; therefore, many of the comments in Roe's report regarding the ''null'' mouse (which lacks both wild type p53 alleles) do not apply. Information is available regarding the responsiveness of the p53 model and the types of compounds to which it responds. To date, when using a 6-month protocol design, the p53 mouse only appears to respond to compounds known to be carcinogenic and genotoxic, and not to compounds that are carcinogenic and nongenotoxic. There is also no evidence to date that the p53 heterozygous mouse assay that was used responds to carcinogens at significantly lower doses than are positive in standard bioassays. Data for the micronucleus response from Tice et al. (Ref. 11) indicate that, while the maximal response in the p53 mouse is greater than for other strains of mice, response below 2,000 milligram/kilogram/day is similar to that of normal CD-1 mice similarly treated with phenolphthalein. Furthermore, the tumor response to phenolphthalein in the p53 model occurred over a dose range that could have been predicted based on the results of the 2-year bioassay in mice (assuming a genotoxic mechanism). Thus, the agency considers it reasonable to use the p53 model as a part of the weight of evidence in assessing a drug suspected of being a genotoxic carcinogen.

The agency further notes that the CAC's evaluation was not a quantitative assessment for either the standard bioassays or the p53 assay, rather the data were viewed qualitatively considering exposure. The evidence from several experimental studies indicating that phenolphthalein acts through a genotoxic mechanism via deoxyribonucleic acid (DNA) structural damage decreases the utility of a direct quantitative risk assessment. The genotoxicity data were also considered in the evaluation of the 2-year bioassay results, which contributed significantly to the conclusion of a relevant risk to humans. The p53 mouse assay was conducted under test conditions where factors such as target organ toxicity did not confound its interpretation, and where exposures and pharmacodynamic effects were well characterized. Thus, the results of the p53 mouse assay appear to be more likely relevant to humans than the results from the 2-year bioassay as conducted.

Further, the agency disagrees with Roe's dismissal of the genotoxic findings in the CHO cell chromosome aberration, micronucleus, and SHE cell transformation assays as apparent under conditions of toxicity or in some cases as an estrogenic effect. The agency is aware that phenolphthalein is known to have estrogenic activity. The information available on phenolphthalein indicates that its potency for binding at estrogen receptors and for induction of estrogenic effects is low compared to endogenous estrogens (by about a factor of $10^3$ and $10^4$ less than estradiol). Given the concentrations of phenolphthalein achieved in the bioassays, this action may be considered to have little overall contribution to the estrogenic load in the rodent models tested. The types of tumors observed for phenolphthalein are generally unlike those observed with other estrogenic chemicals. While there may be some contribution by estrogenic effects in the tumor response, the estrogenic effects appear most relevant for the ovarian tumors observed only in the 2-year mouse bioassay.

The genotoxic effects of phenolphthalein were observed under conditions compatible with the International Conference on Harmonization (ICH) guidance for the conduct of such genotoxicity studies. Although the repeat dose micronucleus assay that was originally reported was conducted at doses causing bone marrow toxicity, which could be viewed as confounding the results, the micronucleus assay conducted in the p53 mouse exhibited little evidence of toxicity and yielded results essentially identical to those of the prior assays. Thus, excessive toxicity is not essential to the micronucleus response for phenolphthalein. Further, this assay, although not part of the standard ICH test battery, is believed by many in the scientific community to be a more comprehensive assessment than the acute dose micronucleus assay, as it allows for any metabolic induction processes that might occur in vivo. This assay also allows exposures to achieve steady state conditions and reduces the uncertainty of appropriate sampling times, which can confound the standard acute assessments. Use of such tests is in accordance with ICH recommended guidelines for additional genotoxicity testing where positive findings have been observed in carcinogenicity studies.

The agency notes that there was an error in the Tsutui et al. report (Ref. 9), in that the number of mutations found in the control group for the SHE cell transformation assay should have been reported as $<0.25 \times 10^{-6}$. The Tsutui et al. findings for the control treatment are consistent with historical experience and less than 1/16 the response in phenolphthalein treated cells. The positive control produced an effect only

threefold greater than phenolphthalein. Thus, these data indicate a mutational effect for phenolphthalein.

The data also indicate that both aneuploidy and structural damage are caused by phenolphthalein. Tice et al. (Ref. 11) showed a possible increase in aneuploidy based on the kinetochore analysis. There was also significant evidence of structural damage; phenolphthalein treatment caused an approximate fourfold increase in micronuclei with structural damage and an eightfold increase in aneugenic damage calculated based on the ratio of normochromatic erythrocytes and polychromatic erythrocytes, and the increase in micronuclei. Also, an effect on aneuploidy was not observed in the study by Tsutsui et al. (Ref. 9) with SHE cells, whereas DNA structural damage and mutation were reported. The view that aneuploidy is the primary mechanism of genetic damage related to the carcinogenic effect also ignores the evidence of structural damage observed in the CHO cell chromosomal aberration studies, including those done by NTP, with responses approaching those seen with the positive control. Although the loss of heterozygosity observed in tumors from the p53 mouse could be explained by an aneugenic mechanism, it could also be the result of a chromosome break or deletion of a significant segment of the p53 region targeted by the assay. This allele loss was also specific for the p53 wild-type gene, with no effect on the null allele. Such a selective effect would not be anticipated from chromosome loss by an aneugenic mechanism functioning at the spindle apparatus.

One CanTox report (Ref. 5) presented information on the effects of phenolphthalein on thymidylate synthase (TS) activity and the potential relationship to the genotoxic and carcinogenic effects observed following phenolphthalein treatment in various systems. This report was evaluated by FDA's Executive CAC and Genetic Toxicology Committees (the Committees) (Ref. 12), which noted that the TS enzyme inhibitory activity was reported for a bacterial source and could differ between the bacterial and human or other mammalian forms, but there is no information available for assessing increased or decreased sensitivity. The Committees found no available information for estimation of intracellular versus extracellular concentrations of phenolphthalein to determine whether the in vivo phenolphthalein concentrations are within a reasonable range of those that were studied in vitro for TS inhibition. The inhibitor effects, however, appear to occur at plasma concentrations of phenolphthalein tenfold to hundredfold greater than the plasma concentrations associated with in vivo effects. There was also no information available on the TS activity of the glucuronide or other metabolites of phenolphthalein. In addition, the nucleotide pool disruption model lacked in vivo data and other information showing that a disruption of nucleotide pools was caused by phenolphthalein or that nucleotide pool effects were involved in the observed responses to phenolphthalein. The Committees noted that the effects of phenolphthalein on induction of micronuclei could be considered consistent with an effect on TS, based on comparisons of effects with 5-fluorouracil (5-FU) and methotrexate (MTX) treatment. However, the TS inhibitory activity does not appear consistent with or explain the other observed effects of phenolphthalein. In contrast to the assays conducted on phenolphthalein, 5-FU and MTX failed to increase SHE cell transformation. This suggests that, if phenolphthalein is active as a TS inhibitor at the tested concentrations, its effects on SHE cells (such as transformation, mutation, and chromosomal aberration) appear independent of the TS activity. Also, phenolphthalein is associated with increased chromosomal aberrations in CHO cells only in the presence of metabolic activation. This contrasts with the ability of phenolphthalein to directly inhibit TS. The comment's suggestion that the effect in CHO cells is due to fragile site damage in the CHO cell genome is not consistent with data provided by Witt et al. (Ref. 6), nor with the observations on CHO cells discussed at the April 2, 1996, CAC meeting (Ref. 13). In both data sets, there were increases in both complex and simple chromosomal breaks. In the latter data set, the proportionate response of simple and complex breaks appears similar to that caused by cyclophosphamide (a known genotoxicant used as the positive control for the assay). There was no discussion by the comment as to why a fragile site response would not be relevant for human adverse effects. The Committees noted that in a chromosomal aberration assay on human peripheral blood lymphocytes tested in vitro (Ref. 14), there was evidence of a clastogenic response from one of two subjects tested. While there is evidence that phenolphthalein can inhibit TS in some in vitro systems, the Committees stated that the data do not support the argument that TS inhibition explains all of the genetic damage observed in tests conducted on phenolphthalein, and that TS inhibition is the underlying mechanism of tumor formation in the three in vivo assays conducted. The Committees concluded that the data on TS inhibition do not refute the potential relevance of phenolphthalein's toxicologic effects for humans.

The CPMP (Ref. 7) contended that the extent of risk in humans cannot be established because the mechanistic data are inadequate and the phenolphthalein doses used in the study were excessive. The agency is not aware of any available data that would suggest that the mechanisms thought to account for tumor induction by phenolphthalein in experimental animals would not also operate in humans. Further, the phenolphthalein exposures used to demonstrate the in vivo and vitro genotoxic effects were in the range of those that humans use to cause laxation. The agency also notes that the exposure information for phenolphthalein that the CPMP could not verify was based on data obtained from a kinetic study (Ref. 15) sponsored by the 1992–1993 Nonprescription Drug Manufacturers Association Phenolphthalein Study Group.

After review of all the available data, the agency concludes that phenolphthalein caused chromosome aberrations, cell transformation, and mutagenicity in mammalian cells. Because benign and malignant tumor formation occurs at multiple tissue sites in multiple species of experimental animals, phenolphthalein is reasonably anticipated to have human carcinogenic potential.

## III. References

1. Comment No. RPT7, Docket No. 78N–036L, Dockets Management Branch.

2. CanTox U.S., Inc., ''Discussion of New Data Related to Phenolphthalein Presented at the April 30, 1997 Meeting of the Carcinogenicity Assessment Committee of the U.S. Food and Drug Administration,'' June 9, 1997, in Comment No. C167, Docket No. 78N–036L, Dockets Management Branch.

3. Roe, F. J., ''Opinion on the Safety of Phenolphthalein as an Ingredient of OTC Laxative Preparations,'' August 28, 1996, in Comment No. C180, Docket No. 78N–036L, Dockets Management Branch.

4. CanTox U.S., Inc., ''Evaluation of the Rodent Carcinogenicity of Phenolphthalein,'' October 1, 1997, in Comment No. C180, Docket No. 78N–036L, Dockets Management Branch.

5. CanTox U.S., Inc., ''The Relevance of the Role of Phenolphthalein as an Inhibitor of Thymidylate Synthase for the Interpretation of the Genotoxic Potential and Carcinogenicity Assessment of this Compound,'' December 4, 1997, in Comment No. C186, Docket No. 78N–036L, Dockets Management Branch.

6. Witt, K. L. et al., ''Phenolphthalein: Induction of Micronucleated Erythrocytes in Mice,'' Mutation Research, 341:151–160, 1995, in Comment No. C186, Docket No. 78N–036L, Dockets Management Branch.
7. Comment No. C189, Docket No. 78N–036L, Dockets Management Branch.
8. Comment No. RPT9, Docket No. 78N–036L, Dockets Management Branch.
9. Tsutsui, T. et al., ''Cell Transforming Activity and Genotoxicity of Phenolphthalein in Cultured Syrian Hamster Embryo Cells,'' unpublished manuscript, 1997, in Comment No. RPT7, Docket No. 78N–036L, Dockets Management Branch.
10. Comment No. MM13, Docket No. 78N–036L, Dockets Management Branch.
11. Tice, R. R. et al., ''Tumorigenicity Studies of Dietary Phenolphthalein (CAS No. 77–09–8) in TSG-p53 Transgenic Female Mice,'' final report, April 11, 1997, in Comment No. RPT7, Docket No. 78N–036L, Dockets Management Branch.
12. Comment No. MM15, Docket No. 78N–036L, Dockets Management Branch.
13. Comment No. MM12, Docket No. 78N–036L, Dockets Management Branch.
14. Comment No. RPT10, Docket No. 78N–036L, Dockets Management Branch.
15. BTC Study No. P0392002 in Comment No. RPT11, Docket No. 78N–036L, Dockets Management Branch.

5. One comment expressed concern about the availability of an acceptable bowel cleansing system for use by physicians if the use of phenolphthalein is banned. The comment argued that its bowel cleansing system containing phenolphthalein, magnesium citrate, and bisacodyl should not be considered an OTC laxative. The comment stated that if phenolphthalein cannot be used, patients may be misdiagnosed because adequate bowel cleansing was not achieved prior to undergoing a bowel examination. The comment requested that the agency allow the continued sale of phenolphthalein in bowel cleansing systems if the product is adequately labeled, limited to a one-time application, and purchased and used under a physician's supervision.

This final rule prohibits the use of phenolphthalein in OTC laxative drug products. If an OTC bowel cleansing system is reformulated to contain a different laxative ingredient, data must be submitted to the rulemaking for OTC laxative ingredients to support the safety and effectiveness of the reformulated bowel cleansing system. Bowel cleansing systems that contain phenolphthalein and are limited to purchase and use under a physician's supervision may be submitted for agency review in a new drug application.

6. One comment stated that if phenolphthalein is reclassified as a Category II ingredient in the final rule, an immediate effective date would be unfair because it would cause significant economic harm to manufacturers of phenolphthalein. The comment recommended that a 1-year transition period be allowed for manufacturers to reformulate their laxative products, which will involve the purchase and production of new materials and, possibly, new equipment. The comment did not present any information that was not previously addressed in the proposed rule.

Because over 1 year has passed since the proposal was published, providing adequate time for reformulation, the agency denies the comment's request. In the preamble to the proposed rule (58 FR at 46226 to 46227), FDA found good cause under 5 U.S.C. 553(d) and 21 CFR 10.40(c)(4) for an immediate effective date for this final rule. In the reasons given in that preamble, as well as the fact that an additional period of more than 1 year has passed; the agency confirms the finding of good cause for an immediate effective date for this final rule.

## IV. The Agency's Final Conclusions on Danthron and Phenolphthalein

Based on new data and information, the agency is reclassifying the stimulant laxative ingredients danthron and phenolphthalein from Category I (monograph) to Category II (nonmonograph) and is adding danthron and phenolphthalein to the list of stimulant laxatives in § 310.545(a)(12)(iv). The current list in that section is redesignated as § 310.545(a)(12)(iv)(A) and danthron and phenolphthalein are being included in new § 310.545(a)(12)(iv)(B). As a result of this reclassification of danthron and phenolphthalein, the amendments proposed in §§ 334.18, 334.30, 334.32, 334.60, and 344.66 (62 FR 46223 at 46227) will be finalized in the final rule for OTC laxative drug products, to be published in a future issue of the **Federal Register**.

## V. Analysis of Impacts

One comment was received in response to the agency's request in the proposal for specific comment on the economic impact of this rulemaking (62 FR 46223 at 46225). (See comment 6 of this document.)

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). 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, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities.

Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this final rule is consistent with the principles set out in the Executive Order and in these two statutes. The purpose of this final rule is to establish conditions under which the OTC stimulant laxative ingredients danthron and phenolphthalein are not generally recognized as safe and effective. Cessation of marketing of OTC laxative drug products containing danthron occurred in 1987. Therefore, no reformulation or relabeling will be necessary for this ingredient.

Products containing phenolphthalein will need to be reformulated to replace the ingredient with another laxative active ingredient. A number of laxative ingredients in proposed part 334 (50 FR 2124 at 2152) could be used. In addition, most OTC laxative drug products containing phenolphthalein have already been reformulated since the proposal was published.

When the proposed rule was published, the agency was aware of only one phenolphthalein dosage form, a flavored chewable tablet. Sales of this dosage form by all manufacturers were about $20 million in 1995 (most attributed to one large manufacturer), comprising about 3 percent of the total retail market for laxative products. The major manufacturer of this product informed the agency on August 29, 1997 ( Ref. 1), that it planned to reformulate the product with another OTC laxative ingredient within 60 days.

Because these products must be manufactured in compliance with the pharmaceutical current good manufacturing practices (21 CFR parts 210 and 211), all firms have the necessary skills and personnel to perform the tasks of reformulation, validation, and relabeling either in-house or by contractual arrangement. The rule will not require any new reporting and recordkeeping activities. No additional professional skills are needed. There are no other Federal rules

that duplicate, overlap, or conflict with this rule.

Based on the agency's understanding that most manufacturers have already reformulated or otherwise are in the process of reformulating, the agency expects that this final rule will not be economically significant under Executive Order 12866, nor would it impose an Unfunded Mandate (as that term is described in the Unfunded Mandate Reform Act). The agency also believes that it has undertaken steps to reduce the burden to small entities. Nevertheless, some entities may incur significant impacts, especially manufacturers that still must reformulate their phenolphthalein products and, to a lesser extent, private label manufacturers that provide labeling for a number of the affected products. Danthron was removed from OTC laxative drug products in 1987 and has not been available for approximately 10 years. Therefore, it is unlikely that reclassification of danthron as a nonmonograph ingredient would have any economic impact. This economic analysis, together with other relevant sections of this document, serves as the agency's final regulatory flexibility analysis, as required under the Regulatory Flexibility Act.

## VI. Reference

1. Comment No. C173, Docket No. 78N–036L, Dockets Management Branch.

## VII. Paperwork Reduction Act of 1995

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

## VIII. Environmental Impact

The agency has determined under 21 CFR 25.31(c) 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.

## List of Subjects in 21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 310 is amended as follows:

## PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

2. Section 310.545 is amended by redesignating paragraph (a)(12)(iv) as paragraph (a)(12)(iv)(A) and by revising the newly redesignated heading, by adding paragraphs (a)(12)(iv)(B) and (d)(29), and by revising paragraph (d) introductory text and paragraph (d)(1) to read as follows:

**§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.**

(a) * * *

(12) * * *

(iv)(A) Stimulant laxatives—Approved as of May 7, 1991. * * *

(iv)(B) Stimulant laxatives—Approved as of January 29, 1999.

Danthron

Phenolphthalein

* * * * *

(d) Any OTC drug product that is not in compliance with this section is subject to regulatory action if initially introduced or initially delivered for introduction into interstate commerce after the dates specified in paragraphs (d)(1) through (d)(29) of this section.

(1) May 7, 1991, for products subject to paragraphs (a)(1) through (a)(2)(i), (a)(3) through (a)(4), (a)(6)(i)(A), (a)(6)(ii)(A), (a)(7) (except as covered by paragraph (d)(3) of this section), (a)(8)(i), (a)(10)(i) through (a)(10)(iii), (a)(12)(i) through (a)(12)(iv)(A), (a)(14) through (a)(15)(i), and (a)(16) through (a)(18) of this section.

* * * * *

(29) January 29, 1999, for products subject to paragraph (a)(12)(iv)(B) of this section.

Dated: January 20, 1999.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 99–1938 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–01–F

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 520

## Oral Dosage Form New Animal Drugs

*CFR Correction*

In Title 21 of the Code of Federal Regulations, parts 500 to 599, revised as of April 1, 1998, on page 176, second column, § 520.2158b is corrected by adding paragraph (d) to read as follows:

**§ 520.2158b Dihydrostreptomycin tablets.**

* * * * *

(d) *Conditions of use. Calves*—(1) *Amount.* 150 milligrams of dihydrostreptomycin and 1.5 grams of chlorhexidine dihydrochloride per 100 pounds of body weight per day.

(2) *Indications for use.* Treatment of bacterial scours in calves.

(3) *Limitations.* Administer orally once a day for 5 days; withdraw 3 days before slaughter.

[FR Doc. 99–55506 filed 1–28–99; 8:45 am]

BILLING CODE 1505–01–D

---

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 31

**[TD 8815]**

**RIN 1545–AT99**

## Federal Unemployment Tax Act (FUTA) Taxation of Amounts Under Employee Benefit Plans

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations under section 3306(r)(2) of the Internal Revenue Code (Code), that provide guidance as to when amounts deferred under or paid from a nonqualified deferred compensation plan are taken into account as wages for purposes of the employment taxes imposed by the Federal Unemployment Tax Act (FUTA). Section 3306(r)(2), relating to treatment of certain nonqualified deferred compensation, was added to the Code by section 324 of the Social Security Amendments of 1983. These regulations provide guidance to employers who maintain nonqualified deferred compensation plans.

**DATES:** *Effective Date:* These regulations are effective January 29, 1999.

*Applicability Date:* These regulations are applicable on and after January 1, 2000. In addition, these regulations provide certain transition rules for amounts deferred and benefits paid before January 1, 2000, including allowing employers to use a reasonable, good faith interpretation of section 3306(r)(2).

**FOR FURTHER INFORMATION CONTACT:** Janine Cook, Linda E. Alsalihi, or Margaret A. Owens, (202) 622–6040 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

These final regulations amend the Employment Tax Regulations (26 CFR

part 31) under section 3306(r)(2). Section 3306(r)(2) was added to the Internal Revenue Code (Code) by section 324 of the Social Security Amendments of 1983 (1983 Amendments). Section 2662(f)(2) of the Deficit Reduction Act of 1984 (DEFRA) amended section 324 of the 1983 Amendments.

Notice 94–96 (1994–2 C.B. 564) provides that until final regulations are issued, the IRS will not challenge an employer's determination of FUTA tax liability with respect to a nonqualified deferred compensation plan for periods before the effective date of any final regulations if the determination is based on a reasonable, good faith interpretation of section 3306(r)(2). On January 25, 1996, a notice of proposed rulemaking (EE–55–95), under section 3306(r)(2) was published in the **Federal Register** (61 FR 2214), providing guidance related to the FUTA tax treatment of amounts deferred under or paid from certain nonqualified deferred compensation plans. On December 24, 1997, a notice of proposed rulemaking (REG–209484–87 and REG–209807–95), under section 3306(r)(2), extending the proposed general effective date of the regulations to January 1, 1998, was published in the **Federal Register** (62 FR 67304).

Comments regarding the proposed regulations were received from the public, and on June 24, 1996, the IRS held a public hearing concerning the proposed amendments. After consideration of the public comments received and the statements made at the public hearing, the proposed regulations are adopted as revised by this Treasury decision.

## Explanation of Provisions

These final regulations provide guidance under section 3306(r)(2), relating to when amounts deferred under or paid from nonqualified deferred compensation plans are taken into account as wages for FUTA purposes. These rules are substantially similar to the rules applicable to the FICA (Federal Insurance Contributions Act) tax treatment of such amounts deferred under section 3121(v)(2). Thus, these final regulations cross-reference the final regulations under section 3121(v)(2) (FICA tax treatment of nonqualified deferred compensation), published elsewhere in this issue of the **Federal Register**.

## 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, and because the notice of proposed rulemaking was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## Drafting Information

The principal authors of these regulations are Janine Cook, Linda E. Alsalihi, and Margaret A. Owens, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

## Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

## PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

**Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

**Par. 2.** Section 31.3306(r)(2)–1 is added to read as follows:

### § 31.3306(r)(2)–1 Treatment of amounts deferred under certain nonqualified deferred compensation plans.

(a) *In general.* Section 3306(r)(2) provides a special timing rule for the tax imposed by section 3301 with respect to any amount deferred under a nonqualified deferred compensation plan. Section 31.3121(v)(2)–1 contains rules relating to when amounts deferred under certain nonqualified deferred compensation plans are wages for purposes of sections 3121(v)(2), 3101, and 3111. The rules in § 31.3121(v)(2)–1 also apply to the special timing rule of section 3306(r)(2). For purposes of applying the rules in § 31.3121(v)(2)–1 to section 3306(r)(2) and this paragraph (a), references to the Federal Insurance Contributions Act are considered references to the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.), references to FICA are considered references to FUTA, references to section 3101 or 3111 are considered references to section 3301, references to section 3121(v)(2) are considered references to section 3306(r)(2), references to section 3121(a), (a)(5), and (a)(13) are considered references to section 3306(b), (b)(5), and (b)(10), respectively, and references to § 31.3121(a)–2(a) are considered references to § 31.3301–4.

(b) *Effective dates and transition rules.* Except as otherwise provided, section 3306(r)(2) applies to remuneration paid after December 31, 1984. Section 31.3121(v)(2)–2 contains effective date rules for certain remuneration paid after December 31, 1983, for purposes of section 3121(v)(2). The rules in § 31.3121(v)(2)–2 also apply to section 3306(r)(2). For purposes of applying the rules in § 31.3121(v)(2)–2 to section 3306(r)(2) and this paragraph (b), references to section 3121(v)(2) are considered references to section 3306(r)(2), and references to section 3121(a)(2), (a)(3), or (a)(13) are considered references to section 3306(b)(2), (b)(3), or (b)(10), respectively. In addition, references to § 31.3121(v)(2)–1 are considered references to paragraph (a) of this section. For purposes of applying the rules of § 31.3121(v)(2)–2 to this paragraph (b)—

(1) References to ''December 31, 1983'' are considered references to ''December 31, 1984'';

(2) References to ''before 1984'' are considered references to ''before 1985'';

(3) References to ''Federal Insurance Contributions Act'' are considered references to ''Federal Unemployment Tax Act''; and

(4) References to ''FICA'' are considered references to ''FUTA''.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: December 23, 1998.

**Donald C. Lubick,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 99–1664 Filed 1–28–99; 8:45 am]

BILLING CODE 4830–01–P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 31 and 602**

**[TD 8814]**

**RIN 1545–AT27**

## Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations under section 3121(v)(2) of the Internal Revenue Code (Code) that provide guidance as to when amounts deferred under or paid from a nonqualified deferred compensation plan are taken into account as wages for purposes of the employment taxes imposed by the Federal Insurance Contributions Act (FICA). Section 3121(v)(2), relating to treatment of certain nonqualified deferred compensation, was added to the Code by section 324 of the Social Security Amendments of 1983. These regulations provide guidance to employers who maintain nonqualified deferred compensation plans and to participants in those plans.

**DATES:** *Effective Date:* These regulations are effective January 29, 1999.

*Applicability Date:* These regulations are applicable on and after January 1, 2000. In addition, these regulations provide certain transition rules for amounts deferred and benefits paid before January 1, 2000, including allowing employers to use a reasonable, good faith interpretation of section 3121(v)(2).

**FOR FURTHER INFORMATION CONTACT:** Janine Cook, Linda E. Alsalihi, or Margaret A. Owens, (202) 622–6040 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545–1643.

The collection of information in this regulation is in § 31.3121(v)(2)–1(b)(2). This information is required to implement Code section 3121(v). This information will be used to identify the material terms of a plan. The collection of information is required to obtain a benefit. The likely recordkeepers are business or other for-profit institutions.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by March 30, 1999.

Comments are specifically requested concerning:

Whether the collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

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

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

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

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

The estimated total annual recordkeeping burden for § 31.3121(v)(2)–1(b)(2) is 12,500 hours. The annual estimated burden per recordkeeper varies from 2 hours to 10 hours, depending on the individual circumstances, with an estimated average of 5 hours. The estimated number of recordkeepers is 2,500.

Estimates of the reporting burden in § 31.3121(v)(2)–1(f) and (g) are reflected in the burden estimates of Form 941, Employer's Quarterly Federal Tax Return, Form 941c, Supporting Statement To Correct Information, Form W–2, Wage and Tax Statement, and Form W–2c, Corrected Wage and Tax Statement.

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

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

### Background

These regulations amend the Employment Tax Regulations (26 CFR part 31) under section 3121(v)(2). Section 3121(v)(2) was added to the Internal Revenue Code (Code) by section 324 of the Social Security Amendments of 1983 (1983 Amendments). Section 2662(f)(2) of the Deficit Reduction Act of 1984 (DEFRA) amended section 324 of the 1983 Amendments.

Notice 94–96 (1994–2 C.B. 564) provides that until final regulations are issued, the IRS will not challenge an employer's determination of FICA tax liability with respect to a nonqualified deferred compensation plan for periods before the effective date of any final regulations if the determination is based on a reasonable, good faith interpretation of section 3121(v)(2). On January 25, 1996, a notice of proposed rulemaking (EE–142–87) under section 3121(v)(2) was published in the **Federal Register** (61 FR 2194), providing guidance related to the Federal Insurance Contributions Act (FICA) tax treatment of amounts deferred under or paid from certain nonqualified deferred compensation plans. On December 24, 1997, a notice of proposed rulemaking (REG–209484–87 and REG–209807–95) under section 3121(v)(2) extending the proposed general effective date of the regulations to January 1, 1998, was published in the **Federal Register** (62 FR 67304).

Comments regarding the 1996 proposed regulations were received from the public, and on June 24, 1996, the IRS held a public hearing concerning the proposed amendments. After consideration of the public comments received and the statements made at the public hearing, the proposed regulations are adopted as revised by this Treasury decision.

### Explanation of Provisions

Sections 3101 and 3111 impose FICA tax on employees and employers, respectively. FICA tax consists of the Old-Age, Survivors, and Disability Insurance (OASDI) tax and the Hospital Insurance (HI) tax. Generally, FICA tax is computed as a percentage of wages (as defined in section 3121(a)) with respect to employment. Subject to specific exceptions, section 3121(a) defines *wages* as all remuneration for employment. Section 31.3121(a)–2(a) provides that FICA tax is imposed at the time the remuneration is actually or constructively paid.

*1983 Amendments*

Prior to the 1983 Amendments, benefits under a nonqualified deferred

compensation plan generally were wages subject to FICA tax at the time they were actually or constructively paid, unless certain retirement-related exclusions applied. These exclusions (former section 3121(a)(2)(A), (a)(3), and (a)(13)(A)(iii)) were repealed by the 1983 Amendments. Thus, under the 1983 Amendments, which generally apply to remuneration paid after December 31, 1983, retirement payments are no longer excluded from wages. Instead, the 1983 Amendments added section 3121(v)(2), which provides a special timing rule for wages (within the meaning of section 3121(a)) that constitute an amount deferred under a nonqualified deferred compensation plan.[1]

Under section 3121(v)(2)(A), any amount deferred under a nonqualified deferred compensation plan must be taken into account as wages for FICA tax purposes as of the later of (1) when the services are performed or (2) when there is no substantial risk of forfeiture of the rights to such amount. This special timing rule may result in imposition of FICA tax before the benefit payments under the plan begin.

Section 3121(v)(2)(B) provides a special exclusion (the nonduplication rule) that prevents double taxation. Once an amount deferred under a nonqualified deferred compensation plan is taken into account as wages under the special timing rule, the nonduplication rule provides that neither that amount nor the income attributable to that amount is again treated as FICA wages. Thus, benefit payments under a nonqualified deferred compensation plan are not subject to FICA tax when actually or constructively paid (i.e., under the general timing rule for wage inclusion) if the benefit payments consist of amounts deferred under the plan that were previously taken into account as FICA wages under the special timing rule plus attributable income. Conversely, benefits under a nonqualified deferred compensation plan are subject to FICA tax when actually or constructively paid to the extent the benefits relate to an amount deferred that was not previously taken into account under the special timing rule.

[1] The 1983 Amendments did not amend the definition of net earnings from self-employment under section 1402(a) or the timing of the tax on self-employment income under section 1401. Accordingly, the special timing rule under section 3121(v)(2) does not apply to nonqualified deferred compensation that constitutes net earnings from self-employment.

*Repeal of Wage Based Limitation*

Section 3121(a)(1) imposes a dollar limit on the annual amount of wages subject to the OASDI portion of FICA tax. Section 13207 of the Omnibus Budget Reconciliation Act of 1993 repealed the dollar limit on the annual amount of wages subject to the HI portion of FICA tax, effective for 1994 and later years.

*Application of these Regulations to Taxes Imposed by the Railroad Retirement Tax Act*

In accordance with the cross-reference in section 3231(e)(8)(B), the provisions of section 3121(v)(2) and these final regulations also apply for purposes of the taxes imposed by the Railroad Retirement Tax Act under sections 3201 through 3231.

*Overview of Final Regulations*

In general, comments received on the proposed regulations were favorable and, accordingly, the final regulations retain the general structure and substance of the proposed regulations, including a wide variety of examples illustrating the substance of the final regulations. However, commentators made a number of specific recommendations for modifications and clarifications of the regulations. In response to these comments, the final regulations incorporate the modifications and clarifications described below.

- The proposed regulations provided that certain types of benefits do not result from the deferral of compensation and, accordingly, are not subject to the special timing rule under section 3121(v)(2). The final regulations generally retain these rules. However, in response to comments, the final regulations allow certain cost-of-living adjustments provided to former employees to be treated as deferred compensation for purposes of section 3121(v)(2) and provide transition relief for window programs that begin before the effective date of the final regulations. The final regulations also clarify the rules under which stock options, death benefits, disability benefits, and severance pay are excluded from the special timing rule.
- The final regulations retain the distinction between the method of calculating the amount deferred (and the income on that amount) for account balance plans and the method for nonaccount balance plans, but provide additional guidance simplifying those calculations. The final regulations provide that a plan that bases benefits on an account balance but permits optional forms (such as annuities) can use the simple methodology that applies to account balance plans if the plan terms preclude a subsidized optional form. Also, a nonaccount balance plan that provides multiple benefit distribution options or commencement dates under plan terms that preclude subsidized optional forms and commencement dates can determine the amount deferred by assuming that a participant elects to receive the normal form of payment (regardless of which option is actually elected).
- The final regulations clarify the rules governing when income under an account balance plan is excluded from FICA wages. The final regulations also provide that, while the determination of whether an account balance plan is using a reasonable interest rate generally is made annually, a rate that is specified for a fixed period of up to five years is treated as reasonable for that period if it was reasonable when it was specified (even if it ceases to be reasonable during the period for which it is specified).
- The final regulations retain the structure of the rules in the proposed regulations under which FICA tax payments are not required to be made on amounts that are not reasonably ascertainable until certain uncertainties related to benefit payments are resolved. Those rules permit earlier inclusion with a true-up at the resolution date, when those uncertainties are resolved. However, the final regulations modify the calculation of the true-up to eliminate the risk that additional amounts will have to be taken into account at the resolution date because of changes in interest rates between the early inclusion date and the resolution date.
- The final regulations permit an employer to choose how the amounts deferred under a plan over a series of years can be allocated among those years when the plan formula does not do so by its terms (for example, where the plan has a benefit formula that includes an offset of another plan's benefit).
- The final regulations retain the flexibility provided in the proposed regulations permitting an employer to delay the date on which amounts deferred are taken into account to a later date within the year, and also broaden and simplify two options that provide additional time to calculate the amount deferred. The first option permits an employer to estimate the amount deferred and then adjust it at any time within three months. Alternatively, FICA tax payment can be postponed by treating the entire amount deferred as if it were deferred on a date that is within

three months of the date the amount is otherwise required to be taken into account, provided that the amount deferred is increased by interest at the applicable federal rate [2] (AFR) until it is included in wages.

• The final regulations include a number of special transition rules that provide relief to employers that, prior to the effective date of the regulations, followed a reasonable, good faith interpretation of section 3121(v)(2). Under the final regulations, amounts deferred for 1994 and 1995 can be taken into account, without interest, as late as March 31, 2000. Further, the final regulations reflect the transition rule in the proposed regulations under which amounts deferred that would have been required or permitted to be taken into account before 1994 are treated as having been correctly taken into account before 1994.

*Summary of Comments Received and Changes Made*

a. Application of the Special Timing Rule

The special timing rule provided under section 3121(v)(2) is set forth in paragraph (a) of the regulations. The special timing rule imposes FICA tax on amounts deferred under nonqualified deferred compensation plans at the later of the date when the services creating the right to the amount deferred are performed and the date on which the right to that amount is no longer subject to a substantial risk of forfeiture. This date usually is earlier than when any benefit is paid. Several commentators requested clarification as to whether the special timing rule is elective and whether failure to comply with the special timing rule may lead to the imposition of interest or penalties. The special timing rule is not elective and, if an employer does not take an amount deferred into account (including payment of any resulting FICA tax) when required by section 3121(v)(2), interest and penalties may be imposed. Moreover, to the extent that the amount deferred is not taken into account in accordance with the special timing rule, the nonduplication rule, under which amounts deferred that are properly taken into account under the special timing rule are excluded from FICA wages upon payment, does not apply.

[2] The regulations define the applicable federal rate as the mid-term applicable federal rate, as defined pursuant to section 1274(d), for January 1 of the calendar year, compounded annually.

b. Amounts or Benefits That Do Not Result From the Deferral of Compensation

The definition of a nonqualified deferred compensation plan for purposes of section 3121(v)(2) is set forth in paragraph (b) of the regulations. A number of comments were received on the rules in the proposed regulations for determining whether an amount or benefit results from the deferral of compensation subject to the special timing rule of section 3121(v)(2). The final regulations make several clarifications and changes to reflect these comments. The regulations clarify that the grant (as well as the exercise) of stock options, stock appreciation rights, and other stock value rights generally is not subject to section 3121(v)(2). Thus, FICA tax is not imposed at the time of grant, but is generally imposed at the time of exercise. No inference is intended as to whether or not these options and rights are deferred compensation for any tax purposes other than section 3121(v)(2).

The final regulations retain the rule in the proposed regulations that benefits established after termination of employment are not subject to section 3121(v)(2). However, in response to comments, the final regulations provide an exception under which certain payments to which the employee obtains a legally binding right after termination of employment that are in the nature of cost-of-living adjustments are nonetheless subject to section 3121(v)(2).

The final regulations retain the rule in the proposed regulations that window benefits do not result from the deferral of compensation. However, the final regulations include a transition rule under which window benefits can be treated as subject to section 3121(v)(2) if the window program commences prior to January 1, 2000 (the general effective date of the final regulations). Payments made pursuant to a window program that qualifies for the transition rule are not subject to FICA tax under the general timing rule at the time payment is made, provided that the present value of the window benefits has been taken into account under section 3121(v)(2) on a timely basis.

c. Account Balance Plans

Paragraph (c) of the regulations defines account balance plan and provides that, for purposes of section 3121(v)(2), the amount deferred under an account balance plan generally is based on the amount of principal credited to the account. Commentators asked whether a plan that permits optional forms of benefit can be treated as an account balance plan. The final regulations provide that if the plan's terms preclude subsidies of optional forms of benefit (for example, if, under the terms of the plan at the time the amount is deferred, alternative forms of payment will be actuarially equivalent to the account balance based on a rate of interest that will be reasonable at the time the optional form is elected), the plan does not fail to be an account balance plan merely because of the availability of optional forms of benefit.

d. Income and Reasonable Rate of Interest

Under paragraph (d) of the proposed regulations, if an account balance plan credits income based on a reasonable rate of interest or a rate of return that does not exceed the rate of return on a predetermined actual investment specified under the plan, FICA tax would not be imposed on that income. A number of commentators requested clarification as to whether a rate of interest that was fixed for an extended period could be reasonable for this purpose. The final regulations clarify that the determination of whether interest credited under an account balance plan is reasonable is generally made annually. However, a rate that is specified for a fixed period of up to five years and that was reasonable when it was specified is treated as continuing to be reasonable (even if it subsequently ceases to be reasonable during the period for which it is specified).

The final regulations also clarify what constitutes a predetermined actual investment and provide rules for determining the amount deferred in cases in which income is credited under a plan that uses neither a predetermined actual investment nor a reasonable interest rate. In these cases, the final regulations generally provide for the income credited in excess of AFR to be treated as an additional amount deferred. However, the final regulations provide that if the employer takes into account as an additional amount deferred the income credited to the extent it exceeds a reasonable rate of interest calculated by the employer, the remaining income (which is no greater than a reasonable rate of interest) is excluded from FICA wages.

Some commentators suggested that the employer's creditworthiness should be permitted to be considered in determining whether the interest rate credited under a plan of the employer is reasonable. The final regulations, like the proposed regulations, permit the amount deferred to be calculated after application of a discount to reflect the

time value of money and the risk that benefits will not be paid due to death. However, no discount is permitted for the risk that the amount deferred will not be paid by the employer. Permitting employers to implicitly achieve the same result through the interest rate credited under an account balance plan would be inconsistent with this restriction. Accordingly, the final regulations do not permit the employer's creditworthiness to be considered in determining whether the interest rate credited under a plan of the employer is reasonable.

e. Treatment of Amounts Deferred That Are Not Reasonably Ascertainable

Paragraph (e) of the final regulations retains the rule in the proposed regulations that the amount deferred need not be taken into account until it is reasonably ascertainable. This rule addresses the difficulty of determining the appropriate amount to be taken into account for a plan that provides benefits that are not fixed until certain future events occur, such as a nonaccount balance plan with subsidized optional forms or a long-term incentive plan that depends on subsequent corporate performance. The final regulations retain the rule in the proposed regulations that allows optional inclusion of these amounts at an earlier date with a true-up at the resolution date when the amount deferred becomes reasonably ascertainable.

Under the proposed regulations, the early inclusion amount was to be accumulated to the resolution date at an interest rate (and with a mortality assumption, if appropriate) that was reasonable at the early inclusion date. That accumulated amount was then compared to the present value of payments using actuarial assumptions that were reasonable at the resolution date. This methodology exposes the employer to the risk that an additional amount could be required to be taken into account at the resolution date solely as a result of changes in interest rates between the early inclusion date and the resolution date. In response to comments, this true-up methodology has been modified.

Under the final regulations, in performing the true-up, the amount taken into account at the early inclusion date is converted to an actuarially equivalent benefit payment stream in the form, and with the commencement date, in which benefits are actually paid. The conversion is done using actuarial assumptions that were reasonable as of the early inclusion date. The benefit payment stream thus derived is compared to the benefits actually payable. To the extent the benefit payment stream actually payable exceeds the benefit payment stream that is actuarially equivalent to the amount taken into account at the early inclusion date, the present value of the excess (determined using actuarial assumptions that are reasonable as of the resolution date) must be taken into account on the resolution date. If the benefit payment stream that is actuarially equivalent to the amount taken into account at the early inclusion date equals (or exceeds) the actual benefit payment stream, no additional amount is required to be taken into account at the resolution date, regardless of any changes in interest rates between the early inclusion date and the resolution date. This method—an annuity purchase model—eliminates the risk that the employer will be required to take additional amounts into account merely because of interest rate changes between the early inclusion date and the resolution date.

In addition, the final regulations provide that an amount deferred under certain nonaccount balance plans that permit optional forms of benefit or alternative commencement dates will not fail to be reasonably ascertainable merely because the form or commencement date has not been selected. If the terms of a nonaccount balance plan, at the time an amount is deferred, provide that the amount payable under each optional form and commencement date will be equivalent using actuarial assumptions that are reasonable at the resolution date (generally, the time the optional form and commencement date are selected) the amount deferred can be calculated based solely on the normal form of payment commencing at normal commencement date (regardless of which optional form or commencement date is ultimately selected). For this purpose, the normal form of benefit commencing at normal commencement date is the form and date of commencement under which the payments due to an employee under the plan are expressed, before adjustments for form or timing of commencement of payments.

The final regulations clarify how to allocate amounts deferred among periods for purposes of the early inclusion rules, including a rule requested by commentators concerning plan offsets. For example, the final regulations provide a rule to determine how amounts deferred are to be allocated among years in cases in which an employee obtains a legally binding right in each of several years to receive payments from a nonqualified deferred compensation plan that provides a specified gross benefit for the years which is to be offset by the benefits payable under a qualified plan. Under this rule, the amount deferred in the first year may be treated as equal to the gross benefit for the year, reduced by the offset applicable at the end of the first year (even if the offset increases after the end of that year). The same method applies to subsequent years, with adjustments for amounts allocated to an earlier year.

The regulations also retain the rule of administrative convenience that was in the proposed regulations under which the amount deferred during a year can be treated as required to be taken into account at any later date during the year, provided that income attributable to the amount deferred through that date is included. Thus, in a nonaccount balance plan this rule permits the present value of amounts deferred throughout a year to be determined as of the end of the year based on the employee's age and appropriate actuarial assumptions at the end of the year.

f. Withholding Rules

For purposes of withholding and depositing FICA tax, paragraph (f) of the final regulations provides that an amount deferred under a nonqualified deferred compensation plan generally is treated as wages paid by the employer and received by the employee at the time it is taken into account under section 3121(v)(2) and these regulations. However, in certain situations, the employer may be unable to readily calculate the amount deferred for a given year by December 31 of that year. The proposed regulations provided relief in these situations by allowing employers to use either of two alternative methods, the estimated method and the lag method, for withholding and depositing FICA tax.

The final regulations provide broader relief by permitting these methods to be used as of any date during the year and for the methods to be available without regard to whether the amount deferred can be readily calculated. Thus, the final regulations provide that, under the estimated method, an employer may make a reasonable estimate of the amount deferred as of the date the amount deferred is required to be taken into account. If the employer underestimates the amount deferred that should have been taken into account and, therefore, deposits less FICA tax than the amount due, the employer may treat the shortfall as wages either on the estimate date or on any date that is within three months thereafter. If the

employer overestimates the amount deferred that should have been taken into account as wages on the estimate date, the employer may claim a refund or credit in accordance with sections 6402, 6413, and 6511. If the employer treats any shortfall as wages on the estimate date or overestimates the amount deferred on the estimate date, the employer must correct any previously-reported wage information.

Further, the final regulations provide that, under the second alternative method, the lag method, an employer may treat the amount deferred on any date as wages paid on any date that is no later than three months following the date the amount deferred is required to be taken into account. In addition, in response to comments, the final regulations simplify use of the lag method by permitting the FICA tax due to be calculated using a fixed rate of interest, not less than AFR, rather than on the basis of income under the plan.

**Effective Dates**

These final regulations are applicable on and after January 1, 2000. However, the final regulations include certain special transition provisions for periods before January 1, 2000.

For amounts deferred and benefits paid before the January 1, 2000 general effective date, an employer may rely on a reasonable, good faith interpretation of section 3121(v)(2), taking into account Notice 94–96. The final regulations specifically provide that an employer will be deemed to have determined FICA tax liability and satisfied FICA tax withholding requirements in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if that liability is determined in accordance with the final regulations and the withholding method and timing comply with the final regulations. An employer will also be deemed to have determined FICA tax liability and satisfied FICA tax withholding requirements in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if that liability is determined in accordance with the proposed regulations and the withholding method and timing comply with the proposed regulations. Whether an employer has made a reasonable, good faith interpretation of section 3121(v)(2) will be determined based on the relevant facts and circumstances, including consistency of treatment by the employer and the extent to which the employer has resolved unclear issues in its favor.

The regulations address consistency in the treatment of stock options, stock appreciation rights, or other stock value rights that are exercised before the January 1, 2000 general effective date. Under the final regulations, the grant of these options and rights cannot be treated as subject to section 3121(v)(2) after December 31, 1999, and FICA tax generally applies at exercise. For periods before January 1, 2000, an employer that treats the grant of such an option or right as subject to section 3121(v)(2) has not acted in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer has not treated that grant and all earlier grants as subject to section 3121(v)(2).

The final regulations include a transition rule for periods [3] before 1994 that applies if the employer acted in accordance with a reasonable, good faith interpretation of section 3121(v)(2). Under this rule, an amount deferred that would be required or permitted to be taken into account in any period that ends prior to January 1, 1994, under the final regulations, is treated as if it had been taken into account in accordance with the final regulations.[4] For example, in the case of an amount deferred before 1994 that was not reasonably ascertainable, the employer is treated as having taken the amount deferred into account at an early inclusion date before 1994 using a method permitted in the final regulations, including anticipation of the actual form in which the benefit payments attributable to the amount deferred are paid and the actual date of commencement. Thus, the employer is not required to pay any additional FICA tax when the amount deferred becomes reasonably ascertainable or when the benefit payments attributable to the amount deferred are actually or constructively paid.

The final regulations include a new transition rule for amounts deferred that were required to be taken into account in 1994 or 1995. Under the final regulations, an employer will be treated as taking the amount deferred into account under the final regulations to the extent the employer takes the amount into account by treating it as wages paid by the employer and received by the employee as of any date prior to April 1, 2000. The amount taken into account before April 1, 2000, is not required to be increased by attributable income or interest.

These and the other transition provisions of the final regulations are in addition to the interest-free adjustment procedures that are available under section 6205 at any time before the period of limitations has expired. Thus, for example, with respect to a FICA tax return (Form 941) for a period before the effective date, an employer may make an adjustment to take an amount deferred under a nonqualified deferred compensation plan into account in accordance with the final regulations if the period is still open.

Section 31.3121(v)(2)–2 of the final regulations provides special rules relating to a March 24, 1983 agreement and certain agreements adopted after March 24, 1983, and before January 1, 1984. The final regulations also include certain clarifications to the transition rules that have been made in response to comments on the proposed regulations, including clarification of the effect of post-1983 amendments.

**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, and because the notice of proposed rulemaking was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

**Drafting Information**

The principal authors of these regulations are Janine Cook, Linda E. Alsalihi, and Margaret A. Owens, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects**

*26 CFR Part 31*

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement,

[3] For purposes of FICA tax, the period of limitations is generally based on calendar quarters (whereas, for purposes of the Federal Unemployment Tax Act (FUTA) tax, the period of limitations is based on calendar years). See section 6501.

[4] The proposed regulations (as amended in 1997) included a similar rule applicable to periods that were closed as of January 1, 1998 (which generally would have been periods before 1994). Commentators recommended that this rule apply even if the period is kept open beyond the normal period of limitations, such as by agreement with the IRS or by a claim for refund. In response to those comments, the final regulations provide that this rule applies to all periods prior to 1994 regardless of whether the period remains open.

Reporting and recordkeeping requirements, Social security, Unemployment compensation.

*26 CFR Part 602*

Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR parts 31 and 602 are amended as follows:

## PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

**Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

**PAR. 2.** Sections 31.3121(v)(2)-1 and 31.3121(v)(2)-2 are added to read as follows:

**§ 31.3121(v)(2)-1 Treatment of amounts deferred under certain nonqualified deferred compensation plans.**

(a) *Timing of wage inclusion*—(1) *General timing rule for wages.* Remuneration for employment that constitutes wages within the meaning of section 3121(a) generally is taken into account for purposes of the Federal Insurance Contributions Act (FICA) taxes imposed under sections 3101 and 3111 at the time the remuneration is actually or constructively paid. See § 31.3121(a)-2(a).

(2) *Special timing rule for an amount deferred under a nonqualified deferred compensation plan*—(i) *In general.* To the extent that remuneration deferred under a nonqualified deferred compensation plan constitutes wages within the meaning of section 3121(a), the remuneration is subject to the special timing rule described in this paragraph (a)(2). Remuneration is considered deferred under a nonqualified deferred compensation plan within the meaning of section 3121(v)(2) and this section only if it is provided pursuant to a plan described in paragraph (b) of this section. The amount deferred under a nonqualified deferred compensation plan is determined under paragraph (c) of this section.

(ii) *Special timing rule.* Except as otherwise provided in this section, an amount deferred under a nonqualified deferred compensation plan is required to be taken into account as wages for FICA tax purposes as of the later of—

(A) The date on which the services creating the right to that amount are performed (within the meaning of paragraph (e)(2) of this section); or

(B) The date on which the right to that amount is no longer subject to a substantial risk of forfeiture (within the meaning of paragraph (e)(3) of this section).

(iii) *Inclusion in wages only once (nonduplication rule).* Once an amount deferred under a nonqualified deferred compensation plan is taken into account (within the meaning of paragraph (d)(1) of this section), then neither the amount taken into account nor the income attributable to the amount taken into account (within the meaning of paragraph (d)(2) of this section) is treated as wages for FICA tax purposes at any time thereafter.

(iv) *Benefits that do not result from a deferral of compensation.* If a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section) provides both a benefit that results from the deferral of compensation (within the meaning of paragraph (b)(3) of this section) and a benefit that does not result from the deferral of compensation, the benefit that does not result from the deferral of compensation is not subject to the special timing rule described in this paragraph (a)(2). For example, if a nonqualified deferred compensation plan provides retirement benefits which result from the deferral of compensation and disability pay (within the meaning of paragraph (b)(4)(iv)(C) of this section) which does not result from the deferral of compensation, the retirement benefits provided under the plan are subject to the special timing rule in this paragraph (a)(2) and the disability pay is not.

(v) *Remuneration that does not constitute wages.* If remuneration under a nonqualified deferred compensation plan does not constitute wages within the meaning of section 3121(a), then that remuneration is not taken into account as wages for FICA tax purposes under either the general timing rule described in paragraph (a)(1) of this section or the special timing rule described in this paragraph (a)(2). For example, benefits under a death benefit plan described in section 3121(a)(13) do not constitute wages for FICA tax purposes. Therefore, these benefits are not included as wages under the general timing rule described in paragraph (a)(1) of this section or the special timing rule described in this paragraph (a)(2), even if the death benefit plan would otherwise be considered a nonqualified deferred compensation plan within the meaning of paragraph (b)(1) of this section.

(b) *Nonqualified deferred compensation plan*—(1) *In general.* For purposes of this section, the term *nonqualified deferred compensation plan* means any plan or other arrangement, other than a plan described in section 3121(a)(5), that is established (within the meaning of paragraph (b)(2) of this section) by an employer for one or more of its employees, and that provides for the deferral of compensation (within the meaning of paragraph (b)(3) of this section). A nonqualified deferred compensation plan may be adopted unilaterally by the employer or may be negotiated among or agreed to by the employer and one or more employees or employee representatives. A plan may constitute a nonqualified deferred compensation plan under this section without regard to whether the deferrals under the plan are made pursuant to an election by the employee or whether the amounts deferred are treated as deferred compensation for income tax purposes (e.g., whether the amounts are subject to the deduction rules of section 404). In addition, a plan may constitute a nonqualified deferred compensation plan under this section whether or not it is an employee benefit plan under section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended (29 U.S.C. 1002(3)). For purposes of this section, except where the context indicates otherwise, the *term* plan includes a plan or other arrangement.

(2) *Plan establishment*—(i) *Date plan is established.* For purposes of this section, a plan is established on the latest of the date on which it is adopted, the date on which it is effective, and the date on which the material terms of the plan are set forth in writing. For purposes of this section, a plan will be deemed to be set forth in writing if it is set forth in any other form that is approved by the Commissioner. The material terms of the plan include the amount (or the method or formula for determining the amount) of deferred compensation to be provided under the plan and the time when it may or will be provided.

(ii) *Plan amendments.* In the case of an amendment that increases the amount deferred under a nonqualified deferred compensation plan, the plan is not considered established with respect to the additional amount deferred until the plan, as amended, is established in accordance with paragraph (b)(2)(i) of this section.

(iii) *Transition rule for written plan requirement.* For purposes of this section, an unwritten plan that was adopted and effective before March 25, 1996, is treated as established under this section as of the later of the date on which it was adopted or became effective, provided that the material

terms of the plan are set forth in writing before January 1, 2000.

(3) *Plan must provide for the deferral of compensation*—(i) *Deferral of compensation defined.* A plan provides for the *deferral of compensation* with respect to an employee only if, under the terms of the plan and the relevant facts and circumstances, the employee has a legally binding right during a calendar year to compensation that has not been actually or constructively received and that, pursuant to the terms of the plan, is payable to (or on behalf of) the employee in a later year. An employee does not have a legally binding right to compensation if that compensation may be unilaterally reduced or eliminated by the employer after the services creating the right to the compensation have been performed. For this purpose, compensation is not considered subject to unilateral reduction or elimination merely because it may be reduced or eliminated by operation of the objective terms of the plan, such as the application of an objective provision creating a substantial risk of forfeiture (within the meaning of section 83). Similarly, an employee does not fail to have a legally binding right to compensation merely because the amount of compensation is determined under a formula that provides for benefits to be offset by benefits provided under a plan that is qualified under section 401(a), or because benefits are reduced due to investment losses or, in a final average pay plan, subsequent decreases in compensation.

(ii) *Compensation payable pursuant to the employer's customary payment timing arrangement.* There is no deferral of compensation (within the meaning of this paragraph (b)(3)) merely because compensation is paid after the last day of a calendar year pursuant to the timing arrangement under which the employer ordinarily compensates employees for services performed during a payroll period described in section 3401(b).

(iii) *Short-term deferrals.* If, under a nonqualified deferred compensation plan, there is a deferral of compensation (within the meaning of this paragraph (b)(3)) that causes an amount to be deferred from a calendar year to a date that is not more than a brief period of time after the end of that calendar year, then, at the employer's option, that amount may be treated as if it were not subject to the special timing rule described in paragraph (a)(2) of this section. An employer may apply this option only if the employer does so for all employees covered by the plan and all substantially similar nonqualified deferred compensation plans. For purposes of this paragraph (b)(3)(iii), whether compensation is deferred to a date that is not more than a brief period of time after the end of a calendar year is determined in accordance with § 1.404(b)–1T, Q&A–2, of this chapter.

(4) *Plans, arrangements, and benefits that do not provide for the deferral of compensation*—(i) *In general.* Notwithstanding paragraph (b)(3)(i) of this section, an amount or benefit described in any of paragraphs (b)(4)(ii) through (viii) of this section is not treated as resulting from the deferral of compensation for purposes of section 3121(v)(2) and this section and, thus, is not subject to the special timing rule of paragraph (a)(2) of this section.

(ii) *Stock options, stock appreciation rights, and other stock value rights.* The grant of a stock option, stock appreciation right, or other stock value right does not constitute the deferral of compensation for purposes of section 3121(v)(2). In addition, amounts received as a result of the exercise of a stock option, stock appreciation right, or other stock value right do not result from the deferral of compensation for purposes of section 3121(v)(2) if such amounts are actually or constructively received in the calendar year of the exercise. For purposes of this paragraph (b)(4)(ii), a *stock value right* is a right granted to an employee with respect to one or more shares of employer stock that, to the extent exercised, entitles the employee to a payment for each share of stock equal to the excess, or a percentage of the excess, of the value of a share of the employer's stock on the date of exercise over a specified price (greater than zero).

Thus, for example, the term stock value right does not include a phantom stock or other arrangement under which an employee is awarded the right to receive a fixed payment equal to the value of a specified number of shares of employer stock.

(iii) *Restricted property.* If an employee receives property from, or pursuant to, a plan maintained by an employer, there is no deferral of compensation (within the meaning of section 3121(v)(2)) merely because the value of the property is not includible in income (under section 83) in the year of receipt by reason of the property being nontransferable and subject to a substantial risk of forfeiture. However, a plan under which an employee obtains a legally binding right to receive property (whether or not the property is restricted property) in a future year may provide for the deferral of compensation within the meaning of paragraph (b)(3) of this section and, accordingly, may constitute a nonqualified deferred compensation plan, even though benefits under the plan are or may be paid in the form of property.

(iv) *Certain welfare benefits*—(A) *In general.* Vacation benefits, sick leave, compensatory time, disability pay, severance pay, and death benefits do not result from the deferral of compensation for purposes of section 3121(v)(2), even if those benefits constitute wages within the meaning of section 3121(a).

(B) *Severance pay.* Benefits that are provided under a severance pay arrangement (within the meaning of section 3(2)(B)(i) of ERISA) that satisfies the conditions in 29 CFR 2510.3–2(b)(1)(i) through (iii) are considered severance pay for purposes of this paragraph (b)(4)(iv). If benefits are provided under a severance pay arrangement (within the meaning of section 3(2)(B)(i) of ERISA), but do not satisfy one or more of the conditions in 29 CFR 2510.3–2(b)(1)(i) through (iii), then whether those benefits are severance pay within the meaning of this paragraph (b)(4)(iv) depends upon the relevant facts and circumstances. For this purpose, relevant facts and circumstances include whether the benefits are provided over a short period of time commencing immediately after (or shortly after) termination of employment or for a substantial period of time following termination of employment and whether the benefits are provided after any termination or only after retirement (or another specified type of termination). Benefits provided under a severance pay arrangement (within the meaning of section 3(2)(B)(i) of ERISA) are in all cases severance pay within the meaning of this paragraph (b)(4)(iv) if the benefits payable under the plan upon an employee's termination of employment are payable only if that termination is involuntary.

(C) *Death benefits and disability pay*—(*1*) *General definition.* Payments made under a nonqualified deferred compensation plan in the event of death are death benefits within the meaning of this paragraph (b)(4)(iv), but only to the extent the total benefits payable under the plan exceed the lifetime benefits payable under the plan. Similarly, payments made under a nonqualified deferred compensation plan in the event of disability are disability pay within the meaning of this paragraph (b)(4)(iv), but only to the extent the disability benefits payable under the plan exceed the lifetime benefits payable under the plan. Accordingly, any benefits that a nonqualified deferred compensation plan provides in the event of death or disability that are associated with an amount deferred under this section are

disregarded in applying this section to the extent the benefits payable under the plan in the event of death or in the event of disability have a value in excess of the lifetime benefits payable under the plan.

(*2*) *Total benefits payable defined.* For purposes of paragraph (b)(4)(iv)(C)(*1*) of this section, the term *total benefits payable* under a plan means the present value of the total benefits payable to or on behalf of the employee (including benefits payable in the event of the employee's death) under the plan, disregarding any benefits that are payable only in the event of disability and determined separately with respect to each form of distribution or other election that may apply with respect to the employee.

(*3*) *Disability benefits payable defined.* For purposes of paragraph (b)(4)(iv)(C)(*1*) of this section, the term *disability benefits payable* under a plan means the present value of the benefits payable to or on behalf of the employee under the plan, including benefits payable in the event of the employee's disability but excluding death benefits within the meaning of this paragraph (b)(4)(iv).

(*4*) *Lifetime benefits payable defined.* For purposes of paragraph (b)(4)(iv)(C)(*1*) of this section, the term *lifetime benefits payable* under a plan means the present value of the benefits that could be payable to the employee under the plan during the employee's lifetime, determined under the plan's optional form of distribution or other election that is or was available to the employee at any time with respect to the amount deferred and that provides the largest present value to the employee during the employee's lifetime of any such form or election so available.

(*5*) *Rules of application.* For purposes of determining present value under this paragraph (b)(4)(iv)(C), present value is determined as of the time immediately preceding the time the amount deferred under a nonqualified deferred compensation plan is required to be taken into account under paragraph (e) of this section, using actuarial assumptions that are reasonable as of that date but taking into consideration only benefits that result from the deferral of compensation, as determined under this paragraph (b), and benefits payable in the event of death or disability. In addition, for purposes of paragraph (b)(4)(iv)(C)(*4*) of this section, present value must be determined without any discount for the probability that the employee may die before benefit payments commence and without regard to any benefits payable solely in the event of disability.

(v) *Certain benefits provided in connection with impending termination*—(A) *In general.* Benefits provided in connection with impending termination of employment under paragraph (b)(4)(v)(B) or (C) of this section do not result from the deferral of compensation within the meaning of section 3121(v)(2).

(B) *Window benefits*—(*1*) *In general.* For purposes of this paragraph (b)(4)(v), except as provided in paragraph (b)(4)(v)(B)(*3*) of this section, a window benefit is provided in connection with impending termination of employment. For this purpose, a window benefit is an early retirement benefit, retirement-type subsidy, social security supplement, or other form of benefit made available by an employer for a limited period of time (no greater than one year) to employees who terminate employment during that period or to employees who terminate employment during that period under specified circumstances.

(*2*) *Special rule for recurring window benefits.* A benefit will not be considered a window benefit if an employer establishes a pattern of repeatedly providing for similar benefits in similar situations for substantially consecutive, limited periods of time. Whether the recurrence of these benefits constitutes a pattern of amendments is determined based on the facts and circumstances. Although no one factor is determinative, relevant factors include whether the benefits are on account of a specific business event or condition, the degree to which the benefits relate to the event or condition, and whether the event or condition is temporary or discrete or is a permanent aspect of the employer's business.

(*3*) *Transition rule for window benefits.* In the case of a window benefit that is made available for a period of time that begins before January 1, 2000, an employer may choose to treat the window benefit as a benefit that results from the deferral of compensation if the sole reason the window benefit would otherwise fail to be provided pursuant to a nonqualified deferred compensation plan is the application of paragraph (b)(4)(v)(B)(*1*) of this section.

(*C*) *Termination within 12 months of establishment of a benefit or plan.* For purposes of this paragraph (b)(4)(v), a benefit is provided in connection with impending termination of employment, without regard to whether it constitutes a window benefit, if—

(*1*) An employee's termination of employment occurs within 12 months of the establishment of the plan (or amendment) providing the benefit; and

(*2*) The facts and circumstances indicate that the plan (or amendment) is established in contemplation of the employee's impending termination of employment.

(vi) *Benefits established after termination.* Benefits established with respect to an employee after the employee's termination of employment do not result from a deferral of compensation within the meaning of section 3121(v)(2). However, cost-of-living adjustments on benefit payments under a nonqualified deferred compensation plan (within the meaning of paragraph (b) of this section) shall not be considered benefits established after the employee's termination of employment for purposes of this paragraph (b)(4)(vi) merely because the employee does not obtain the right to the adjustment until after the employee's termination of employment. For purposes of the preceding sentence, *cost-of-living adjustments* are payments that satisfy conditions similar to those of 29 CFR 2510.3–2(g)(1)(ii) and (iii).

(vii) *Excess parachute payments.* An excess parachute payment (as defined in section 280G(b)) under an agreement entered into or renewed after June 14, 1984, in taxable years ending after such date, does not result from the deferral of compensation within the meaning of section 3121(v)(2). For this purpose, any contract entered into before June 15, 1984, that is amended after June 14, 1984, in any relevant significant aspect, is treated as a contract entered into after June 14, 1984.

(viii) *Compensation for current services.* A plan does not provide for the deferral of compensation within the meaning of section 3121(v)(2) if, based on the relevant facts and circumstances, the compensation is paid for current services.

(5) *Examples.* This paragraph (b) is illustrated by the following examples:

*Example 1.* (i) In December of 2001, Employer L tells Employee A that, if specified goals are satisfied for 2002, Employee A will receive a bonus on July 1, 2003, equal to a specified percentage of 2002 compensation. Because Employee A meets the specified goals, Employer L pays the bonus to Employee A on July 1, 2003, consistent with its oral commitment.

(ii) This arrangement is not a nonqualified deferred compensation plan under this section because its terms were not set forth in writing and, therefore, it was not established in accordance with paragraph (b)(2) of this section.

*Example 2.* (i) In 2004, Employer M establishes a compensation arrangement for Employee B under which Employer M agrees to pay Employee B a specified amount based on a percentage of his salary for 2004. The amount due is to be paid out of the general assets of Employer M and is payable in 2008.

(ii) Employee B has a legally binding right during 2004 to an amount of compensation

that has not been actually or constructively received and that, pursuant to the terms of the arrangement, is payable in a later year. Therefore, the arrangement provides for the deferral of compensation.

*Example 3.* (i) Employer N establishes a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section) for Employee C in 1984. The plan is amended on January 1, 2001, to increase benefits, and the amendment provides that the increase in benefits is on account of Employee C's performance of services for Employer N from 1985 through 2000.

(ii) The additional benefits that resulted from the plan amendment cannot be taken into account as amounts deferred for 1985 through 2000, even though the plan was established before then. Pursuant to paragraphs (b)(2)(ii) and (e)(1) of this section, the additional benefits cannot be taken into account before the latest of the date on which the amendment is adopted, the date on which the amendment is effective, or the date on which the material terms of the plan, as amended, are set forth in writing.

*Example 4.* (i) In 2002, Employer O, a state or local government, establishes a plan for certain employees that provides for the deferral of compensation and that is subject to section 457(a).

(ii) Paragraph (b)(1) of this section provides that nonqualified deferred compensation plan means any plan that is established by an employer and that provides for the deferral of compensation, other than a plan described in section 3121(a)(5). Section 3121(a)(5) lists, among other plans, an exempt governmental deferred compensation plan as defined in section 3121(v)(3). Under section 3121(v)(3)(A), this definition does not include any plan to which section 457(a) applies. Thus, the plan established by Employer O is not an exempt governmental deferred compensation plan described in section 3121(v)(3) and, consequently, is not a plan described in section 3121(a)(5). Accordingly, the plan is a nonqualified deferred compensation plan within the meaning of section 3121(v)(2) and paragraph (b)(1) of this section.

(iii) However, the general timing rule of paragraph (a)(1) of this section and the special timing rule of paragraph (a)(2) of this section apply only to remuneration for employment that constitutes wages. Under section 3121(b)(7), certain service performed in the employ of a state, or any political subdivision of a state, is not employment. Thus, even though the plan is a nonqualified deferred compensation plan, the extent to which section 3121(v)(2) applies to a participating employee will depend on whether or not the service performed for Employer O is excluded from the definition of employment under section 3121(b)(7).

*Example 5.* (i) In 2000, Employer P establishes a plan that provides for bonuses to be paid to employees based on an objective formula that takes into account the employees' performance for the year. Employer P does not have the discretion to reduce the amount of any employee's bonus after the end of the year. The bonus is not actually calculated until March 1 of the following year, and is paid on March 15 of that following year.

(ii) The plan provides for the deferral of compensation because the employees have a legally binding right, as of the last day of a calendar year, to an amount of compensation that has not been actually or constructively received and, pursuant to the terms of the plan, that compensation is payable in a later year. However, because the bonuses under the plan are paid within a brief period of time after the end of the calendar year from which they are deferred, Employer P may choose, pursuant to paragraph (b)(3)(iii) of this section, to treat all the bonuses as if they are not subject to the special timing rule of paragraph (a)(2) of this section.

(iii) If the employer uses the special timing rule, the amount deferred would be taken into account as wages on December 31, 2000. If the employer chooses not to use the special timing rule, the amount of the bonus is wages on the date it is actually or constructively paid, March 15, 2000.

*Example 6.* (i) Employer Q establishes a plan under which bonuses based on performance in one year may be paid on February 1 of the following year at the discretion of the board of directors. The board of directors meets in January of each year to determine the amount, if any, of the bonuses to be paid based on performance in the prior year.

(ii) Because an employee does not have a legally binding right to any bonus until January of the year in which the bonus is paid, any bonus paid under the plan in that year is not deferred from the preceding calendar year, and the plan does not provide for the deferral of compensation within the meaning of paragraph (b)(3)(i) of this section.

*Example 7.* (i) Employer R maintains a plan for employees that provides nonqualified stock options described in § 1.83–7(a) of this chapter. Under the plan, employees are granted in 2001 the option to acquire shares of employer stock at the fair market value of the shares on the date of grant ($50 per share). The options can be exercised at any time from the date of grant through 2010. The options do not have a readily ascertainable fair market value for purposes of section 83 at the date of grant, and shares are issued upon the exercise of the options without being subject to a substantial risk of forfeiture within the meaning of section 83. In 2005, when the fair market value of a share of employer stock is $80, Employee D exercises an option to acquire 1,000 shares.

(ii) Under paragraph (b)(4)(ii) of this section, neither the grant of a stock option nor amounts received currently as a result of the exercise of a stock option result from the deferral of compensation for purposes of section 3121(v)(2). Thus, under the general timing rule of paragraph (a)(1) of this section, the $30,000 spread between the amount paid for the shares ($50,000) and the fair market value of the shares on the date of exercise ($80,000) is taken into account as wages for FICA tax purposes in the year of exercise.

(iii) If the options had been granted at $45 per share, $5 per share below the fair market value on date of grant, the $35,000 spread between the amount paid for the shares ($45,000) and the fair market value of the shares on the date of exercise ($80,000) would similarly be taken into account as wages for FICA tax purposes in the year of exercise.

*Example 8.* (i) Employer T establishes a phantom stock plan for certain employees. Under the plan, an employee is credited on the last day of each calendar year with a dollar amount equal to the fair market value of 1,000 shares of employer stock. Upon termination of employment for any reason, each employee is entitled to receive the value on the date of termination, in cash or employer stock, of the shares with which he or she has been credited.

(ii) Because compensation to which the employee has a legally binding right as of the last day of one year is paid in a subsequent year, the phantom stock plan provides for the deferral of compensation. The phantom stock plan does not provide stock value rights within the meaning of paragraph (b)(4)(ii) of this section because it provides for awards equal in value to the full fair market value of a specified number of shares of Employer T stock, rather than the excess of that fair market value over a specified price.

*Example 9.* (i) Employer U establishes a severance pay arrangement (within the meaning of section 3(2)(b)(i) of ERISA) which provides for payments solely upon an employee's death, disability, or dismissal from employment. The amount of the payments to an employee is based on the length of continuous active service with Employer U at the time of dismissal, and is paid in monthly installments over a period of three years.

(ii) Because benefits payable under the plan upon termination of employment are payable only upon an employee's involuntary termination, the plan is a severance pay plan within the meaning of paragraph (b)(4)(iv)(B) of this section. Thus, the benefits are not treated as resulting from the deferral of compensation for purposes of section 3121(v)(2).

*Example 10.* (i) Employer V establishes a nonqualified deferred compensation plan under which employees will receive benefit payments commencing at age 65 as a life annuity or in one of several actuarially equivalent annuity forms. If an employee dies before benefit payments commence under the plan, a benefit is payable to the employee's designated beneficiary in a single sum payment equal to the present value of the employee's annuity benefit. This benefit (sometimes called a full reserve death benefit) is calculated using the applicable interest rate specified in section 417(e) and, for the period after age 65, the applicable mortality table specified in section 417(e), both of which are reasonable actuarial assumptions. During 2002, Employee E obtains a legally binding right to an annuity benefit under the plan, payable at age 65. This annuity benefit has a present value of $10,000 at the end of 2002, determined using the same assumptions as are used under the plan to calculate the full reserve death benefit.

(ii) The present value, at the end of 2002, of the total benefits payable to or on behalf of Employee E (i.e., the sum of the present

value of the annuity benefit commencing at age 65, and the present value of the full reserve death benefit, with both determined using the actuarial assumptions described in paragraph (i) of this *Example 10*, except also taking into account the probability of death prior to age 65) is $10,000. This present value does not exceed the present value of the annuity benefits that could be payable to Employee E under the plan during Employee E's lifetime determined without a discount for the possibility that Employee E might die before age 65 (also $10,000). Thus, the benefit payable in the event of the Employee E's death is not a death benefit for purposes of paragraph (b)(4)(iv) of this section.

(iii) The same result would apply in the case of a plan that bases benefits on an interest bearing account balance and pays the account balance at termination of employment or death (because the sum of the deferred benefits payable in the future if the employee terminates employment before death with a discount for the probability of death before that date plus the present value of the benefit payable in the event of death necessarily equals the present value of the deferred benefits payable with no discount for the probability of death).

*Example 11.* (i) The facts are the same as in Example 10, except that, in lieu of the full reserve death benefit, the plan provides a monthly life annuity benefit to an employee's spouse in the event of the employee's death before benefit payments commence equal to 100 percent of the monthly annuity that would be payable to the employee at age 65 under the life annuity form. Employee E is age 63 and has a spouse who is age 51. The sum of the present value of Employee E's annuity benefit commencing at age 65 determined with a discount for the possibility that Employee E might die before age 65 and the present value of the 100 percent annuity death benefit for Employee E's spouse exceeds $10,000.

(ii) The amount deferred for 2002 is $10,000 (because the 100 percent annuity death benefit for Employee E's spouse is disregarded to the extent that the total benefits payable to or on behalf of Employee E exceeds the present value of the annuity benefits that could be payable to Employee E under the plan during the Employee E's lifetime without a discount for the probability of Employee E's death before benefit payments commence).

*Example 12.* (i) On January 1, 2001, Employer W establishes a plan that covers only Employee F, who owns a significant portion of the business and who has 30 years of service as of that date. The plan provides that, upon Employee F's termination of employment at any time, he will receive $200,000 per year for each of the immediately succeeding five years. Employee F terminates employment on March 1, 2001.

(ii) Because Employee F terminates employment within 12 months of the establishment of the plan and the facts and circumstances set forth above indicate that the plan was established in contemplation of impending termination of employment, the plan is considered to be established in connection with impending termination within the meaning of paragraph (b)(4)(v) of this section. Therefore, the benefits provided under the plan are not treated as resulting from the deferral of compensation for purposes of section 3121(v)(2).

*Example 13.* (i) Employer X establishes a plan on January 1, 2004, to supplement the qualified retirement benefits of recently hired 55-year old Employee G, who forfeited retirement benefits with her former employer in order to accept employment with Employer X. The plan provides that Employee G will receive $50,000 per year for life beginning at age 65, regardless of when she terminates employment. On April 15, 2004, Employee G unexpectedly terminates employment.

(ii) The facts and circumstances indicate that the plan was not established in contemplation of impending termination. Thus, even though Employee G terminated employment within 12 months of the establishment of the plan, the plan is not considered to be established in connection with impending termination within the meaning of paragraph (b)(4)(v) of this section. Benefits provided under the plan are treated as resulting from the deferral of compensation for purposes of section 3121(v)(2).

*Example 14.* (i) Employer Y establishes a plan to provide supplemental retirement benefits to a group of management employees who are at various stages of their careers. All employees covered by the plan are subject to the same benefit formula. Employee H is planning to (and actually does) retire within six months of the date on which the plan is established.

(ii) Even though Employee H terminated employment within 12 months of the establishment of the plan, the plan is not considered to have been established in connection with Employee H's impending termination within the meaning of paragraph (b)(4)(v) of this section because the facts and circumstances indicate otherwise.

*Example 15.* (i) Employee J owns 100 percent of Employer Z, a corporation that provides consulting services. Substantially all of Employer Z's revenue is derived as a result of the services performed by Employee J. In each of 2001, 2002, and 2003, Employer Z has gross receipts of $180,000 and expenses (other than salary) of $80,000. In each of 2001 and 2002, Employer Z pays Employee J a salary of $100,000 for services performed in each of those years. On December 31, 2002, Employer Z establishes a plan to pay Employee J $80,000 in 2003. The plan recites that the payment is in recognition of prior services. In 2003, Employer Z pays Employee J a salary of $20,000 and the $80,000 due under the plan.

(ii) The facts and circumstances described above indicate that the $80,000 paid pursuant to the plan is based on services performed by Employee J in 2003 and, thus, is paid for current services within the meaning of paragraph (b)(4)(viii) of this section. Accordingly, the plan does not provide for the deferral of compensation within the meaning of section 3121(v)(2), and the $80,000 payment is included as wages in 2003 under the general timing rule of paragraph (a)(1) of this section.

(c) *Determination of the amount deferred*—(1) *Account balance plans*—(i) *General rule.* For purposes of this section, if benefits for an employee are provided under a nonqualified deferred compensation plan that is an account balance plan, the amount deferred for a period equals the principal amount credited to the employee's account for the period, increased or decreased by any income attributable to the principal amount through the date the principal amount is required to be taken into account as wages under paragraph (e) of this section.

(ii) *Definitions*—(A) *Account balance plan.* For purposes of this section, an account balance plan is a nonqualified deferred compensation plan under the terms of which a principal amount (or amounts) is credited to an individual account for an employee, the income attributable to each principal amount is credited (or debited) to the individual account, and the benefits payable to the employee are based solely on the balance credited to the individual account.

(B) *Income.* For purposes of this section, *income* means any increase or decrease in the amount credited to an employee's account that is attributable to amounts previously credited to the employee's account, regardless of whether the plan denominates that increase or decrease as income.

(iii) *Additional rules*—(A) *Commingled accounts.* A plan does not fail to be an account balance plan merely because, under the terms of the plan, benefits payable to an employee are based solely on a specified percentage of an account maintained for all (or a portion of) plan participants under which principal amounts and income are credited (or debited) to such account.

(B) *Bifurcation permitted.* An employer may treat a portion of a nonqualified deferred compensation plan as a separate account balance plan if that portion satisfies the requirements of this paragraph (c)(1) and the amount payable to employees under that portion is determined independently of the amount payable under the other portion of the plan.

(C) *Actuarial equivalents.* A plan does not fail to be an account balance plan merely because the plan permits employees to elect to receive their benefits under the plan in a form of benefit other than payment of the account balance, provided the amount of benefit payable in that other form is actuarially equivalent to payment of the account balance using actuarial assumptions that are reasonable. Conversely, a plan is not an account

balance plan if it provides an optional form of benefit that is not actuarially equivalent to the account balance using actuarial assumptions that are reasonable. For this purpose, the determination of whether forms are actuarially equivalent using actuarial assumptions that are reasonable is determined under the rules applicable to nonaccount balance plans under paragraph (c)(2)(iii) of this section.

(2) *Nonaccount balance plans*—(i) *General rule.* For purposes of this section, if benefits for an employee are provided under a nonqualified deferred compensation plan that is not an account balance plan (a nonaccount balance plan), the amount deferred for a period equals the present value of the additional future payment or payments to which the employee has obtained a legally binding right (as described in paragraph (b)(3)(i) of this section) under the plan during that period.

(ii) *Present value defined.* For purposes of this section, *present value* means the value as of a specified date of an amount or series of amounts due thereafter, where each amount is multiplied by the probability that the condition or conditions on which payment of the amount is contingent will be satisfied, and is discounted according to an assumed rate of interest to reflect the time value of money. For purposes of this section, the present value must be determined as of the date the amount deferred is required to be taken into account as wages under paragraph (e) of this section using actuarial assumptions and methods that are reasonable as of that date. For this purpose, a discount for the probability that an employee will die before commencement of benefit payments is permitted, but only to the extent that benefits will be forfeited upon death. In addition, the present value cannot be discounted for the probability that payments will not be made (or will be reduced) because of the unfunded status of the plan, the risk associated with any deemed or actual investment of amounts deferred under the plan, the risk that the employer, the trustee, or another party will be unwilling or unable to pay, the possibility of future plan amendments, the possibility of a future change in the law, or similar risks or contingencies. Nor is the present value affected by the possibility that some of the payments due under the plan will be eligible for one of the exclusions from wages in section 3121(a).

(iii) *Treatment of actuarially equivalent benefits*—(A) *In general.* In the case of a nonaccount balance plan that permits employees to receive their benefits in more than one form or commencing at more than one date, the amount deferred is determined by assuming that payments are made in the normal form of benefit commencing at normal commencement date if the requirements of paragraph (c)(2)(iii)(B) of this section are satisfied. Accordingly, in the case of a nonaccount balance plan that permits employees to receive their benefits in more than one form or commencing at more than one date, unless the requirements of paragraph (c)(2)(iii)(B) of this section are satisfied, the amount deferred is treated as not reasonably ascertainable under the rules of paragraph (e)(4)(i)(B) of this section until a form of benefit and a time of commencement are selected.

(B) *Use of normal form commencing at normal commencement date.* The requirements of this paragraph (c)(2)(iii)(B) are satisfied by a nonaccount balance plan if the plan has a single normal form of benefit commencing at normal commencement date for the amount deferred and each other optional form is actuarially equivalent to the normal form of benefit commencing at normal commencement date using actuarial assumptions that are reasonable. For this purpose, each form of benefit for payment of the amount deferred commencing at a date is a separate optional form. For purposes of this paragraph (c)(2)(iii)(B), each optional form is actuarially equivalent to the normal form of benefit commencing at normal commencement date only if the terms of the plan in effect when the amount is deferred provide for every optional form to be actuarially equivalent and further provide for actuarial assumptions to determine actuarial equivalency that will be reasonable at the time the optional form is selected, without regard to whether market interest rates are higher or lower at the time the optional form is selected than at the time the amount is deferred. Thus, a plan that provides for every optional form to be actuarially equivalent satisfies this paragraph (c)(2)(iii)(B) if it provides for actuarial equivalence to be determined—

(*1*) When an optional form is selected or when benefit payments under the optional form commence, based on assumptions that are reasonable then;

(*2*) Based on an index that reflects market rates of interest from time to time (for example, the plan specifies that all benefits will be actuarially equivalent using the applicable interest rate and applicable mortality table specified in section 417(e)); or

(*3*) Based on actuarial assumptions specified in the plan and provides for those assumptions to be revised to be reasonable assumptions if they cease to be reasonable assumptions.

(C) *Fixed mortality assumptions permitted.* A plan does not fail to satisfy paragraph (c)(2)(iii)(B) of this section merely because the plan specifies a fixed mortality assumption that is reasonable at the time the amount is deferred, even if that assumption is not reasonable at the time the optional form is selected. (But see paragraph (c)(2)(iii)(E) of this section for additional rules that apply if the mortality assumption is not reasonable at the time the optional form is selected.)

(D) *Normal form of benefit commencing at normal commencement date defined.* For purposes of this paragraph (c)(2)(iii), the normal form of benefit commencing at normal commencement date under the plan is the form, and date of commencement, under which the payments due to the employee under the plan are expressed, prior to adjustments for form or timing of commencement of payments.

(E) *Rule applicable if actuarial assumptions cease to be reasonable.* If the terms of the plan in effect when an amount is deferred provide for actuarial assumptions to determine actuarial equivalency that will be reasonable at the time the optional form is selected or payments commence as provided in paragraph (c)(2)(iii)(B) of this section, but, at that time, the actuarial assumptions used under the plan are not reasonable, the employee will be treated as obtaining a legally binding right at that time (or, if earlier, at the date on which the plan is amended to provide actuarial assumptions that are not reasonable) to any additional benefits that result from the use of an unreasonable actuarial assumption. This might occur, for example, if the plan specifies that the actuarial assumptions will be reasonable assumptions to be set at the time the optional form is selected and the assumptions used are in fact not reasonable at that time.

(3) *Separate determination for each period.* The amount deferred under this paragraph (c) is determined separately for each period for which there is an amount deferred under the plan. In addition, paragraphs (d) and (e) of this section are applied separately with respect to the amount deferred for each such period. Thus, for example, the fraction described in paragraph (d)(1)(ii)(B) of this section and the amount of the true-up at the resolution date described in paragraph (e)(4)(ii)(B) of this section are determined separately with respect to each amount deferred. See paragraph (e)(4)(ii)(D) of this section

for special rules for allocating amounts deferred over more than one year.

(4) *Examples.* This paragraph (c) is illustrated by the following examples. (The examples illustrate the rules in this paragraph (c) and include various interest rate and mortality table assumptions, including the applicable section 417(e) mortality table, the GAM 83 (male) mortality table, and UP–84 mortality table. These tables can be obtained from the Society of Actuaries at its internet site at http://www.soa.org.) The examples are as follows:

*Example 1.* (i) Employer M establishes a nonqualified deferred compensation plan for Employee A. Under the plan, 10 percent of annual compensation is credited on behalf of Employee A on December 31 of each year. In addition, a reasonable rate of interest is credited quarterly on the balance credited to Employee A as of the last day of the preceding quarter. All amounts credited under the plan are 100 percent vested and the benefits payable to Employee A are based solely on the balance credited to Employee A's account.

(ii) The plan is an account balance plan. Thus, pursuant to paragraph (c)(1) of this section, the amount deferred for a calendar year is equal to 10 percent of annual compensation.

*Example 2.* (i) Employer N establishes a nonqualified deferred compensation plan for Employee B. Under the plan, 2.5 percent of annual compensation is credited quarterly on behalf of Employee B. In addition, a reasonable rate of interest is credited quarterly on the balance credited to Employee B's account as of the last day of the preceding quarter. All amounts credited under the plan are 100 percent vested, and the benefits payable to Employee B are based solely on the balance credited to Employee B's account. As permitted by paragraph (e)(5) of this section, any amount deferred under the plan for the calendar year is taken into account as wages on the last day of the year.

(ii) The plan is an account balance plan. Thus, pursuant to paragraph (c)(1) of this section, the amount deferred for a calendar year equals 10 percent of annual compensation (i.e., the sum of the principal amounts credited to Employee B's account for the year) plus the interest credited with respect to that 10 percent principal amount through the last day of the calendar year. If Employer N had not chosen to apply paragraph (e)(5) of this section and, thus, had taken into account 2.5 percent of compensation quarterly, the interest credited with respect to those quarterly amounts would not have been treated as part of the amount deferred for the year.

*Example 3.* (i) Employer O establishes a nonqualified deferred compensation plan for a group of five employees. Under the plan, a specified sum is credited to an account for the benefit of the group of employees on July 31 of each year. Income on the balance of the account is credited annually at a rate that is reasonable for each year. The benefit payable to an employee is equal to one-fifth of the account balance and is payable, at the employee's option, in a lump sum or in 10 annual installments that reflect income on the balance.

(ii) The plan is an account balance plan notwithstanding the fact that the employee's benefit is equal to a specified percentage of an account maintained for a group of employees.

*Example 4.* (i) The facts are the same as in *Example 3,* except that the plan also permits an employee to elect a life annuity that is actuarially equivalent to the account balance based on the applicable interest rate and applicable mortality table specified in section 417(e) at the time the benefit is elected by the employee.

(ii) Under paragraphs (c)(1)(iii)(C) and (c)(2)(iii) of this section, the plan does not fail to be an account balance plan merely because the plan permits employees to elect to receive their benefits under the plan in a form that is actuarially equivalent to payment of the account balance using actuarial assumptions that are reasonable at the time the form is selected.

*Example 5.* (i) Employer P establishes a nonqualified deferred compensation plan for a group of employees. Under the plan, each participating employee has a fully vested right to receive a life annuity, payable monthly beginning at age 65, equal to the product of 2 percent for each year of service and the employee's highest average annual compensation for any 3-year period. The plan also provides that, if an employee dies before age 65, the present value of the future payments will be paid to his or her beneficiary. As permitted under paragraph (e)(5) of this section, any amount deferred under the plan for a calendar year is taken into account as FICA wages as of the last day of the year. As of December 31, 2002, Employee C is age 60, has 25 years of service, and high 3-year average compensation of $100,000 (the average for the years 2000 through 2002). As of December 31, 2003, Employee C is age 61, has 26 years of service, and has high 3-year average compensation of $104,000. As of December 31, 2004, Employee C is age 62, has 27 years of service, and has high 3-year average compensation of $105,000. The assumptions that Employer P uses to determine the amount deferred for 2003 (a 7 percent interest rate and, for the period after commencement of benefit payments, the GAM 83 (male) mortality table) and for 2004 (a 7.5 percent interest rate and, for the period after commencement of benefit payments, the GAM 83 (male) mortality table) are assumed, solely for purposes of this example, to be reasonable actuarial assumptions.

(ii) As of December 31, 2002, Employee C has a legally binding right to receive lifetime payments of $50,000 (2 percent × 25 years × $100,000) per year. As of December 31, 2003, Employee C has a legally binding right to receive lifetime payments of $54,080 (2 percent × 26 years × $104,000) per year. Thus, during 2003, Employee C has earned a legally binding right to additional lifetime payments of $4,080 ($54,080 − $50,000) per year beginning at age 65. The amount deferred for 2003 is the present value, as of December 31, 2003, of these additional payments, which is $28,767 ($4,080 × the present value factor for a deferred annuity payable at age 65, using the specified actuarial assumptions for 2003). Similarly, during 2004, Employee C has earned a legally binding right to additional lifetime payments of $2,620 (2 percent × 27 years × $105,000, minus $54,080) per year beginning at age 65. The amount deferred for 2004 is the present value, as of December 31, 2004, of these additional payments, which is $18,845 ($2,620 × the present value factor for a deferred annuity payable at age 65, using the specified actuarial assumptions for 2004).

*Example 6.* (i) Employer Q establishes a nonqualified deferred compensation plan for Employee D on January 1, 2001, when Employee D is age 63. During 2001, Employee D obtains a fully vested right to receive a life annuity under the nonqualified deferred compensation plan equal to the excess of $200,000 over the life annuity benefits payable to Employee D under a qualified defined benefit pension plan sponsored by Employer Q. The life annuity benefit payable annually under the qualified plan is the lesser of $200,000 and the section 415(b)(1)(A) limitation in effect for the year, where the section 415(b)(1)(A) limitation is automatically adjusted to reflect changes in the cost of living. Benefits under both the qualified and nonqualified plan are payable monthly beginning at age 65. For purposes of this example, the section 415(b)(1)(A) limit for 2001 is assumed to be $140,000. The nonqualified plan provides no benefits in the event Employee D dies prior to commencement of benefit payments. As permitted under paragraph (e)(5) of this section, any amount deferred under the plan for a calendar year is taken into account as FICA wages as of the last day of the year. The assumptions that Employer Q uses to determine the amount deferred for 2001 (a 7 percent interest rate, a 3 percent increase in the cost of living and the GAM 83 (male) mortality table) are assumed, solely for purposes of this example, to be reasonable actuarial assumptions. As of December 31, 2001, Employee D has a legally binding right to receive lifetime payments as set forth in the following table:

| Year | Annual gross amount | Assumed qualified plan annual payment (based on cost of living) | Net annual payment under nonqualified plan |
|---|---|---|---|
| 2003 | $200,000 | $145,000 | $55,000 |
| 2004 | 200,000 | 150,000 | 50,000 |
| 2005 | 200,000 | 155,000 | 45,000 |
| 2006 | 200,000 | 160,000 | 40,000 |
| 2007 | 200,000 | 165,000 | 35,000 |
| 2008 | 200,000 | 170,000 | 30,000 |
| 2009 | 200,000 | 175,000 | 25,000 |
| 2010 | 200,000 | 180,000 | 20,000 |
| 2011 | 200,000 | 185,000 | 15,000 |
| 2012 | 200,000 | 190,000 | 10,000 |
| 2013 | 200,000 | 195,000 | 5,000 |
| 2014 and thereafter | 200,000 | 205,000 or greater | 0 |

(ii) The amount deferred for 2001 is the present value, as of December 31, 2001, of the net lifetime payments under the nonqualified plan, or $223,753.

(d) *Amounts taken into account and income attributable thereto*—(1) *Amounts taken into account*—(i) *In general.* For purposes of this section, an amount deferred under a nonqualified deferred compensation plan is taken into account as of the date it is included in computing the amount of *wages* as defined in section 3121(a), but only to the extent that any additional FICA tax that results from such inclusion (including any interest and penalties for late payment) is actually paid before the expiration of the applicable period of limitations for the period in which the amount deferred was required to be taken into account under paragraph (e) of this section. Because an amount deferred for a calendar year is combined with the employee's other wages for the year for purposes of computing FICA taxes with respect to the employee for the year, if the employee has other wages that equal or exceed the wage base limitations for the Old-Age, Survivors, and Disability Insurance (OASDI) portion (or, in the case of years before 1994, the Hospital Insurance (HI) portion) of FICA for the year, no portion of the amount deferred will actually result in additional OASDI (or HI) tax. However, because there is no wage base limitation for the HI portion of FICA for years after 1993, the entire amount deferred (in addition to all other wages) is subject to the HI tax for the year and, thus, will not be considered taken into account for purposes of this section unless the HI tax relating to the amount deferred is actually paid. In determining whether any additional FICA tax relating to the amount deferred is actually paid, any FICA tax paid in a year is treated as paid with respect to an amount deferred only after FICA tax is paid on all other wages for the year.

(ii) *Amounts not taken into account*—(A) *Failure to take an amount deferred into account under the special timing rule.* If an amount deferred for a period (as determined under paragraph (c) of this section) is not taken into account, then the nonduplication rule of paragraph (a)(2)(iii) of this section does not apply, and benefit payments attributable to that amount deferred are included as wages in accordance with the general timing rule of paragraph (a)(1) of this section. For example, if an amount deferred is required to be taken into account in a particular year under paragraph (e) of this section, but the employer fails to pay the additional FICA tax resulting from that amount, then the amount deferred and the income attributable to that amount must be included as wages when actually or constructively paid.

(B) *Failure to take a portion of an amount deferred into account under the special timing rule.* If, as of the date an amount deferred is required to be taken into account, only a portion of the amount deferred (as determined under paragraph (c) of this section) has been taken into account, then a portion of each subsequent benefit payment that is attributable to that amount is excluded from wages pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section and the balance is subject to the general timing rule of paragraph (a)(1) of this section. The portion that is excluded from wages is fixed immediately before the attributable benefit payments commence (or, if later, the date the amount deferred is required to be taken into account) and is determined by multiplying each such payment by a fraction, the numerator of which is the amount that was taken into account (plus income attributable to that amount determined under paragraph (d)(2) of this section through the date the portion is fixed) and the denominator of which is the present value of the future benefit payments attributable to the amount deferred, determined as of the date the portion is fixed. For this purpose, if the requirements of paragraph (c)(2)(iii)(B) of this section are satisfied, the present value is determined by assuming that payments are made in the normal form of benefit commencing at normal commencement date. In addition, if the employer demonstrates that the amount deferred was determined using reasonable actuarial assumptions as determined by the Commissioner, the present value of the future benefit payments attributable to the amount deferred is determined using those assumptions. In any other case, see paragraph (d)(2)(iii) of this section.

(2) *Income attributable to the amount taken into account*—(i) *Account balance plans*—(A) *In general.* For purposes of the nonduplication rule of paragraph (a)(2)(iii) of this section, in the case of an account balance plan, the *income attributable to the amount taken into account* means any amount credited on behalf of an employee under the terms of the plan that is income (within the meaning of paragraph (c)(1)(ii)(B) of this section) attributable to an amount previously taken into account (within the meaning of paragraph (d)(1) of this section), but only if the income reflects a rate of return that does not exceed either the rate of return on a predetermined actual investment (as determined in accordance with paragraph (d)(2)(i)(B) of this section) or, if the income does not reflect the rate of return on a predetermined actual investment (as so determined), a reasonable rate of interest (as

determined in accordance with paragraph (d)(2)(i)(C) of this section).

(B) *Rules relating to actual investment—(1) In general.* For purposes of this paragraph (d)(2)(i), the rate of return on a predetermined actual investment for any period means the rate of total return (including increases or decreases in fair market value) that would apply if the account balance were, during the applicable period, actually invested in one or more investments that are identified in accordance with the plan before the beginning of the period. For this purpose, an account balance plan can determine income based on the rate of return of a predetermined actual investment regardless of whether assets associated with the plan or the employer are actually invested therein and regardless of whether that investment is generally available to the public. For example, an account balance plan could provide that income on the account balance is determined based on an employee's prospective election among various investment alternatives that are available under the employer's section 401(k) plan, even if one of those investment alternatives is not generally available to the public. In addition, an actual investment includes an investment identified by reference to any stock index with respect to which there are positions traded on a national securities exchange described in section 1256(g)(7)(A).

(*2*) *Certain rates of return not based on predetermined actual investment.* A rate of return will not be treated as the rate of return on a predetermined actual investment within the meaning of this paragraph (d)(2)(i)(B) if the rate of return (to any extent or under any conditions) is based on the greater of the rate of return of two or more actual investments, is based on the greater of the rate of return on an actual investment and a rate of interest (whether or not the rate of interest would otherwise be reasonable under paragraph (d)(2)(i)(C) of this section), or is based on the rate of return on an actual investment that is not predetermined. For example, if a plan bases the rate of return on the greater of the rate of return on a predetermined actual investment (such as the value of the employer's stock), and a 0 percent interest rate (i.e., without regard to decreases in the value of that investment), the plan is using a rate of return that is not a rate of return on a predetermined actual investment within the meaning of this paragraph (d)(2)(i)(B).

(C) *Rules relating to reasonable interest rates—(1) In general.* If income for a period is credited to an account balance plan on a basis other than the rate of return on a predetermined actual investment (as determined in accordance with paragraph (d)(2)(i)(B) of this section), then, except as otherwise provided in this paragraph (d)(2)(i)(C), the determination of whether the income for the period is based on a reasonable rate of interest will be made at the time the amount deferred is required to be taken into account and annually thereafter.

(*2*) *Fixed rates permitted.* If, with respect to an amount deferred for a period, an account balance plan provides for a fixed rate of interest to be credited, and the rate is to be reset under the plan at a specified future date that is not later than the end of the fifth calendar year that begins after the beginning of the period, the rate is reasonable at the beginning of the period, and the rate is not changed before the reset date, then the rate will be treated as reasonable in all future periods before the reset date.

(ii) *Nonaccount balance plans.* For purposes of the nonduplication rule of paragraph (a)(2)(iii) of this section, in the case of a nonaccount balance plan, the *income attributable to the amount taken into account* means the increase, due solely to the passage of time, in the present value of the future payments to which the employee has obtained a legally binding right, the present value of which constituted the amount taken into account (determined as of the date such amount was taken into account), but only if the amount taken into account was determined using reasonable actuarial assumptions and methods. Thus, for each year, there will be an increase (determined using the same interest rate used to determine the amount taken into account) resulting from the shortening of the discount period before the future payments are made, plus, if applicable, an increase in the present value resulting from the employee's survivorship during the year. As a result, if the amount deferred for a period is determined using a reasonable interest rate and other reasonable actuarial assumptions and methods, and the amount is taken into account when required under paragraph (e) of this section, then, under the nonduplication rule of paragraph (a)(2)(iii) of this section, none of the future payments attributable to that amount will be subject to FICA tax when paid.

(iii) *Unreasonable rates of return*—(A) *Account balance plans.* This paragraph (d)(2)(iii)(A) applies to an account balance plan under which the income credited is based on neither a predetermined actual investment, within the meaning of paragraph (d)(2)(i)(B) of this section, nor a rate of interest that is reasonable, within the meaning of paragraph (d)(2)(i)(C) of this section, as determined by the Commissioner. In that event, the employer must calculate the amount that would be credited as income under a reasonable rate of interest, determine the excess (if any) of the amount credited under the plan over the income that would be credited using the reasonable rate of interest, and take that excess into account as an additional amount deferred in the year the income is credited. If the employer fails to calculate the amount that would be credited as income under a reasonable rate of interest and to take the excess into account as an additional amount deferred in the year the income is credited, or the employer otherwise fails to take the full amount deferred into account, then the excess of the income credited under the plan over the income that would be credited using AFR will be treated as an amount deferred in the year the income is credited. For purposes of this section, *AFR* means the mid-term applicable federal rate (as defined pursuant to section 1274(d)) for January 1 of the calendar year, compounded annually. In addition, pursuant to paragraph (d)(1)(ii) of this section, the excess over the income that would result from the application of AFR and any income attributable to that excess are subject to the general timing rule of paragraph (a)(1) of this section.

(B) *Nonaccount balance plans.* If any actuarial assumption or method used to determine the amount taken into account under a nonaccount balance plan is not reasonable, as determined by the Commissioner, then the income attributable to the amount taken into account is limited to the income that would result from the application of the AFR and, if applicable, the applicable mortality table under section 417(e)(3)(A)(ii)(I) (the 417(e) mortality table), both determined as of the January 1 of the calendar year in which the amount was taken into account. In addition, paragraph (d)(1)(ii)(B) of this section applies and, in calculating the fraction described in paragraph (d)(1)(ii)(B) of this section (at the date specified in paragraph (d)(1)(ii)(B) of this section), the numerator is the amount taken into account plus income (as limited under this paragraph (d)(2)(iii)(B)), and the present value in the denominator is determined using the AFR, the 417(e) mortality table, and reasonable assumptions as to cost of living, each determined as of the time

the amount deferred was required to be taken into account.

(3) *Examples.* This paragraph (d) is illustrated by the following examples:

*Example 1.* (i) In 2001, Employer M establishes a nonqualified deferred compensation plan for Employee A under which all benefits are 100 percent vested. In 2002, Employee A has $200,000 of current annual compensation from Employer M that is subject to FICA tax. The amount deferred under the plan on behalf of Employee A for 2002 is $20,000. Thus, Employee A has total wages for FICA tax purposes of $220,000. Because Employee A has other wages that exceed the OASDI wage base for 2002, no additional OASDI tax is due as a result of the $20,000 amount deferred. Because there is no wage base limitation for the HI portion of FICA, additional HI tax liability results from the $20,000 amount deferred. However, Employer M fails to pay the additional HI tax.

(ii) Under paragraph (d)(1)(i) of this section, an amount deferred is considered taken into account as wages for FICA tax purposes as of the date it is included in computing FICA wages, but only if any additional FICA tax liability that results from inclusion of the amount deferred is actually paid. Because the HI tax resulting from the $20,000 amount deferred was not paid, that amount deferred was not taken into account within the meaning of paragraph (d)(1) of this section. Thus, pursuant to paragraph (d)(1)(ii) of this section, benefit payments attributable to the $20,000 amount deferred will be included as wages in accordance with the general timing rule of paragraph (a)(1) of this section and will be subject to the HI portion of FICA tax when actually or constructively paid (and the OASDI portion of FICA tax to the extent Employee A's wages do not exceed the OASDI wage base limitation).

*Example 2.* (i) The facts are the same as in *Example 1,* except that Employer M takes all actions necessary to correct its failure to pay the additional tax before the applicable period of limitations expires for 2002 (including payment of any applicable interest and penalties).

(ii) Because the HI tax resulting from the $20,000 amount deferred is paid, that amount deferred is considered taken into account for 2002. Thus, in accordance with paragraph (a)(2)(iii) of this section, neither the amount deferred nor the income attributable to the amount taken into account will be treated as wages for FICA tax purposes at any time thereafter.

*Example 3.* (i) Employer N establishes a nonqualified deferred compensation plan under which all benefits are 100 percent vested. Under the plan, an employee's account is credited with a contribution equal to 10 percent of salary on December 31 of each year. The employee's account balance also is increased each December 31 by *interest* on the total amounts credited to the employee's account as of the preceding December 31. The interest rate specified in the plan results in income credits that are not based on the rate of return on a predetermined actual investment within the meaning of paragraph (d)(2)(i)(B) of this section, and that are greater than the income that would result from application of a reasonable rate of interest within the meaning of paragraph (d)(2)(i)(C) of this section. Employer N fails to take into account an additional amount for the excess of the income credited under the plan over a reasonable rate of interest.

(ii) Pursuant to paragraph (d)(2)(iii)(A) of this section, the income credits in excess of the income that would be credited using the AFR are considered additional amounts deferred in the year credited.

*Example 4.* (i) The facts are the same as in *Example 3,* except that the annual increase is based on Moody's Average Corporate Bond Yield.

(ii) Because this index reflects a reasonable rate of interest, the income credited under the plan is considered income attributable to the amount taken into account within the meaning of paragraph (d)(2)(i) of this section.

*Example 5.* (i) The facts are the same as in *Example 3,* except that the annual increase (or decrease) is based on the rate of total return on Employer N's publicly traded common stock.

(ii) Because the income credited under the plan does not exceed the actual rate of return on a predetermined actual investment, the income credited is considered income attributable to the amount taken into account within the meaning of paragraph (d)(2)(i) of this section.

*Example 6.* (i) The facts are the same as in *Example 3,* except that the annual rate of increase or decrease is equal to the greater of the rate of total return on a specified aggressive growth mutual fund or the rate of return on a specified income-oriented mutual fund. Employer N fails to take into account an additional amount for the excess of the income credited under the plan over a reasonable rate of interest.

(ii) Because the rate of increase or decrease is based on the greater of two rates of returns, the increase is not based on the return on a predetermined actual investment within the meaning of paragraph (d)(2)(i)(B) of this section. Thus, if the rate of return credited under the plan (i.e., the greater of the rates of return of the two mutual funds) exceeds the income that would be credited using the AFR, the excess is not considered income attributable to the amount taken into account within the meaning of paragraph (d)(2)(i) of this section and, pursuant to paragraph (d)(2)(iii)(A) of this section, is considered an additional amount deferred.

*Example 7.* (i) The facts are the same as in *Example 6,* except that the annual increase or decrease with respect to 50 percent of the employee's account is equal to the rate of total return on the specified aggressive growth mutual fund and the annual increase or decrease with respect to the other 50 percent of the employee's account is equal to the increase or decrease in the Standard & Poor's 500 Index.

(ii) Because the increase or decrease attributable to any portion of the employee's account is based on the return on a predetermined actual investment, the entire increase or decrease is considered income attributable to the amount taken into account within the meaning of paragraph (d)(2)(i) of this section.

*Example 8.* (i) The facts are the same as in *Example 3,* except that, pursuant to the terms of the plan, before the beginning of each year, the board of directors of Employer N designates a specific investment on which the following year's annual increase or decrease will be based. The board is authorized to switch investments more frequently on a prospective basis. Before the beginning of 2004, the board designates Company A stock as the investment for 2004. Before the beginning of 2005, the board designates Company B stock as the investment for 2005. At the end of 2005, the board determines that the return on Company B stock was lower than expected and changes its designation for 2005 to the rate of return on Company C stock, which had a higher return during 2005. Employer N fails to take into account an additional amount for the excess of the income credited under the plan over a reasonable rate of interest.

(ii) The annual increase or decrease for 2004 is based on the return of a predetermined actual investment. Although the annual increase or decrease for 2005 is based on an actual investment, the actual investment is not predetermined since it was not designated before the beginning of 2005. Pursuant to paragraph (d)(2)(iii)(A) of this section, the excess of the income credited under the plan over the income determined using AFR is an additional amount deferred for 2005.

*Example 9.* (i) Employer O establishes a nonqualified deferred compensation plan for Employee B. Under the plan, if Employee B survives until age 65, he has a fully vested right to receive a lump sum payment at that age, equal to the product of 10 percent per year of service and Employee B's highest average annual compensation for any 3-year period, but no benefits are payable in the event Employee B dies prior to age 65. As permitted under paragraph (e)(5) of this section, any amount deferred under the plan for the calendar year is taken into account as wages as of the last day of the year. As of December 31, 2002, Employee B has 25 years of service and Employee B's high 3-year average compensation is $100,000 (the average for the years 2000 through 2002). As of December 31, 2002, Employee B has a legally binding right to receive a payment at age 65 of $250,000 (10 percent × 25 years × $100,000). As of December 31, 2003, Employee B is age 63, has 26 years of service, and has high 3-year average compensation of $104,000. As of December 31, 2003, Employee B has a legally binding right to receive a payment at age 65 of $270,400 (10 percent × 26 years × $104,000). Thus, during 2003, Employee B has earned a legally binding right to an additional payment at age 65 of $20,400 ($270,400 − $250,000). The assumptions that Employer O uses to determine the amount deferred for 2003 are a 7 percent interest rate and the GAM 83 (male) mortality table, which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions. The amount deferred for 2003 is the present value, as of December 31, 2003, of the $20,400 payment, which is $17,353. Employer O takes this amount into account by including it in Employee B's FICA wages for 2003 and paying the additional FICA tax.

(ii) Under paragraph (d)(2)(ii) of this section, the income attributable to the amount that was taken into account is the increase in the present value of the future payment due solely to the passage of time, because the amount deferred was determined using reasonable actuarial assumptions and methods. As of the payment date at age 65, the present value of the future payment earned during 2003 is $20,400. The entire difference between the $20,400 and the $17,353 amount deferred ($3,047) is the increase in the present value of the future payment due solely to the passage of time, and thus constitutes income attributable to the amount taken into account. Because the amount deferred was taken into account, the entire payment of $20,400 represents either an amount deferred that was previously taken into account ($17,353) or income attributable to that amount ($3,047). Accordingly, pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section, none of the payment is included in wages.

*Example 10.* (i) The facts are the same as in *Example 9,* except that, instead of providing a lump sum equal to 10 percent of average compensation per year of service, the plan provides Employee B with a fully vested right to receive a life annuity, payable monthly beginning at age 65, equal to the product of 2 percent for each year of service and Employee B's highest average annual compensation for any 3-year period. The plan also provides that, if Employee B dies before age 65, the present value of the future payments will be paid to his or her beneficiary. As of December 31, 2002, Employee B has a legally binding right to receive lifetime payments of $50,000 (2 percent × 25 years × $100,000) per year. As of December 31, 2003, Employee B has a legally binding right to receive lifetime payments of $54,080 (2 percent × 26 years × $104,000) per year. Thus, during 2003, Employee B has earned a legally binding right to additional lifetime payments of $4,080 ($54,080 − $50,000) per year beginning at age 65. The amount deferred for 2003 is $32,935, which is the present value, as of December 31, 2003, of these additional payments, determined using the same actuarial assumptions and methods used in *Example 9,* except that there is no discount for the probability of death prior to age 65. Employer O takes this amount into account by including it in Employee B's FICA wages for 2003 and paying the additional FICA tax.

(ii) Under paragraph (d)(2)(ii) of this section, the income attributable to the amount that was taken into account is the increase in the present value of the future payments due solely to the passage of time, because the amount deferred was determined using reasonable actuarial assumptions and methods. Because the amount deferred was taken into account, each annual payment of $4,080 attributable to the amount deferred in 2003 represents either an amount deferred that was previously taken into account or income attributable to that amount. Accordingly, pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section, none of the payments are included in wages.

*Example 11.* (i) The facts are the same as in *Example 10,* except that no amount is taken into account for 2003 because Employer O fails to pay the additional FICA tax.

(ii) Under paragraph (d)(1)(ii)(A) of this section, if an amount deferred for a period is not taken into account, then the benefit payments attributable to that amount deferred are included as wages in accordance with the general timing rule of paragraph (a)(1) of this section. In this case, assuming that the amounts deferred in other periods were taken into account, $4,080 of each year's total benefit payments will be included in wages when actually or constructively paid, in accordance with the general timing rule.

*Example 12.* (i) Employer P establishes an account balance plan on January 1, 2002, under which all benefits are 100 percent vested. The plan provides that amounts deferred will be credited annually with interest beginning in 2002 at a rate that is greater than a reasonable rate of interest. Employer P treats the excess over the applicable interest rate in section 417(e) as an additional amount deferred for 2002 and in each year thereafter, and takes the additional amount into account by including it in FICA wages and paying the additional FICA tax for the year.

(ii) Under the nonduplication rule in paragraph (a)(2)(iii) of this section, the benefits paid under the plan will be excluded from wages for FICA tax purposes.

*Example 13.* (i) The facts are the same as in *Example 9,* except that, in determining the amount deferred, Employer O uses a 15 percent interest rate, which, solely for purposes of this example, is assumed not to be a reasonable interest rate. Employer O determines that the amount deferred for 2003 is the present value, as of December 31, 2003, of the $20,400 payment, which is $15,023. Employer O includes $15,023 in wages and pays any resulting FICA tax. Solely for purposes of this example, it is assumed that the AFR as of January 1, 2003, is 7 percent.

(ii) Under paragraph (d)(2)(iii)(B) of this section, if any actuarial assumption or method is not reasonable, then the income attributable to the amount taken into account is limited to the income that would result from application of the AFR and, if applicable, the 417(e) mortality table. Because the 15 percent interest rate is unreasonable, the income attributable to the amount taken into account is limited to the income that would result from using a 7 percent interest rate and, in this case, an increase for survivorship using the 417(e) mortality table. Under these assumptions, the income attributable to the $15,023 amount taken into account for 2003 is $1,199 in 2004 and $1,313 in 2005. Under paragraph (d)(1)(ii) of this section, the sum of these amounts ($17,535) is excluded from Employee B's wages pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section, and the balance of the payment ($2,865) is subject to the general timing rule of paragraph (a)(1) of this section and, thus, is included in Employee B's wages when actually or constructively paid.

(iii) The same result can be reached by multiplying the attributable benefit payments by a fraction, the numerator of which is the amount taken into account, and the denominator of which is the amount deferred that would have been taken into account at the same time had the amount deferred been calculated using the AFR and the 417(e) mortality table. These assumptions are determined as of January 1 of the calendar year in which the amount was taken into account. In this *Example 13,* the fraction would be $15,023 divided by $17,478, which equals .85954. The $20,400 payment is multiplied by this fraction to determine the amount of the payment that is excluded from wages pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section. Thus, $17,535 ($20,400 x .85954) is excluded from wages and the balance ($2,865) is subject to FICA tax when actually or constructively paid.

*Example 14.* (i) The facts are the same as *Example 10,* except that Employer O calculates the amount deferred for 2003 as $18,252 and takes that amount into account by including that amount in wages and paying any resulting FICA tax. The assumptions that Employer O uses to determine the amount deferred are a 15 percent interest rate and, for the period after commencement of benefit payments, the GAM 83 (male) mortality table. The 15 percent interest rate is assumed, solely for purposes of this example, not to be a reasonable actuarial assumption. Solely for purposes of this example, it is assumed that the AFR as of January 1, 2003, is 7 percent.

(ii) Under paragraph (d)(2)(iii)(B) of this section, if any actuarial assumption or method used is not reasonable, then the income attributable to the amount taken into account is limited to the income that would result from application of the AFR and, if applicable, the 417(e) mortality table. Because the 15 percent interest rate is not reasonable, the income attributable to the amount taken into account is equal to the income that would result from using a 7 percent interest rate and the amount taken into account is treated as if it represented a portion of the amount deferred for purposes of applying paragraph (d)(1)(ii)(B) of this section. Under these assumptions, the income attributable to the $18,252 amount taken into account for 2003 is $1,278 in 2004 and $1,367 in 2005. Under paragraph (d)(1)(ii)(B) of this section, the portion of each benefit payment attributable to the amount deferred that is excluded from wages pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section is determined at benefit commencement by multiplying each benefit payment by a fraction, the numerator of which is the amount taken into account (plus income attributable to that amount) and the denominator of which is the present value of future benefit payments attributable to the amount deferred. Because the interest rate assumption is not reasonable, not only is the income limited to the application of the AFR, but the present value in the denominator must be determined using the AFR and (if applicable) the 417(e) mortality table. In this case, the present value is $40,283 and thus the fraction is $20,897 divided by $40,283, or .51875. Thus, $2,116 (.51875 × $4,080) of each year's benefit payment is excluded from

wages and the balance of each year's payment ($1,964) is subject to the general timing rule of paragraph (a)(1) of this section and is included in wages when actually or constructively paid.

(iii) The same result can be reached by multiplying the attributable benefit payments by a fraction the numerator of which is the amount taken into account, and the denominator of which is the amount deferred that would have been taken into account at the same time had the amount deferred been calculated using the AFR and the 417(e) mortality table. These assumptions are determined as of January 1 of the calendar year in which the amount was taken into account. In this *Example 14*, the fraction would be $18,252 divided by $35,185, which equals .51875. The $4,080 annual payment is multiplied by this fraction to determine the amount of the payment that is excluded from wages pursuant to the nonduplication rule of paragraph (a)(2)(iii) of this section. Thus, $2,116 ($4,080 × .51875) is excluded from wages and the balance ($1,964) is subject to FICA tax when actually or constructively paid.

(e) *Time amounts deferred are required to be taken into account*—(1) *In general.* Except as otherwise provided in this paragraph (e), an amount deferred under a nonqualified deferred compensation plan must be taken into account as wages for FICA tax purposes as of the later of the date on which services creating the right to the amount deferred are performed (within the meaning of paragraph (e)(2) of this section) or the date on which the right to the amount deferred is no longer subject to a substantial risk of forfeiture (within the meaning of paragraph (e)(3) of this section). However, in no event may any amount deferred under a nonqualified deferred compensation plan be taken into account as wages for FICA tax purposes prior to the establishment of the plan providing for the amount deferred (or, if later, the plan amendment providing for the amount deferred). Therefore, if an amount is deferred pursuant to the terms of a legally binding agreement that is not put in writing until after the amount would otherwise be taken into account under this paragraph (e)(1), the amount deferred (including any attributable income) must be taken into account as wages for FICA tax purposes as of the date the material terms of the plan are put in writing.

(2) *Services creating the right to an amount deferred.* For purposes of this section, services creating the right to an amount deferred under a nonqualified deferred compensation plan are considered to be performed as of the date on which, under the terms of the plan and all the facts and circumstances, the employee has performed all of the services necessary to obtain a legally binding right (as described in paragraph (b)(3)(i) of this section) to the amount deferred.

(3) *Substantial risk of forfeiture.* For purposes of this section, the determination of whether a substantial risk of forfeiture exists must be made in accordance with the principles of section 83 and the regulations thereunder.

(4) *Amount deferred that is not reasonably ascertainable under a nonaccount balance plan*—(i) *In general*—(A) *Date required to be taken into account.* Notwithstanding any other provision of this paragraph (e), an amount deferred under a nonaccount balance plan is not required to be taken into account as wages under the special timing rule of paragraph (a)(2) of this section until the first date on which all of the amount deferred is reasonably ascertainable (the resolution date). In this case, the amount required to be taken into account as of the resolution date is determined in accordance with paragraph (c)(2) of this section.

(B) *Definition of reasonably ascertainable.* For purposes of this paragraph (e)(4), an amount deferred is considered reasonably ascertainable on the first date on which the amount, form, and commencement date of the benefit payments attributable to the amount deferred are known, and the only actuarial or other assumptions regarding future events or circumstances needed to determine the amount deferred are interest and mortality. For this purpose, the form and commencement date of the benefit payments attributable to the amount deferred are treated as known if the requirements of paragraph (c)(2)(iii)(B) of this section (under which payments are treated as being made in the normal form of benefit commencing at normal commencement date) are satisfied. In addition, an amount deferred does not fail to be reasonably ascertainable on a date merely because the exact amount of the benefit payable cannot readily be calculated on that date or merely because the exact amount of the benefit payable depends on future changes in the cost of living. If the exact amount of the benefit payable depends on future changes in the cost of living, the amount deferred must be determined using a reasonable assumption as to the future changes in the cost of living. For example, the amount of a benefit is treated as known even if the exact amount of the benefit payable cannot be determined until future changes in the cost of living are reflected in the section 415 limitation on benefits payable under a qualified retirement plan.

(ii) *Earlier inclusion permitted*—(A) *In general.* With respect to an amount deferred that is not reasonably ascertainable, an employer may choose to take an amount into account at any date or dates (an early inclusion date or dates) before the resolution date (but not before the date described in paragraph (e)(1) of this section with respect to the amount deferred). Thus, for example, with respect to an amount deferred under a nonaccount balance plan that is not reasonably ascertainable because the plan permits employees to receive their benefits in more than one form or commencing at more than one date (and the requirements of paragraph (c)(2)(iii) of this section are not satisfied), an employer may choose to take an amount into account on the date otherwise described in paragraph (e)(1) of this section before the form and commencement date are selected (based on assumptions as to the form and commencement date for the benefit payments) or may choose to wait until the form and commencement date of the benefit payments are selected. An employer that chooses to take an amount into account at an early inclusion date under this paragraph (e)(4)(ii) for an employee under a plan is not required until the resolution date to identify the period to which the amount taken into account relates.

(B) *True-up at resolution date.* If, with respect to an amount deferred for a period, an employer chooses to take an amount into account as of an early inclusion date in accordance with this paragraph (e)(4)(ii) and the benefit payments attributable to the amount deferred exceed the benefit payments that are actuarially equivalent to the amount taken into account at the early inclusion date (payable in the same form and using the same commencement date as the benefit payments attributable to the amount deferred), then the present value of the difference in the benefits, determined in accordance with paragraph (c)(2) of this section, must be taken into account as of the resolution date.

(C) *Actuarial assumptions.* For purposes of determining the benefits that are actuarially equivalent to the amount taken into account as of an early inclusion date, the amount taken into account is converted to an actuarially equivalent benefit payable in the same form and commencing on the same date as the actual benefit payments attributable to the amount deferred using an interest rate, and, if applicable, mortality and cost-of-living assumptions, that were reasonable as of the early inclusion date. Thus, with respect to an amount deferred for a

period, the amount required to be taken into account as of the resolution date is the present value (determined using an interest rate, and, if applicable, mortality and cost-of-living assumptions, that are reasonable as of the resolution date) of the excess, if any, of the future benefit payments attributable to the amount deferred over the future benefits payable in the same form and commencing on the same date that are actuarially equivalent to the portion of the amount deferred that was taken into account as of the early inclusion date (where actuarial equivalence is determined using an interest rate, and, if applicable, mortality and cost-of-living assumptions, that were reasonable as of the early inclusion date).

(D) *Allocation rules for amounts deferred over more than one period—(1) General rule.* The rules of this paragraph (e)(4)(ii)(D) apply for purposes of determining whether an amount has been included under this paragraph (e)(4) before the earliest date permitted under paragraph (e)(1) of this section.

(*2*) *Future compensation increases.* Increases in an employee's compensation after the early inclusion date must be disregarded.

(*3*) *Early retirement subsidies.* An early retirement subsidy that the employee ultimately receives may be taken into account at an early inclusion date if the employee would have a legally binding right to the subsidy at the early inclusion date but for any condition that the employee continue to render services. Accordingly, an employer may take into account at an early inclusion date any early retirement subsidy that the employee ultimately receives to the extent that elimination or reduction of that subsidy would violate section 411(d)(6)(B)(i) if that section applied to the plan.

(*4*) *Allocation with respect to offsets.* In any case in which a series of amounts are deferred over more than one period, the amounts deferred are not reasonably ascertainable until a single resolution date and the benefit payments attributable to the entire series are determined under a formula that provides a gross benefit that in the aggregate is subject to an objective reduction for future events under the terms of the plan, such as an offset for the aggregate benefits payable under a plan qualified under section 401(a), the attribution of benefit payments to the amount deferred in each period is determined under the rules of this paragraph (e)(4)(ii)(D)(*4*). In a case described in the preceding sentence, the benefit payments made as a result of the series of amounts deferred may be treated as attributable to the amount deferred as of the earliest period in which the employee obtained a legally binding right to a benefit under the plan equal to the excess, if any, of the amount of the gross benefit attributable to that period (determined at the resolution date), over the amount of the reduction determined as of the end of that period. Thus, for example, if an employee obtains a legally binding right in each of several years to benefit payments from a nonqualified deferred compensation plan that provides for a specified gross benefit for the years to be offset by the benefits payable under a qualified plan, the amount deferred in the first year may be treated as equal to the gross benefit for the year, reduced by the offset applicable at the end of the year (even if the offset increases after the end of the year).

(E) *Treatment of benefits paid before the resolution date.* If a benefit payment is attributable to an amount deferred that is not reasonably ascertainable at the time of payment (or is paid before the date selected under paragraph (e)(5) of this section), and the employer has previously taken an amount into account with respect to the amount deferred under the early inclusion rule of this paragraph (e)(4), then, in lieu of the pro rata rule provided in paragraph (d)(1)(ii)(B) of this section, a first-in-first-out rule applies in determining the portion of the benefit payment attributable to the amount taken into account. Under this first-in-first-out rule, the benefit payment is compared to the sum of the amount taken into account at the early inclusion date and the income attributable to that amount. If the benefit payment equals or exceeds the amount taken into account at the early inclusion date and the income attributable to that amount as of the date of the benefit payment, the benefit payment is included as wages under the general timing rule of paragraph (a)(1) of this section to the extent of any excess, and the amount taken into account at the early inclusion date (and income attributable to that amount) is disregarded thereafter with respect to the amount deferred. If the amount taken into account at the early inclusion date and the income attributable to that amount as of the date of the benefit payment exceeds the benefit payment, the benefit payment is not included as wages under the general timing rule of paragraph (a)(1) of this section and, in determining the amount that must be taken into account thereafter with respect to the amount deferred, the amount taken into account at the early inclusion date, plus attributable income as of the date of the benefit payment, is reduced by the amount of the benefit payment, and only the excess plus future income attributable to the excess (credited using assumptions that were reasonable on the early inclusion date) is taken into consideration. If amounts have been taken into account at more than one early inclusion date, this paragraph (e)(4)(ii)(E) applies on a first-in-first-out basis, beginning with the amount taken into account at the earliest early inclusion date (including income attributable thereto).

(5) *Rule of administrative convenience.* For purposes of this section, an employer may treat an amount deferred as required to be taken into account under this paragraph (e) on any date that is later than, but within the same calendar year as, the actual date on which the amount deferred is otherwise required to be taken into account under this paragraph (e). For example, if services creating the right to an amount deferred are considered performed under paragraph (e)(2) of this section periodically throughout a year, the employer may nevertheless treat the services creating the right to that amount deferred as performed on December 31 of that year. If an employer uses the rule of administrative convenience described in this paragraph (e)(5), any determination of whether the income attributable to an amount deferred under an account balance plan is based on a reasonable rate of interest or whether the actuarial assumptions used to determine the present value of an amount deferred in a nonaccount balance plan are reasonable will be made as of the date the employer selects to take the amount into account.

(6) *Portions of an amount deferred required to be taken into account on more than one date.* If different portions of an amount deferred are required to be taken into account under paragraph (e)(1) of this section on more than one date (e.g., on account of a graded vesting schedule), then each such portion is considered a separate amount deferred for purposes of this section.

(7) *Examples.* This paragraph (e) is illustrated by the following examples:

*Example 1.* (i) Employer M establishes a nonqualified deferred compensation plan for Employee A on November 1, 2005. Under the plan, which is an account balance plan, Employee A obtains a legally binding right on the last day of each calendar year (if Employee A is employed on that date) to be credited with a principal amount equal to 5 percent of compensation for the year. In addition, a reasonable rate of interest is credited quarterly. Employee A's account balance is nonforfeitable and is payable upon Employee A's termination of employment. For 2006, the principal amount credited to

Employee A under the plan (which, in this case, is also the amount deferred within the meaning of paragraph (c) of this section) is $25,000.

(ii) Under paragraph (e)(2) of this section, the services creating the right to the $25,000 amount deferred are considered performed as of December 31, 2006, the date on which Employee A has performed all of the services necessary to obtain a legally binding right to the amount deferred. Thus, in accordance with paragraph (e)(1) of this section, the $25,000 amount deferred must be taken into account as of December 31, 2006, which is the later of the date on which services creating the right to the amount deferred are performed or the date on which the right to the amount deferred is no longer subject to a substantial risk of forfeiture.

*Example 2.* (i) The facts are the same as in *Example 1,* except that the principal amount credited under the plan on the last day of each year (and attributable interest) is forfeited if the employee terminates employment within five years of that date.

(ii) Under paragraph (e)(3) of this section, the determination of whether the right to an amount deferred is subject to a substantial risk of forfeiture is made in accordance with the principles of section 83. Under § 1.83–3(c) of this chapter, a substantial risk of forfeiture generally exists where rights in property that are transferred are conditioned, directly or indirectly, upon the future performance of substantial services. Because Employee A's right to receive the $25,000 principal amount (and attributable interest) is conditioned on the performance of services for five years, a substantial risk of forfeiture exists with respect to that amount deferred until December 31, 2011.

(iii) December 31, 2011, is the later of the date on which services creating the right to the amount deferred are performed or the date on which the right to the amount deferred is no longer subject to a substantial risk of forfeiture. Thus, in accordance with paragraph (e)(1) of this section, the amount deferred (which, pursuant to paragraph (c)(1) of this section, is equal to the $25,000 principal amount credited to Employee A's account on December 31, 2006, plus the interest credited with respect to that principal amount through December 31, 2011) must be taken into account as of December 31, 2011.

*Example 3.* (i) The facts are the same as in *Example 2,* except that the principal amount credited under the plan on the last day of each year (and attributable interest) becomes nonforfeitable according to a graded vesting schedule under which 20 percent is vested as of December 31, 2007; 40 percent is vested as of December 31, 2008; 60 percent is vested as of December 31, 2009; 80 percent is vested as of December 31, 2010; and 100 percent is vested as of December 31, 2011. Because these dates are later than the date on which the services creating the right to the amount deferred are considered performed (December 31, 2006), the amount deferred is required to be taken into account as of these dates that fall in five different years.

(ii) Paragraph (e)(6) of this section provides that, if different portions of an amount deferred are required to be taken into account under paragraph (e)(1) of this section on more than one date, then each such portion is considered a separate amount deferred for purposes of this section. Thus, $5,000 of the principal amount, plus interest credited through December 31, 2007, is taken into account as an amount deferred on December 31, 2007; $5,000 of the principal amount, plus interest credited through December 31, 2008, is taken into account as a separate amount deferred on December 31, 2008; etc.

*Example 4.* (i) On November 21, 2001, Employer N establishes a nonqualified deferred compensation plan under which all benefits are 100 percent vested. The plan provides for Employee B (who is age 45) to receive a lump sum benefit of $500,000 at age 65. This benefit will be forfeited if Employee B dies before age 65.

(ii) Because the amount, form, and commencement date of the benefit are known, and the only assumptions needed to determine the amount deferred are interest and mortality, the amount deferred is reasonably ascertainable within the meaning of paragraph (e)(4)(i) of this section on November 21, 2001.

*Example 5.* (i) The facts are the same as in *Example 4,* except that plan provides that the lump sum will be paid at the later of age 65 or termination of employment and provides that the $500,000 payable to Employee B is increased by 5 percent per year for each year that payment is deferred beyond age 65.

(ii) Because the commencement date of the benefit payment is contingent on when Employee B terminates employment, the commencement date of the benefit payment is not known. Thus, the amount deferred is not reasonably ascertainable within the meaning of paragraph (e)(4)(i) of this section, unless the plan satisfies the requirements of paragraph (c)(2)(iii)(B) of this section. Because the fixed 5 percent factor may not be reasonable at the time benefit payments commence (i.e., 5 percent might be higher or lower than a reasonable interest rate when payments commence), the plan fails to satisfy paragraph (c)(2)(iii)(B) of this section and accordingly the amount deferred is not reasonably ascertainable until termination of employment.

*Example 6.* (i) The facts are the same as in *Example 4,* except that the $500,000 is payable to Employee B at the later of age 55 or termination of employment.

(ii) Because the commencement date of the benefit payment is contingent on when Employee B terminates employment, the commencement date of the benefit payment is not known. Thus, the amount deferred is not reasonably ascertainable until termination of employment.

*Example 7.* (i) The facts are the same as in *Example 4,* except that Employee B may elect to take the benefit in the form of a life annuity of $50,000 per year (commencing at age 65).

(ii) Because the plan permits employees to elect to receive benefits in more than one form and the alternative forms may not have the same value when Employee B makes his election, the plan fails to satisfy the requirements of paragraph (c)(2)(iii)(B) of this section until a form of benefit is selected. Thus, the amount deferred is not reasonably ascertainable until then.

*Example 8.* (i) Employer O establishes a nonqualified deferred compensation plan. The plan is a supplemental executive retirement plan (SERP) that provides Employee C with a fully vested right to receive a pension, in the form of a life annuity payable monthly, beginning at age 65, equal to the excess of 3 percent of Employee C's final 3-year average pay for each year of participation up to 15 years, over the amount payable to Employee C from Employer O's qualified pension plan. The amount payable under the qualified pension plan is a life annuity payable monthly, beginning at age 65, equal to 1.5 percent of final 3-year average pay for each year of employment, excluding pay in excess of the section 401(a)(17) compensation limit. No benefits are payable under the SERP if Employee C dies before age 65. Employee C becomes a participant in the SERP on January 1, 2001, at age 44. The amount deferred under the SERP for any year is not reasonably ascertainable prior to termination of employment because the amount of the benefit is not known and the determination of the amount deferred requires assumptions other than interest and mortality (e.g., an assumption as to Employee C's average pay for the final three years of employment). As permitted by paragraph (e)(4)(i) of this section, Employer O chooses not to take any amount into account for any year before the resolution date. Employee C terminates employment on December 31, 2018 when he is age 62.

(ii) As of the date Employee C terminates employment, the amount of the benefit is known and the only actuarial or other assumptions needed to determine the amount deferred are an interest rate assumption and a mortality assumption. At that time, the amount deferred in each past year becomes reasonably ascertainable, and Employer O is able to determine that during 2001 Employee C earned a legally binding right to a life annuity of $4,000 per year beginning in 2021 when Employee C is age 65. Employer O determines the present value of Employee C's future benefit payments under the SERP as of this resolution date (December 31, 2018), using a 7 percent interest rate and the UP–84 mortality table, which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2018. The special timing rule will be satisfied if the resulting present value, $26,950, is taken into account on that date in accordance with paragraph (d)(1) of this section.

*Example 9.* (i) The facts are the same as in *Example 8,* except that the plan provides that Employee C may choose to receive early retirement benefits on an unreduced basis at any time after age 60 if Employee C has completed 15 years of service by that date.

(ii) As of the date Employee C terminates employment, the amount of the benefit is known and the only actuarial or other assumptions needed to determine the amount deferred are an interest rate assumption and a mortality assumption. At that time, the amount deferred in each past year becomes reasonably ascertainable, and Employer O is able to determine that during 2001 Employee C earned a legally binding right to a life annuity of $4,000 per year beginning on

December 31, 2018 when Employee C is age 62. Employer O determines the present value of Employee C's future benefit payments under the SERP as of this resolution date (December 31, 2018), using a 7 percent interest rate and the UP–84 mortality table, which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2018. The special timing rule will be satisfied if the resulting present value, $37,576, is taken into account on that date in accordance with paragraph (d)(1) of this section.

*Example 10.* (i) The facts are the same as in *Example 9,* except that, as permitted under paragraph (e)(4)(ii) of this section, Employer O chooses to take an amount into account before the amount deferred for 2001 is reasonably ascertainable. The amount that Employer O takes into account on December 31, 2001, is $13,043 (the present value of a life annuity of $4,000 per year, payable at age 62, using a 6 percent interest rate and the UP–84 mortality table). Employer O does not take any other amount into account before the resolution date.

(ii) In accordance with paragraph (e)(4)(ii)(B) of this section, Employer O must determine any additional amount required to be taken into account in 2018. If the $4,000 payable in the form of a life annuity beginning at age 62 exceeds the life annuity which is actuarially equivalent to the $13,043 previously taken into account, the present value of the excess must be taken into account. In this *Example 10,* the $13,043 previously taken into account is actuarially equivalent to a $4,000 annuity commencing at age 62 using a 6 percent interest rate and the UP–84 mortality table ( which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2001). Accordingly, no additional amount need be taken into account in 2018, regardless of any changes in market rates of interest between 2001 and 2018.

*Example 11.* (i) The facts are the same as in Example 9, except that, as permitted under paragraph (e)(4)(ii) of this section, Employer O chooses to take an amount into account before the amount deferred for 2001 is reasonably ascertainable. The amount that Employer O takes into account on December 31, 2001, is $9,569 (the present value of a life annuity of $4,000 per year, payable at age 65, using a 6 percent interest rate and the UP–84 mortality table). Employer O does not take any other amount into account before the resolution date.

(ii) In accordance with paragraph (e)(4)(ii)(B) of this section, Employer O must determine any additional amount required to be taken into account in 2018. If the $4,000 payable in the form of a life annuity beginning in 2018 at age 62 exceeds the life annuity which is actuarially equivalent to the $9,569 previously taken into account, the present value of the excess must be taken into account. In this case, the $9,569 previously taken into account is actuarially equivalent to a $2,935 annuity commencing at age 62 using a 6 percent interest rate and the UP–84 mortality table (which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2001). Accordingly, an additional amount needs to be taken into account in 2018 equal to the present value of the excess of the $4,000 annual stream of benefit payments to which Employee C obtained a legally binding right during 2001 over the $2,935 annual stream of benefit payments which is actuarially equivalent to the amount previously taken into account. This present value (i.e., the present value of a life annuity equal to $4,000 minus $2,935, or $1,065 annually) is determined by Employer O to be $10,005 as of the resolution date using a 7 percent interest rate and the UP–84 mortality table (which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2018).

*Example 12.* (i) The facts are the same as in *Example 9,* except that the amount that Employer O takes into account on December 31, 2001, is $15,834 (the present value of $4,000, payable at age 60, using a 6 percent interest rate and the UP–84 mortality table). Employer O does not take any other amount into account before the resolution date.

(ii) In accordance with paragraph (e)(4)(ii)(B) of this section, Employer O must determine any additional amount required to be taken into account in 2018. If the $4,000 payable in the form of a life annuity beginning at age 62 exceeds the life annuity which is actuarially equivalent to the $15,834 previously taken into account, the present value of the excess must be taken into account. In this case, the $15,834 previously taken into account is actuarially equivalent to a $4,856 annuity commencing at age 62 using a 6 percent interest rate and the UP–84 mortality table (which, solely for purposes of this example, are assumed to be reasonable actuarial assumptions for December 31, 2001). Because the life annuity of $4,856 per year (which is equivalent to the amount taken into account at the early inclusion date) exceeds the $4,000 annuity attributable to the amount deferred in 2001, no additional amount is required to be taken into account for that amount deferred as of the resolution date. Employer O may claim a refund or credit for the overpayment of FICA tax with respect to amounts taken into account prior to the resolution date to the extent permitted by sections 6402, 6413, and 6511.

*Example 13.* (i) The facts are the same as in *Example 12,* except that Employee C became a participant in the SERP on January 1, 2000. In addition, Employer O determines in 2018 that during 2000 Employee C earned a legally binding right to a life annuity of $1,500 per year beginning on December 31, 2018.

(ii) Employer O may allocate the $15,834 previously taken into account among any amounts deferred on or before the early inclusion date. At the resolution date, Employer O will have to take into account the present value of an annuity equal to the excess of the life annuity attributable to the amounts deferred for 2000 and 2001 over a life annuity of $4,856 per year.

*Example 14.* (i) In 2003, Employer P establishes a nonqualified deferred compensation plan for Employee D. The plan provides that, in consideration of Employee D's services to be performed on Project X in 2004, Employee D will have a nonforfeitable right to receive 1 percent per year of Employer P's net profits associated with Project X for each of the immediately succeeding three years. No services beyond 2004 are required. The 1 percent of net profits payable each year will be paid on March 31 of the immediately succeeding year. One percent of net profits associated with Project X is $750,000 in 2005, $400,000 in 2006, and $90,000 in 2007. Employee D receives $750,000 on March 31, 2006, $400,000 on March 31, 2007, and $90,000 on March 31, 2008.

(ii) Because the services creating the right to all of the amount deferred are performed in 2004, the benefit payments based on the 2005, 2006, and 2007 net profits are all attributable to the amount deferred in 2004. However, because the present value of Employee D's future benefit is contingent on future profits, the determination of the amount deferred requires the use of assumptions other than interest, mortality, and cost of living. Thus, all of the amount deferred in 2004 will not be reasonably ascertainable within the meaning of paragraph (e)(4)(i) of this section until December 31, 2007 (which is the resolution date). Employer P does not choose to take any amount into account prior to the amount deferred becoming reasonably ascertainable.

(iii) However, paragraph (d)(1)(ii)(A) of this section provides that a benefit payment attributable to an amount deferred under a nonqualified deferred compensation plan must be included as wages when actually or constructively paid if the amount deferred has not been taken into account as wages under the special timing rule of paragraph (a)(2) of this section. Thus, the benefit payments in 2006 and 2007 must be included as wages when paid.

(iv) As of December 31, 2007, all of the amount deferred under the plan becomes reasonably ascertainable because the amount of the benefit payable attributable to the amount deferred is treated as known under paragraph (e)(4)(i)(B) of this section, and the only assumption needed to determine the present value of the future benefits is interest. However, since Employer P was required to treat the payments in 2006 and 2007 as wages when paid under the general timing rule of paragraph (a)(1) of this section, only the present value of the payment to be made in 2008 is required to be taken into account as of the resolution date (December 31, 2007) under the special timing rule of paragraph (a)(2) of this section. Using an interest rate of 10 percent per year (which, solely for purposes of this *Example 14,* is assumed to be reasonable), Employer P determines that on December 31, 2007, the present value of the future benefits is $87,881, and Employer P includes that additional amount in wages for 2007. (Note that Employer P can choose to use the lag method of withholding described in paragraph (f)(3) of this section, which allows the resolution date amount to be taken into account no later than March 31, 2008, provided that the amount deferred is increased by interest using the AFR for January of 2008.)

*Example 15.* (i) The facts are the same as in *Example 14,* except that Employer P

chooses the early inclusion option permitted by paragraph (e)(4)(ii) of this section to take $1,000,000 into account on December 31, 2004, before the amount deferred for 2004 is reasonably ascertainable.

(ii) Pursuant to paragraph (e)(4)(ii)(E) of this section, in applying the nonduplication rule of paragraph (a)(2)(iii) of this section, a first-in-first-out rule applies in determining the benefit payments that are attributable to amounts previously taken into account. Using the 10 percent interest rate, Employer P determines that the $750,000 benefit payment on March 31, 2006, and the March 31, 2007, benefit payment of $400,000 are less than the $1,000,000 taken into account at the early inclusion date, plus attributable income, and, therefore, are not included in wages when paid.

(iii) Under paragraph (e)(4)(ii)(E) of this section, if an employer chooses to take an amount into account before the resolution date, the amount taken into account (plus income attributable to that amount) is disregarded to the extent the amount is attributed to benefit payments made before the resolution date. Thus, Employer P must reduce the $1,000,000 taken into account in 2004 (plus income attributable to that amount) based upon the two benefit payments ($750,000 and $400,000) that were excluded from wages. Using an interest rate of 10 percent, Employer P determines that the amount taken into account in 2004 plus interest to the resolution date and reduced based upon the two benefit payments is $15,228 and the additional amount that is required to be taken into account as of December 31, 2007, is $72,653 ($87,881–$15,228).

*Example 16.* (i) Employee E obtains a fully vested, legally binding right during 2002, 2003, and 2004 to payments from a nonqualified deferred compensation plan of Employer Q under which the benefits are based on a formula that includes an actuarial offset by the account balance under a qualified defined contribution plan of Employer Q as of December 31, 2004. The payments from the nonqualified deferred compensation plan are to commence on December 31, 2005. At the resolution date for the amounts earned during 2002, 2003, and 2004, which is December 31, 2004, Employee E has a legally binding right to a net annual benefit of $100,000 payable for life to commence on December 31, 2005. On the resolution date, Employer Q determines that on December 31, 2002, Employee E had a legally binding right to receive $100,000 annually for life beginning on December 31, 2005 (as a result of the gross benefit under the nonqualified plan being $120,000 annually for life, and the offset being $20,000 annually for life, as of December 31, 2002). On December 31, 2003, Employee E had a legally binding right to receive $95,000 annually for life beginning on December 31, 2005 (as a result of the gross benefit under the nonqualified plan being $135,000 annually for life, and the offset being $40,000 annually for life, as of December 31, 2003). On December 31, 2004, Employee E had a legally binding right to receive $100,000 annually for life beginning on December 31, 2005 (as a result of the gross benefit under the nonqualified plan being $145,000 annually for life, and the offset being $45,000 annually for life, as of December 31, 2004).

(ii) In this case, pursuant to paragraph (e)(4)(ii)(D)(*4*) of this section, Employer Q can attribute the entire $100,000 life annuity to the amount deferred for 2002, even though Employee E's benefit under the nonqualified deferred compensation plan is reduced to $95,000 in 2003.

*Example 17.* (i) In 2010, Employee F performs services for which she earns a right to 10 percent of the proceeds from the sale of a motion picture. In 2011, Employee F performs services for which she earns a right to 10 percent of the proceeds from the sale of another motion picture. These proceeds are calculated by subtracting the total advertising expenses for both movies. Payment is to be made in the year following the date on which both pictures have been sold, but not later than 2018. At the end of 2010, the advertising expenses for both pictures totaled $300,000. The first motion picture is sold for $10,000,000 in 2014. The second motion picture is sold for $17,000,000 in 2017. At the end of 2017, the advertising expenses totaled $1,700,000. In 2018, Employee F is paid $2,530,000 (10 percent of the sum of $10,000,000 and $17,000,000 minus $1,700,000).

(ii) Pursuant to paragraph (e)(4)(ii)(D)(*4*) of this section, $970,000 (10 percent of the excess of the gross proceeds from the sale of the first motion picture at the resolution date in 2017 over the advertising expenses incurred at the end of 2010) of the payment made in 2018 can be attributed to the amount deferred in 2010 (and with the remaining payment of $1,560,000 to be attributed to the amount deferred in 2011).

(f) *Withholding*—(1) *In general.* Unless an employer applies an alternative method described in paragraph (f)(2) or (3) of this section, an amount deferred under a nonqualified deferred compensation plan for any employee is treated, for purposes of withholding and depositing FICA tax, as wages paid by the employer and received by the employee at the time it is taken into account in accordance with paragraph (e) of this section. However, paragraphs (f)(2) and (3) of this section provide alternative methods which may be used with respect to an amount deferred for an employee. An employer is not required to be consistent in applying the alternatives described in this paragraph (f) with respect to different employees or amounts deferred.

(2) *Estimated method*—(i) *In general.* Under the alternative method provided in this paragraph (f)(2), the employer may make a reasonable estimate of the amount deferred on the date on which the amount is taken into account in accordance with paragraph (e) of this section and take that estimated amount into account as wages paid by the employer and received by the employee on that date (the estimate date), for purposes of withholding and depositing FICA tax.

(ii) *Underestimate of the amount deferred*—(A) *General rule.* If the employer underestimates the amount deferred (as determined after calculating the actual amount deferred that should have been taken into account as of the date on which the amount was taken into account in accordance with paragraph (e) of this section, using an interest rate and other actuarial assumptions that are reasonable as of that date), the employer may treat the shortfall as wages paid as of the estimate date or as of any date that is no later than three months after the estimate date. In either case, the shortfall does not include the income credited to the amount deferred after the amount is taken into account in accordance with paragraph (e) of this section.

(B) *Shortfall is treated as wages paid on a date after the estimate date.* If the employer chooses to treat the shortfall as wages paid on a date that is no later than three months after the estimate date, the employer must take that shortfall into account as wages paid by the employer and received by the employee on that date, for purposes of withholding and depositing FICA tax.

(C) *Shortfall is treated as wages paid on the estimate date.* If the employer chooses to treat the shortfall as wages paid as of the estimate date, the shortfall is treated as an error for purposes of withholding and depositing FICA tax. Appropriate adjustments may be made in accordance with section 6205(a) and the regulations thereunder; however, for purposes of § 31.6205–1(b), the error need not be treated as ascertained before the date that is three months after the estimate date.

(D) *Reporting.* The employer must report the shortfall as wages on Form 941, Employer's Quarterly Federal Tax Return (and, if applicable, Form 941c, Supporting Statement to Correct Information) and Form W–2, Wage and Tax Statement (or, if applicable, Form W–2c, Corrected Wage and Tax Statement) in accordance with its treatment of the shortfall under paragraph (f)(2)(ii) (B) or (C) of this section.

(iii) *Overestimate of the amount deferred.* If the employer overestimates the amount deferred (as determined after calculating the actual amount deferred that should have been taken into account as of the date on which the amount was taken into account in accordance with paragraph (e) of this section, using an interest rate and actuarial assumptions that are reasonable as of that date) and deposits

more than the amount required, the employer may claim a refund or credit in accordance with sections 6402, 6413, and 6511. A Form 941c, or an equivalent statement, must accompany each claim for refund. In addition, Form W–2 or, if applicable, Form W–2c must also reflect the actual amount deferred that should have been taken into account.

(3) *Lag method.* Under the alternative method provided in this paragraph (f)(3), an amount deferred, plus interest, may be treated as wages paid by the employer and received by the employee, for purposes of withholding and depositing FICA tax, on any date that is no later than three months after the date the amount is required to be taken into account in accordance with paragraph (e) of this section. For purposes of this paragraph (f)(3), the amount deferred must be increased by interest through the date on which the wages are treated as paid, at a rate that is not less than AFR. If the employer withholds and deposits FICA tax in accordance with this paragraph (f)(3), the employer will be treated as having taken into account the amount deferred plus income to the date on which the wages are treated as paid.

(4) *Examples.* This paragraph (f) is illustrated by the following examples:

*Example 1.* (i) Employer M maintains a nonqualified deferred compensation plan that is an account balance plan. The plan provides for annual bonuses based on current year profits to be deferred until termination of employment. Employer M's profits for 2003, and thus the amount deferred, is reasonably ascertainable, but Employer M calculates the amount deferred on March 3, 2004, when the relevant data is available.

(ii) In accordance with the alternative method described in paragraph (f)(2) of this section, Employer M makes a reasonable estimate that the amount deferred that must be taken into account as of December 31, 2003, for Employee A is $20,000, and withholds and deposits FICA tax on that amount as if it were wages paid by Employer M and received by Employee A on that date. In January of 2004, Employer M files and furnishes Form W–2 for Employee A including the $20,000 in FICA wages. On March 3, 2004, Employer M determines that the actual amount deferred that should have been taken into account on December 31, 2003, was $22,000.

(iii) In accordance with the alternative method described in paragraph (f)(2)(ii) of this section, Employer M may treat the additional $2,000 as wages paid to and received by Employee A on December 31, 2003, the estimate date. Employer M may treat the $2,000 shortfall as an error ascertained on March 3, 2004, and withhold and deposit FICA tax on that amount. Form W–2c for Employee A for 2003 must include the $2,000 shortfall in FICA wages. Employer M must also correct the information on Form 941 for the last quarter of 2003, reporting the adjustment on Form 941 for the first quarter of 2004, accompanied by Form 941c for the last quarter of 2003.

(iv) Instead, Employer M may treat the $2,000 shortfall as wages paid on March 31, 2004, and withhold and deposit FICA tax on that amount as if it were wages paid by Employer M and received by Employee A on that date. Form W–2 for Employee A for 2004 and Form 941 for the first quarter of 2004 must include the $2,000 shortfall in FICA wages.

*Example 2.* (i) The facts are the same as in *Example 1,* except that on March 3, 2004, Employer M determines that the actual amount deferred that should have been taken into account on December 31, 2003, was $19,000.

(ii) Under paragraph (f)(2)(iii) of this section, Employer M may, in accordance with sections 6402, 6413, and 6511, claim a refund or credit for the overpayment of tax resulting from the overestimate. In addition, Employer M must file and furnish a Form W–2c for Employee A and must correct the information on Form 941 for the last quarter of 2003.

*Example 3.* (i) The facts are the same as in *Example 1,* except that Employer M does not make a reasonable estimate of the amount deferred that must be taken into account as of December 31, 2003. Instead, Employer M withholds and deposits FICA tax on the amount deferred plus interest on that amount using AFR (for January 2004) as if it were wages paid by Employer M and received by Employee A on March 15, 2004.

(ii) Under the alternative method described in paragraph (f)(3) of this section, the amount taken into account on March 15, 2004 (including the interest), will be treated as FICA wages paid to and received by Employee A on March 15, 2004.

*Example 4.* (i) The facts are the same as in *Example 1,* except that an amount is also deferred for Employee B which is required to be taken into account on October 15, 2003, and Employer M chooses to use the lag method in paragraph (f)(3) of this section in order to provide time to calculate the amount deferred.

(ii) Employer M may use any date not later than January 15, 2004, to take the amount deferred into account (provided that the amount deferred includes interest, at AFR for January 1, 2003, through December 31, 2003, and at AFR for January 1, 2004, through January 15, 2004).

(g) *Effective date and transition rules*—(1) *General effective date.* Except for paragraphs (g)(2) through (4) of this section, this section is applicable on and after January 1, 2000. Thus, paragraphs (a) through (f) of this section apply to amounts deferred on or after January 1, 2000; to amounts deferred before January 1, 2000, which cease to be subject to a substantial risk of forfeiture on or after January 1, 2000, or for which a resolution date occurs on or after January 1, 2000; and to benefits actually or constructively paid on or after January 1, 2000.

(2) *Reasonable, good faith interpretation for amounts deferred and benefits paid before January 1, 2000*—(i) *In general.* For periods before January 1, 2000 (including amounts deferred before January 1, 2000, and any benefits actually or constructively paid before January 1, 2000, that are attributable to those amounts deferred), an employer may rely on a reasonable, good faith interpretation of section 3121(v)(2), taking into account pre-existing guidance. An employer will be deemed to have determined FICA tax liability and satisfied FICA withholding requirements in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer has complied with paragraphs (a) through (f) of this section. For purposes of paragraphs (g)(2) through (4) of this section, and subject to paragraphs (g)(2)(ii) and (iii) of this section, whether an employer that has not complied with paragraphs (a) through (f) of this section has determined FICA tax liability and satisfied FICA withholding requirements in accordance with a reasonable, good faith interpretation of section 3121(v)(2) will be determined based on the relevant facts and circumstances, including consistency of treatment by the employer and the extent to which the employer has resolved unclear issues in its favor.

(ii) *Plan must be established or adopted.* If an amount is deferred under a plan before January 1, 2000, and benefit payments attributable to that amount are actually or constructively paid on or after January 1, 2000, then in no event will an employer's treatment of the amount deferred be considered to be in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer treats that amount as taken into account as wages for FICA tax purposes prior to the establishment of the plan (within the meaning of paragraph (b)(2) of this section) providing for the deferred compensation (or, if later, the establishment of the plan as amended to provide for the deferred compensation, as provided in paragraph (b)(2)(ii) of this section). If an amount is deferred under a plan before January 1, 2000, and benefit payments attributable to that amount are actually or constructively paid before January 1, 2000, then in no event will the employer's treatment of that amount deferred be considered to be in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer treats that amount as taken into account as wages for FICA tax purposes prior to the adoption of the plan providing for the deferred

compensation (or, if later, the adoption of the plan amendment providing the deferred compensation). For example, awards, bonuses, raises, incentive payments, and other similar amounts granted under a plan as compensation for past services may not be taken into account under section 3121(v)(2) prior to the establishment (or, if applicable, the adoption) of the plan.

(iii) *Certain changes in position for stock options, stock appreciation rights, and other stock value rights not reasonable, good faith interpretation.* In the case of a stock option, stock appreciation right, or other stock value right (as defined in paragraph (b)(4)(ii) of this section) that is exercised before January 1, 2000, an employer that treats the exercise as not subject to FICA tax as a result of the nonduplication rule of section 3121(v)(2)(B) is not acting in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer has not treated that grant and all earlier grants as subject to section 3121(v)(2) by reporting the current value of such options and rights as FICA wages on Form 941 filed for the quarter during which each grant was made (or, if later, for the quarter during which each grant ceased to be subject to a substantial risk of forfeiture).

(3) *Optional adjustments to conform with this section for pre-effective-date open periods*—(i) *General rule.* If an employer determined FICA tax liability with respect to section 3121(v)(2) in any period ending before January 1, 2000, for which the applicable period of limitations has not expired on January 1, 2000 (pre-effective-date open periods), in a manner that was not in accordance with this section, the employer may adjust its FICA tax determination for that period to conform to this section. Thus, if an amount deferred was taken into account in a pre-effective-date open period when it was not required to be taken into account (e.g., an amount taken into account before it became reasonably ascertainable), the employer may claim a refund or credit for any FICA tax paid on that amount to the extent permitted by sections 6402, 6413, and 6511.

(ii) *Consistency required.* In the case of a plan that is not a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section), if any payment was actually or constructively paid to an employee under the plan in a pre-effective-date open period and that payment was not included in FICA wages by reason of the employer's treatment of the plan as a nonqualified deferred compensation plan, then the employer may claim a refund or credit for FICA tax paid on amounts treated as amounts deferred under the plan (in accordance with the employer's treatment of the plan as a nonqualified deferred compensation plan) for that employee for pre-effective-date open periods only to the extent that the FICA tax paid on all amounts treated as amounts deferred for the employee in all pre-effective-date open periods under the plan exceeds the FICA tax that would have been due on the benefits actually or constructively paid to the employee in those periods under the plan if those benefits were included in FICA wages when paid. If any benefit payments attributable to amounts deferred after December 31, 1993, were actually or constructively paid to an employee under a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section) in a pre-effective-date open period, but these payments were treated as subject to FICA tax because the employer treated the plan as not being a nonqualified deferred compensation plan, then the employer may claim a refund or credit for the FICA tax paid on those benefit payments only to the extent that the FICA tax paid on those benefit payments exceeds the FICA tax that would have been due on the amounts deferred to which those benefit payments are attributable if those amounts deferred had been taken into account when they would have been required to have been taken into account under this section (if this section had been in effect then).

(iii) *Reporting.* Any employer that adjusts its FICA tax determination in accordance with paragraphs (g)(3)(i) and (ii) of this section must make appropriate adjustments on Form 941 and Form 941c for the affected periods, and, in addition, must file and furnish Form W–2, or, if applicable, Form W–2c, for any affected employee so that the Social Security Administration may correctly post the amount deferred to the employee's earnings record. The adjustments may be made in accordance with section 6205(a) and the regulations thereunder; however, for purposes of § 31.6205–1(b), the error is not required to be treated as ascertained before March 31, 2000.

(4) *Application of reasonable, good faith standard*—(i) *Plans that are not subject to section 3121(v)(2).* If a plan is not a nonqualified deferred compensation plan within the meaning of paragraph (b)(1) of this section, but, for a period ending prior to January 1, 2000, and, pursuant to a reasonable, good faith interpretation of section 3121(v)(2), an amount under the plan was taken into account (within the meaning of paragraph (d)(1) of this section) as an amount deferred under a nonqualified deferred compensation plan, then, pursuant to paragraph (g)(2) of this section, the following rules shall apply—

(A) With respect to benefit payments actually or constructively paid before January 1, 2000, that are attributable to amounts previously taken into account under the plan, no additional FICA tax will be due;

(B) On or after January 1, 2000, benefit payments under the plan must be taken into account as wages when actually or constructively paid in accordance with paragraph (a)(1) of this section; and

(C) To the extent permitted by paragraph (g)(3) of this section, the employer may claim a refund or credit for FICA tax actually paid on amounts taken into account prior to January 1, 2000.

(ii) *Plans that are subject to section 3121(v)(2) for which the amount deferred has not been fully taken into account*—(A) *In general.* The rules of paragraphs (g)(4)(ii)(B) through (E) of this section apply if a plan is a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section) and, with respect to an amount deferred under the plan for an employee prior to January 1, 2000, the employer, in accordance with a reasonable, good faith interpretation of section 3121(v)(2), either took into account an amount that is less than the amount that would have been required to be taken into account if paragraphs (a) through (f) of this section had been in effect for that period or took no amount into account. Thus, paragraphs (g)(4)(ii)(B) through (E) of this section apply both to an employer that treated the plan as if it were not a nonqualified deferred compensation plan within the meaning of section 3121(v)(2) (by withholding and paying FICA tax due on benefits actually or constructively paid under the plan during that period, if any) and to an employer that treated the plan as a nonqualified deferred compensation plan within the meaning of section 3121(v)(2).

(B) *No additional tax required.* Pursuant to paragraph (g)(2) of this section, no additional FICA tax will be due for any period ending prior to January 1, 2000.

(C) *General timing rule applicable.* In accordance with paragraph (d)(1)(ii) of this section, except as provided in paragraphs (g)(4)(ii) (D) and (E), the general timing rule described in paragraph (a)(1) of this section applies to benefits actually or constructively paid on or after January 1, 2000, attributable to an amount deferred in a period before January 1, 2000, to the

extent the amount taken into account was less than the amount that would have been required to be taken into account if paragraphs (a) through (f) of this section had been in effect before January 1, 2000.

(D) *Special rule for amounts deferred before 1994.* The difference between the amount that was taken into account in any period ending prior to January 1, 1994, and the amount that would have been required or permitted to be taken into account in that period if paragraphs (a) through (f) of this section had been in effect is treated as if it had been taken into account within the meaning of paragraph (d)(1) of this section. For example, in the case of an amount deferred before 1994 that was not reasonably ascertainable (and which was not subject to a substantial risk of forfeiture), the employer is treated as if it had anticipated the actual amount, form, and commencement date for the benefit payments attributable to the amount deferred and had taken the amount deferred into account at an early inclusion date before 1994 using a method permitted under this section. Thus, with respect to such an amount deferred, the employer is not required to take any additional amount into account when the amount deferred becomes reasonably ascertainable, and no additional FICA tax will be due when the benefit payments attributable to the amount deferred are actually or constructively paid.

(E) *Special rule for amounts required to be taken into account in 1994 or 1995.* In the case of an amount deferred that would have been required to be taken into account in 1994 or 1995 if paragraphs (a) through (f) of this section had been in effect, an employer will be treated as taking the amount deferred into account under paragraph (d)(1) of this section to the extent the employer takes the amount into account by treating it as wages paid by the employer and received by the employee as of any date prior to April 1, 2000.

(iii) *Plans that are subject to section 3121(v)(2) for which more than the amount deferred has been taken into account.* If a plan is a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section) and an amount was taken into account under the plan for an employee before January 1, 2000, in accordance with a reasonable, good faith interpretation of section 3121(v)(2), but that amount could not have been taken into account before January 1, 2000, if paragraphs (a) through (f) of this section had been in effect then, the following rules apply—

(A) The determination of the amount deferred for any period beginning on or after January 1, 2000, must be made in accordance with paragraph (c) of this section, and the time when amounts deferred under the plan are required to be taken into account must be determined in accordance with paragraph (e) of this section, without regard to any such amount that was taken into account for any period ending before January 1, 2000; and

(B) To the extent permitted by sections 6402, 6413, and 6511, the employer may claim a refund or credit for an overpayment of tax caused by the overinclusion of wages that occurred before January 1, 2000.

(5) *Examples.* This paragraph (g) is illustrated by the following examples:

*Example 1.* (i) In 1996, Employer M establishes a nonqualified deferred compensation plan that is a nonaccount balance plan for Employee A. All benefits under the plan are 100 percent vested. In order to determine the amount deferred on behalf of Employee A under the plan for 1996 and 1997, Employer M must make assumptions as to the date on which Employee A will retire and the form of benefit Employee A will elect, in addition to interest, mortality, and cost-of-living assumptions. Based on assumptions made with respect to all of these contingencies, Employer M determines that the amount deferred for 1996 is $50,000 and the amount deferred for 1997 is $55,000. In 1996 and 1997, Employee A's total wages (without regard to the amounts deferred) exceed the OASDI wage bases. Employer M withholds and deposits HI tax on the $50,000 and $55,000 amounts. Employee A does not retire before January 1, 2000. Employer M chooses under paragraph (g)(3) of this section to apply this section to 1996 and 1997 before the January 1, 2000, general effective date.

(ii) Under this section, the amounts deferred in 1996 and 1997 are not reasonably ascertainable (within the meaning of paragraph (e)(4)(i) of this section) before January 1, 2000. Thus, as long as the applicable period of limitations has not expired for the periods in 1996 and 1997, Employer M may, to the extent permitted under paragraph (g)(3) of this section, apply for a refund or credit for the HI tax paid on the amounts deferred for 1996 and 1997 and, in accordance with paragraph (e)(4) of this section, take into account the amounts deferred when they become reasonably ascertainable.

*Example 2.* (i) Employer N adopts a plan on January 1, 1994, that covers Employee B, who has 10 years of service as of that date. The plan provides that, in consideration of Employee B's outstanding services over the past 10 years, Employee B will be paid a $500,000 lump sum distribution upon termination of employment at any time. On January 15, 1996, Employee B terminates employment with Employer N. Employer N determines, based on a reasonable, good faith interpretation of section 3121(v)(2), that the plan is a nonqualified deferred compensation plan under that section. Employer N treats the $500,000 as having been taken into account as an amount deferred in 1993 and earlier years.

(ii) Under paragraph (g)(2)(ii) of this section, if all amounts are deferred and all benefits are paid under a plan before January 1, 2000, then in no event will an employer's treatment of amounts deferred under the plan be considered to be in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer treats these amounts as taken into account as wages for FICA tax purposes prior to the adoption of the plan. Accordingly, Employer N's treatment is not in accordance with a reasonable, good faith interpretation of section 3121(v)(2) because Employer N treated amounts as taken into account in years before the adoption of the plan. As a result, the payment made to Employee B in 1996 was subject to both the OASDI and HI portions of FICA tax when paid.

*Example 3.* (i) Employer O adopts a bonus plan on December 1, 1993, that becomes effective and legally binding on January 1, 1994. Under the plan, which is not set forth in writing, a specified bonus amount (which is 100 percent vested) is credited to Employee C's account each December 31. A reasonable rate of interest on Employee C's account balance is credited quarterly. Employee C's account balance will begin to be paid in equal annual installments over 10 years beginning on January 1, 2000. Employer O determines, based on a reasonable, good faith interpretation of section 3121(v)(2), that the bonus plan is a nonqualified deferred compensation plan under that section and, therefore, treats the amounts credited from January 1, 1994, through December 31, 1999, as amounts deferred and, in accordance with a reasonable, good faith interpretation of section 3121(v)(2), takes those amounts deferred into account as wages for FICA tax purposes as of those dates. The bonus plan is set forth in writing on May 1, 1999, and, thus, is treated as established as of January 1, 1994.

(ii) Under paragraph (g)(2)(ii) of this section, if an amount is deferred before January 1, 2000, and the attributable benefit is paid on or after January 1, 2000, then in no event will an employer's treatment of the amount deferred under a plan be considered to be in accordance with a reasonable, good faith interpretation of section 3121(v)(2) if the employer treats the amount deferred as taken into account as wages for FICA tax purposes prior to the establishment of the plan (within the meaning of paragraph (b)(2) of this section). Because the bonus plan is treated as established on January 1, 1994 (pursuant to the transition rule for unwritten plans in paragraph (b)(2)(iii) of this section), and because Employer O, in accordance with a reasonable, good faith interpretation of section 3121(v)(2), took amounts deferred into account in 1994 through 1999, the amounts paid to Employee C attributable to those amounts deferred will not be subject to FICA tax when paid.

*Example 4.* (i) In 1985, Employer P establishes a compensation arrangement for Employee D that provides for a lump sum

payment to be made after termination of employment but the arrangement is not a nonqualified deferred compensation plan (within the meaning of paragraph (b)(1) of this section). However, prior to January 1, 2000, and in accordance with a reasonable, good faith interpretation of section 3121(v)(2), Employer P treats the arrangement as a nonqualified deferred compensation plan under section 3121(v)(2). Employer P determines that Employee D's total wages (without regard to the amount deferred) for each year from 1985 through 1993 exceed the applicable OASDI and HI wage bases for each of those years and, consequently, there is no FICA tax liability with respect to the amounts deferred for those years. In 1994, Employee D's total wages (without regard to the amount deferred) exceed the OASDI wage base. However, because there is no limit on the HI wage base, the amount deferred for 1994 results in additional HI tax liability of $290, which is timely paid by Employer P.

(ii) Employee D terminates employment with Employer P in 1995 and receives a plan payment of $50,000. In that year, Employee D also receives wages of $60,000 from Employer P. In accordance with its treatment of the plan as a nonqualified deferred compensation plan under section 3121(v)(2), Employer P does not treat the $50,000 payment in 1995 as wages for FICA tax purposes in that year.

(iii) Because amounts under a plan were taken into account (within the meaning of paragraph (d)(1) of this section) as amounts deferred under a nonqualified deferred compensation plan pursuant to a reasonable, good faith interpretation of section 3121(v)(2)(A), but that plan is not a nonqualified deferred compensation plan within the meaning of paragraph (b)(1) of this section, the transition rules provided in paragraph (g)(4)(i) of this section apply. Thus, no additional FICA tax will be due on the benefits paid in 1995.

(iv) Because $290 of HI tax was paid on the amount deferred in 1994, Employer P is entitled to a refund or credit for that amount to the extent permitted under sections 6402, 6413, and 6511—but only to the extent that $290 exceeds the FICA tax that would have been due on the $50,000 payment in 1995 if that payment had been subject to FICA tax when paid (i.e., if paragraphs (a) through (f) of this section had been effective for those years). In 1995, Employee D had other wages of $60,000. Thus, only $1,200 (the $61,200 OASDI wage base, less the $60,000 of other wages) of the $50,000 payment would have been subject to OASDI; the full $50,000 would have been subject to HI. This would have resulted in $148.80 of OASDI tax ($1,200 x 12.4 percent) and $1,450 of HI tax ($50,000 x 2.9 percent). Employer P is not entitled to a refund or credit under the consistency rule of paragraph (g)(3)(ii) because the $290 of HI tax paid in 1994 is less than the total $1,598.80 of FICA tax liability that would have resulted if this section had applied for 1995.

(v) However, if the benefit payment is instead actually or constructively paid on or after January 1, 2000, the benefit payment must be taken into account as wages when actually or constructively paid in accordance with the general timing rule of paragraph (a)(1) of this section (and paragraph (g)(4)(i)(B) of this section).

*Example 5.* (i) In 1985, Employer Q establishes a compensation arrangement for Employee E that is a nonqualified deferred compensation plan within the meaning of paragraph (b)(1) of this section. However, prior to January 1, 2000, Employer Q determines, based on a reasonable, good faith interpretation of section 3121(v)(2), that the arrangement is not a nonqualified deferred compensation plan within the meaning of that section. Thus, when Employee E retires at the end of 1996 and benefit payments under the arrangement begin in 1997, Employer Q withholds and deposits FICA tax on the amounts paid to Employee E. Payments under the arrangement continue on or after January 1, 2000. Employer Q does not choose (under paragraph (g)(3) of this section) to adjust its FICA tax determination for a pre-effective-date open period by treating this section as in effect for all amounts deferred and benefits actually or constructively paid for any such period. The periods in 1994 and 1995 are not pre-effective-date open periods for Employer Q.

(ii) Under paragraph (g)(4)(ii) of this section, for purposes of determining whether benefits actually or constructively paid on or after January 1, 2000, were previously taken into account for purposes of applying the nonduplication rule of section 3121(v)(2)(B), any amount that would have been required to have been taken into account before 1994 will be treated as if it had been taken into account within the meaning of paragraph (d)(1) of this section. Under the nonduplication rule, benefit payments attributable to an amount that has been so treated as taken into account is not treated as wages for FICA tax purposes at any later time (such as upon payment).

(iii) Because Employer Q does not adjust its FICA tax determination by treating this section as in effect for all amounts deferred for periods ending after December 31, 1993, any benefit payments attributable to amounts deferred in periods ending after December 31, 1993, will be included in wages when actually or constructively paid in accordance with the general timing rule of paragraph (a)(1) of this section.

*Example 6.* (i) The facts are the same as in *Example 5*, except that Employer Q chooses (in accordance with paragraph (g)(3) of this section) to adjust its FICA tax determination for all pre-effective-date open periods by treating this section as in effect for all amounts deferred for those periods. In addition, Employer Q chooses (in accordance with paragraph (g)(4)(ii)(E) of this section) to take the amounts deferred for 1994 and 1995 into account by treating these amounts as FICA wages paid and received by Employee E on January 15, 2000.

(ii) In accordance with the nonduplication rule of paragraph (a)(2)(iii) of this section, because all amounts deferred for Employee E under the plan were taken into account (or treated as taken into account), any benefit payments made to Employee E under the plan will not be included as FICA wages when actually or constructively paid.

*Example 7.* (i) The facts are the same as in Example 5, except that Employer Q does not withhold and deposit the FICA tax due on benefits actually or constructively paid before January 1, 2000.

(ii) Because Employer Q did not withhold and deposit the FICA tax due on benefits actually or constructively paid before January 1, 2000, Employer Q did not determine FICA tax liability and satisfy FICA tax withholding requirements in accordance with a reasonable, good faith interpretation of section 3121(v)(2). Thus, the transition rules provided in paragraphs (g)(3) and (4) of this section do not apply. As a result, any amount that would have been required to have been taken into account under this section before 1994 is not treated as if it had been so taken into account under paragraph (g)(4)(ii)(D) of this section, and benefit payments attributable to amounts deferred before January 1, 2000, are treated as FICA wages when actually or constructively paid in accordance with the general timing rule of paragraph (a)(1) of this section.

*Example 8.* (i) In 1993, Employer R establishes a nonqualified deferred compensation plan for Employee F under which Employee F will have a fully vested right to receive a lump sum payment in 2000 equal to 50 percent of Employee F's highest rate of salary. On December 31, 1993, Employee F's highest salary is $1 million. In accordance with a reasonable, good faith interpretation of section 3121(v)(2), Employer R determines that, for 1993, there is an amount deferred that must be taken into account as wages for FICA tax purposes. Based Employer R's estimate that Employee F's highest salary will be $3 million in 2000, Employer R determines that the amount deferred is equal to the present value in 1993 of $1.5 million payable in 2000. However, because Employee F has other wages in 1993 that exceed the applicable OASDI and HI wage bases for that year, no additional FICA tax is paid as a result of that amount deferred being taken into account for 1993. In addition, Employer R takes no amounts into account under the plan after 1993 for Employee F. Under paragraphs (e)(1) and (4)(ii)(D)(*2*) of this section, the largest amount that could have been taken into account in 1993 is the present value of a lump sum payment of $500,000, payable in 2000, because that is the maximum amount to which Employee R has a legally binding right as of December 31, 1993. Employee F's highest salary is, in fact, $3 million in 2000 and Employee F receives $1.5 million under the plan on December 31, 2000.

(ii) In accordance with paragraphs (g)(1) and (4)(iii)(A) of this section, the determination of the amount deferred under the plan for any period beginning on or after January 1, 2000, and the time when that amount deferred is required to be taken into account must be determined in accordance with this section. In addition, these determinations must be made without regard to any amount deferred that was taken into account for any period ending before January 1, 2000, that could not be taken into account before January 1, 2000, if paragraphs (a) through (f) of this section had been in effect. Because no FICA tax was actually paid on

that $1 million in 1993, no overpayment of tax was caused by the overinclusion of wages in 1993 and, thus, Employer R is not entitled to a refund or credit (even assuming that the period of limitations has been kept open for periods in 1993). In addition, because the difference between the present value of the $1.5 million payment and the present value of a $500,000 payment was not taken into account for periods beginning on or after January 1, 1994, $1 million must be included in FICA wages under the general timing rule when paid.

**§ 31.3121(v)(2)–2 Effective dates and transition rules.**

(a) *General statutory effective date.* Except as otherwise provided in paragraphs (b) through (e) of this section, section 3121(v)(2) and the amendments made to section 3121(a)(2), (a)(3), and (a)(13) by the Social Security Amendments of 1983 (Pub. L. 98–21, 97 Stat. 65), as amended by section 2662(f)(2) of the Deficit Reduction Act of 1984 (Pub. L. 98–369, 98 Stat. 494), apply to amounts deferred and benefits paid after December 31, 1983.

(b) *Definitions.* For purposes of § 31.3121(v)(2)–1 and this section, the following definitions apply:

(1) *FICA. FICA* means the Federal Insurance Contributions Act (26 U.S.C. 3101 *et seq.*).

(2) *457(a) plan. A 457(a) plan* means an eligible deferred compensation plan of a State or local government or of a tax-exempt organization to which section 457(a) applies.

(3) *Gap agreement. Gap agreement* means an agreement adopted after March 24, 1983, and on or before December 31, 1983, between an individual and a nonqualified deferred compensation plan within the meaning of § 31.3121(v)(2)–1(b). Such an agreement does not fail to be a gap agreement merely because the terms of the plan are changed after December 31,1983.

(4) *Individual party to a gap agreement. Individual party to a gap agreement* means an individual who was eligible to participate in a gap agreement on December 31, 1983, under the terms of the agreement on that date. An individual will be treated as an individual party to a gap agreement even if the individual has not accrued any benefits under the plan by December 31, 1983, and regardless of whether the individual has taken any specific action to become a party to the agreement. However, an individual who becomes eligible to participate in a gap agreement after December 31, 1983, is not an individual party to a gap agreement.

(5) *Individual party to a March 24, 1983 agreement. Individual party to a March 24, 1983 agreement* means an individual who was eligible to participate in a March 24, 1983 agreement under the terms of the agreement on March 24, 1983. An individual will be treated as an individual party to a March 24, 1983 agreement even if the individual has not accrued any benefits under the plan by March 24, 1983, and regardless of whether the individual has taken any specific action to become a party to the agreement. However, an individual who becomes eligible to participate in a March 24, 1983 agreement after March 24, 1983, is not an individual party to a March 24, 1983 agreement.

(6) *March 24, 1983 agreement. March 24, 1983 agreement* means an agreement in existence on March 24, 1983, between an individual and a nonqualified deferred compensation plan within the meaning of § 31.3121(v)(2)–1(b). Such an agreement does not fail to be a March 24, 1983 agreement merely because the terms of the plan are changed after March 24, 1983. In addition, for purposes of this paragraph (b)(6) only, any plan (or agreement) that provides for payments that qualify for one of the retirement payment exclusions is treated as a nonqualified deferred compensation plan. For example, § 31.3121(v)(2)–1(b)(4)(v) provides that certain benefits established in connection with impending termination do not result from the deferral of compensation and thus are not considered deferred under a nonqualified deferred compensation plan. However, a plan that provides such benefits and that was in existence on March 24, 1983, is treated as a nonqualified deferred compensation plan for purposes of this paragraph (b) to the extent it provides benefits that would have satisfied one of the retirement payment exclusions.

(7) *Retirement payment exclusions. Retirement payment exclusions* are the exclusions from wages (for FICA tax purposes) for retirement payments under section 3121(a)(2)(A), (a)(3), and (a)(13)(A)(iii), as in effect on April 19, 1983 (the day before enactment of the Social Security Amendments of 1983).

(8) *Transition benefits. Transition benefits* are payments made after December 31, 1983, attributable to services rendered before January 1, 1984. For this purpose, transition benefits are determined without regard to any changes made in the terms of the plan after March 24, 1983, in the case of a March 24, 1983 agreement or after December 31, 1983, in the case of a gap agreement.

(c) *Transition rules*—(1) *In general.* Except as provided in paragraph (c)(2) or (3) of this section, the general statutory effective date described in paragraph (a) of this section applies to benefit payments after December 31, 1983. Thus, except as provided in paragraph (c)(2) or (3) of this section, section 3121(v)(2) applies, and the retirement payment exclusions do not apply, to benefit payments made after December 31, 1983, even if the benefit payments are made under a March 24, 1983 agreement or a gap agreement.

(2) *Transition benefits under a March 24, 1983 agreement.* With respect to an individual party to a March 24, 1983 agreement, transition benefits paid under that March 24, 1983 agreement (except for those paid under a 457(a) plan) are not subject to the special timing rule of section 3121(v)(2) and are subject to section 3121(a) as in effect on April 19, 1983. Thus, transition benefits under a March 24, 1983 agreement (except for those under a 457(a) plan) to an individual party to a March 24, 1983 agreement are excluded from wages (for FICA tax purposes) only if they qualify for any of the retirement payment exclusions (or any other exclusion provided under section 3121(a) as in effect on April 19, 1983).

(3) *Transition benefits under a gap agreement.* With respect to an individual party to a gap agreement, the payor of transition benefits under the gap agreement must choose to either—

(i) Take the transition benefits into account as wages when paid; or

(ii) Take the amount deferred (within the meaning of § 31.3121(v)(2)–1(c)) with respect to the transition benefits into account as wages under section 3121(v)(2) (as if section 3121(v)(2) had applied before its general statutory effective date).

(d) *Determining transition benefit portion.* For purposes of determining the portion of total benefits under a nonqualified deferred compensation plan that represents transition benefits, if, under the terms of the plan, benefit payments are not attributed to specific years of service, the employer may use any reasonable method. For example, if a plan provides that the employee will receive benefits equal to 2 percent of high 3-year average compensation multiplied by years of service, and the employee retires after 25 years of service, 9 of which are before 1984, the employer may determine that 9/25 of the total benefit payments to be received beginning in 2000 are transition benefits attributable to services performed before 1984.

(e) *Order of payment.* If an employer determines, in accordance with paragraph (d) of this section, that a portion of the total benefits under a

nonqualified deferred compensation plan constitutes transition benefits, then, for purposes of determining the portion of each benefit payment that constitutes transition benefits, the employer must treat each benefit payment as consisting of transition benefits in the same proportion as the transition benefits that have not been paid (as of January 1, 2000) bear to total benefits that have not been paid (as of January 1, 2000), unless such allocation is inconsistent with the terms of the plan. However, for a benefit payment made before January 1, 2000, the employer may use any reasonable allocation method to determine the portion of a payment that consists of transition benefits, provided that the allocation method is consistent with the terms of the plan.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

**Par. 3.** The authority citation for part 602 continues to read as follows:

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

**Par. 4.** In § 602.101, paragraph (c) is amended by adding the following entry in the table in numerical order to read as follows:

**§ 602.101 OMB Control numbers.**

* * * * *

(c) * * *

| CFR part or section where identified and described | Current OMB control No. |
|---|---|
| * * * * * | |
| 31.3121(v)(2)–1 ..... | 1545–1643 |
| * * * * * | |

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: December 23, 1998.

**Donald C. Lubick,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 99–1663 Filed 1–28–99; 8:45 am]

BILLING CODE 4830–01–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[GA 34–2–9902a; FRL–6227–7]**

## Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to Georgia State Implementation Plan; Vehicle Inspection/Maintenance Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final interim rule.

**SUMMARY:** EPA is approving the enhanced Inspection/Maintenance (I/M) program for the State of Georgia. The program had initially been given conditional interim approval under the terms of section 110 of the Clean Air Act (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA), as noted in EPA's final conditional interim rule action in the August 11, 1997, **Federal Register**. Due to delays in implementing Phase 2 of the program, the Georgia enhanced I/M program had been disapproved on March 11, 1998, which triggered an eighteen month clock prior to the imposition of sanctions. This approval action also serves to stop the sanctions clock.

**DATES:** This final interim rule is effective March 30, 1999 without further notice, unless EPA receives adverse comment by March 1, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the final interim rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Contact Scott Martin 404–562–9036. Reference file Georgia 34–2–9902.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin at 404–562–9036 or for information regarding the I/M program contact Dale Aspy at 404–562–9041.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On December 13, 1996 (61 FR 65496), EPA published a notice of proposed rulemaking (NPR) for the State of Georgia. The NPR proposed conditional interim approval of Georgia's enhanced I/M program, for the Atlanta ozone nonattainment area, submitted to satisfy the applicable requirements of both the CAA and the NHSDA. The formal SIP revision, which was submitted by the Georgia Environmental Protection Division (EPD) on March 27, 1996, contained plans to implement the program in two phases. The plan for Phase 1 described how the program would be expanded from the four counties in the previous program to the 13 ozone nonattainment counties. Phase 1 also implemented a two speed idle (TSI) test and a gas cap pressure check for all vehicles that were subject to an emissions inspection. The implementation of Phase 2 requires an acceleration simulation mode (ASM) test for vehicles older than six model years, while newer vehicles continue to be subject to the TSI test. Phase 2 also implements minor changes in emission testing software. It was proposed the program be conditionally approved because it lacked ASM test method specifications and a requirement to implement the program in a timely manner. Subsequently, on January 31, 1997, the Georgia EPD submitted the necessary ASM test method, satisfying one of the conditions for program approval. These specifications were largely based upon EPA's specifications for the ASM test. Therefore, on August 11, 1997 (62 FR 42916) EPA noted the test specifications condition of the December 13, 1996, proposal was met and removed, and final conditional interim approval was given to the program, contingent upon a timely start-up. The Georgia EPD began implementation of the I/M program as scheduled and had met all program milestones at the time the final conditional interim approval was published on August 11, 1997. However, problems were encountered when mandatory ASM testing began as scheduled on October 1, 1997. There were an insufficient number of stations capable of performing ASM testing due to a lack of test equipment and also other hardware and software problems. Due to the continued inability of equipment vendors to supply a sufficient number of stations with approved ASM equipment and Phase 2 software, the State passed an emergency rule on November 15, 1997, effective on the same day, that temporarily

suspended mandatory ASM testing, but encouraged it as an option through an incentive program for testing stations. The two speed idle test continued to be the emissions test used to ultimately pass or fail a vehicle in the program. Because numerous problems were indicated by preliminary software testing, and additional time was required to resolve these problems, on March 25, 1998, the State adopted a rule which extended the use of the two speed idle test until as late as January 1, 1999. This rule became effective on April 15, 1998. However, the State indicated to EPA that it would resume ASM testing earlier, if sufficient capability existed to minimize testing waiting times. As a result of this delay in fully implementing the program, EPA sent a letter to the State on March 11, 1998, indicating that the conditional approval had converted to a disapproval pursuant to the terms of the conditional approval, with respect to the full start-up of the program. This letter had the effect of staying the 18 month evaluation clock under the NHSDA during the disapproval time period. The Georgia EPD subsequently determined there would be sufficient testing capability to minimize waiting times before the January 1, 1999 date. Therefore, on August 26, 1998, the State adopted rules, which became effective on October 1, 1998, that moved the resumption of mandatory ASM testing to October 1, 1998. Subsequently, on October 1, 1998, mandatory ASM testing of vehicles older than six model years resumed. EPA was notified of this occurrence via letter on November 4, 1998.

EPA has the authority to reapprove the SIP based on the letter from the State of Georgia without further SIP submission as the SIP has not been changed. The program, as described in the above referenced **Federal Register** documents, has been implemented.

As noted in the August 11, 1997 **Federal Register** document referenced above, the term of the interim approval of the Georgia I/M program was set to expire on February 11, 1999 as per the NHSDA requirements. However, the March 11, 1998 letter stayed that clock until the program was reapproved. Therefore, interim rulemaking will now expire on November 11, 1999. A full approval of Georgia's final I/M SIP revision is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews Georgia's submitted enhanced I/M program evaluation and regulations, final rulemaking on the State's full SIP revision will occur.

Additional detailed discussion of the Georgia enhanced I/M SIP and the rationale for EPA's action are explained in the proposal notice published December 13, 1996, at 61 CFR 65496–65504 and in the final conditional interim approval notice published on August 11, 1997, at 62 FR 42916–42918 and will not be restated here.

## II. Final Action

EPA is giving final interim approval to the Georgia I/M program because it is consistent with the CAA and Agency requirements.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 30, 1999 without further notice unless the Agency receives adverse comments by March 1, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 30, 1999 and no further action will be taken on the proposed rule.

## III. Administrative Requirements

### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

### *B. Executive Order 12875*

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

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

### *C. Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

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

### *D. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically

significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866 and it does not involve decisions intended to mitigate environmental health or safety risks.

*E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*F. Unfunded Mandates*

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

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

*G. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 30, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 13, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

## PART 52—[AMENDED]

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

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart L—Georgia

2. Section 52.582 is amended by adding paragraph (c) to read as follows:

**§ 52.582 Control Strategy: Ozone.**

* * * * *

(c) EPA is giving final interim approval to the Georgia Inspection and Maintenance (I/M) Program submitted on March 27, 1996, with supplemental information submitted on January 31, 1997, until November 11, 1999.

* * * * *

[FR Doc. 99–2194 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 63

**[AD–FRL–6227–5]**

**RIN 2060–AE04**

## National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction.

**SUMMARY:** This action corrects the national emission standards for hazardous air pollutants (NESHAP) for new and existing secondary lead smelters. Specifically, the compliance date is corrected to December 23, 1997, and a 5-year Title V permitting deferral for non-major sources is reinstated.

**DATES:** *Effective Date:* January 29, 1999.

*Judicial Review.* Under section 307(b)(1) of the Act, judicial review of a NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of the publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of this document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

**ADDRESSES:** *Docket.* Docket No. A–92–43, containing information considered by the EPA in development of the promulgated standards, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kevin Cavender, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–2364.

**SUPPLEMENTARY INFORMATION:**

## I. Overview

The EPA promulgated the NESHAP for new and existing secondary lead smelters on June 23, 1995 (60 FR 32587). The compliance date was set at June 23, 1997. On December 12, 1996 (61 FR 65334), the EPA extended the compliance date to December 23, 1997. On June 13, 1997, the EPA amended the rule, and inadvertently reset the compliance date to June 23, 1997. This action corrects the compliance date to December 23, 1997, as extended in the December 12, 1996 amendment to the rule.

On June 3, 1996, a 5-year Title V permitting deferral for area sources was added (61 FR 27785). Again, when the rule was amended on June 13, 1997, the deferral was inadvertently removed. This action reinstates the 5-year Title V permitting deferral for area sources.

## II. Administrative Requirements

*The Administrative Procedure Act*

Consistent with section 553(b) of the Administrative Procedure Act (APA), the EPA has found good cause that notice and an opportunity to comment on this action is unnecessary because this action merely corrects a typographical error and would not benefit from public comment. In addition, the EPA has found good cause under APA section 553(d)(3) for waiving the APA's 30-day delay in effectiveness as to this final rule. It is important that this minor correction becomes effective immediately because it corrects a regulatory requirement that is currently applicable to affected facilities.

*Docket*

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docket system is intended to allow members of the public and affected industries to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the background information documents (BIDs) and preambles to the proposed and promulgated standards, the contents of the docket, excluding interagency review materials, will serve as the official record in case of judicial review (section 307(d)(7)(A) of the Act).

*Executive Order 12866*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The EPA has determined that this correction to the final rule is not a ''significant regulatory action'' under the terms of the Executive Order and is therefore not subject to OMB review.

*Executive Order 12875*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's correction does not create a mandate on State, local or tribal governments. The correction does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this correction.

*Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's action does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

*Paperwork Reduction Act*

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This action will not impose any new information collection requirements.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (or RFA, Public Law 96–354, September 19, 1980) requires Federal agencies to give special consideration to the impact of regulation on small businesses. The RFA specifies that a regulatory flexibility analysis must be prepared if a screening analysis indicates a regulation will have a significant economic impact on a substantial number of small entities. This action will not result in increased economic impacts to small entities.

*Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This action does not involve technical standards.

*Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045*

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to E.O. 13045 because it is not economically significant, nor does it involve decisions based on environmental health or safety risks.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Compliance dates, Secondary lead smelters.

Dated: January 22, 1999.

**Robert Perciasepe,**

*Assistant Administrator for Air and Radiation.*

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

## PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 63.541 is amended by adding paragraph (c) to read as follows:

**§ 63.541 Applicability.**

* * * * *

(c) The owner or operator of any source subject to the provisions of this subpart X is subject to title V permitting requirements. These affected sources, if not major or located at major sources as defined under 40 CFR 70.2, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the date on which the EPA first approves a part 70 program (i.e., until December 9, 1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet the compliance schedule as stated in § 63.546.

3. Section 63.546 is amended by revising paragraph (a) as follows:

**§ 63.546 Compliance dates.**

(a) Each owner or operator of an existing secondary lead smelter shall achieve compliance with the requirements of this subpart no later than December 23, 1997. Existing sources wishing to apply for an extension of compliance pursuant to section § 63.6(i) of this part must do so no later than June 23, 1997.

* * * * *

[FR Doc. 99–2196 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–U

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300772; FRL–6050–6]**

**RIN 2070–AB78**

## Azoxystrobin; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for combined residues or residues of azoxystrobin or methyl (E)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its Z isomer in or on strawberries. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberries in Florida. This regulation establishes a maximum permissible level for residues of Azoxystrobin in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on July 30, 2000.

**DATES:** This regulation is effective January 29, 1999. Objections and requests for hearings must be received by EPA on or before March 30, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300772], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300772], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300772]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jacqueline E. Gwaltney, Registration Division (7505C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-6792, e-mail: Gwaltney.Jackie@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to sections 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for combined residues or residues of the fungicide azoxystrobin and its Z isomer, in or on strawberry at 0.05 part per million (ppm). This tolerance will expire and is revoked on July 30, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

## I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

## II. Emergency Exemption for Azoxystrobin on Strawberry and FFDCA Tolerances

The Florida Department of Agriculture and Consumer Services requested an emergency exemption on September 28, 1998 for the control of anthracnose on strawberries. Anthracnose adversely affect the plants in a variety of ways. It can cause plant losses (crown rot, root rot, anthracnose of the stolon and petiole, but rot, and leaf spots) and fruit losses (anthracnose fruit rot and flower blight).

The two factors that have brought about this emergency condition include variety shift and lack of efficacy of previously effective fungicides. No single variety has all the desirable characteristics. Among these desirable characteristics important to Florida growers are: season-long production, early and late production, disease resistance, insect and mite resistance, etc.

EPA has authorized under FIFRA section 18 the use of azoxystrobin on strawberry for control of anthracnose in Florida. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of azoxystrobin in or on strawberry. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on July 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether azoxystrobin meets EPA's registration requirements for use on strawberry or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of azoxystrobin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Florida to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for azoxystrobin, contact the Agency's Registration Division at the address provided above.

## III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997)(FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available

scientific data and other relevant information in support of this action EPA has sufficient data to assess the hazards of azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues or residues of azoxystrobin on strawberry at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

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

1. *Acute toxicity*. The Agency evaluated the existing toxicology database for azoxystrobin and did not identify an acute dietary endpoint. Therefore, a risk assessment is not required.

2. *Short - and intermediate - term toxicity*. The Agency evaluated the existing toxicology database for short- and intermediate-term dermal and inhalation exposure and determined that this risk assessment is not required.

3. *Chronic toxicity*. EPA has established the reference dose (RfD) for azoxystrobin at 0.18 milligrams/kilogram/day (mg/kg/day). This RfD is based on a chronic toxicity study in rats with a no observed adversed effect level (NOAEL) of 18.2 mg/kg/day. Reduced body weights and bile duct lesions were observed at the lowest effect level (LEL) of 34 mg/kg/day. An Uncertainty Factor (UF) of 100 was used to account for both the interspecies extrapolation and the intraspecies variability.

4. *Carcinogenicity*. The Agency determined that azoxystrobin should be classified as ''Not Likely'' to be a human carcinogen according to the proposed revised Cancer Guidelines. This classification is based on the lack of evidence of carcinogenicity in long-term rat and mouse feeding studies.

*B. Exposures and Risks*

1. *From food and feed uses.* Permanent tolerances have been established (40 CFR 180.507(a)) for the combined residues of azoxystrobin and its Z isomer, in or on a variety of raw agricultural commodities at levels ranging from 0.01 ppm in pecans to 1.0 ppm in grapes. In addition, time-limited tolerances have been established (40 CFR 180.507(b) at levels ranging from 0.006 ppm in milk to 20 ppm in rice hulls) in conjunction with previous section 18 requests. Risk assessments were conducted by EPA to assess dietary exposures and risks from azoxystrobin as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Agency did not conduct an acute risk assessment because no toxicological endpoint of concern was identified during review of available data.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions -- 100% of strawberry commodities and all other commodities having azoxystrobin tolerances will contain azoxystrobin residues and those residues would be at the level of the tolerance with the exception of grapes-raisins, grape-juice, tomatoes-juice, and tomatoes-puree -- which result in an overestimation of human dietary exposure. Thus, in making a safety determination for this tolerance, The Agency is taking into account this conservative exposure assessment.

The existing azoxystrobin tolerances (published, pending, and including the necessary section 18 tolerance(s)) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

| Population Sub-Group | TMRC (mg/kg/day) | % RFD |
|---|---|---|
| U.S. Population (48 States). | 0.0036 | 2.0% |
| All Infants (<1 year old) | 0.0011 | 5.9% |
| Nursing Infants (<1 year old). | 0.0034 | 1.9% |
| Non-Nursing Infants (<1 year old). | 0.0014 | 7.6% |
| Children (1-6 years old) | 0.0083 | 4.6% |
| Children (7-12 years old). | 0.0050 | 2.8% |
| U.S. Population (Summer Season). | 0.0039 | 2.2% |
| U.S. Population (Spring Season). | 0.0042 | 2.3% |
| Northeast Region ..... | 0.0041 | 2.3% |
| Western Region ..... | 0.0038 | 2.1% |
| Hispanics ..... | 0.0042 | 2.3% |
| Non-Hispanics Blacks | 0.0038 | 2.1% |
| Non-Hispanics (Other Than Black or White). | 0.0068 | 3.8% |
| Females (13+/nursing) | 0.0045 | 2.5% |

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

2. *From drinking water.* There is no established Maximum Contaminant Level for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established.

i. *Acute exposure and risk.* An assessment was not appropriate since no toxicological endpoint of concern was identified during review of the available data.

ii. *Chronic exposure and risk.* Based on the chronic dietary (food) exposure estimates, chronic drinking water levels of concern (DWLOC) for azoxystrobin were calculated and are summarized in Table 1. The highest EEC for azoxystrobin in surface water is from the application of azoxystrobin on grapes (39 µg/L) and is substantially lower than the DWLOCs calculated. Therefore, chronic exposure to azoxystrobin residues in drinking water do not exceed EPA level of concern.

Table 1. Drinking Water Levels of Concern

| | Chronic RfD (mg/kg/day) | TMRC [Food Exposure] (mg/kg/day) | Max Water Exposure[1] (mg/kg/day) | DWLOC [2,3,4] (µg/L) |
|---|---|---|---|---|
| U.S. Population (48 States) ..... | 0.18 | 0.0036 | 0.18 | 6200 |
| Females (13 + years old, not pregnant or nursing). | 0.18 | 0.0045 | 0.18 | 5300 |
| Non-nursing Infants (< 1 year old) | 0.18 | 0.014 | 0.17 | 1700 |

[1] Maximum Water Exposure (mg/kg/day) = Chronic RfD (mg/kg/day) - TMRC from DRES (mg/kg/day)

[2] DWLOC (µg/L) = Max water exposure (mg/kg/day) * body wt (kg) /[($10^{-3}$ mg/µg) *water consumed daily (L/day)]

[3] HED Default body wts for males, females, and children are 70 kg, 60 kg, and 10 kg respectively.
[4] HED Default Daily Drinking Rates are 2 L/Day for Adults and 1 L/Day for children

3. *From non-dietary exposure.* Azoxystrobin is not currently registered for any residential uses.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether Azoxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, Azoxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that Azoxystrobin has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

*C. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk.* This is not applicable since no toxicological end-point of concern was identified during review of the available data.

2. *Chronic risk.*Using the conservative TMRC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, EPA has estimated the exposure to azoxystrobin from food will utilize 3.8% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. Under current EPA guidelines, the registered non-dietary uses of azoxystrobin do not constitute a chronic exposure scenario. EPA concludes that there is a reasonable certainty that no harm will result from chronic aggregate exposure to azoxystrobin residues. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to azoxystrobin residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. This risk assessment is not applicable since no indoor and outdoor residential exposure uses are currently registered for azoxystrobin.

4. *Aggregate cancer risk for U.S. population.* The Agency determined that azoxystrobin should be classified as ''Not Likely'' to be a human carcinogen according to the proposed revised Cancer Guidelines. The Agency has therefore not conducted a cancer risk assessment.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to Azoxystrobin residues.

*D. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children* —i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of Azoxystrobin, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* — a. *Rabbit* - In the developmental toxicity study in rabbits, developmental NOAEL was 500 mg/kg/day, at the highest dose tested (HDT). Because there were no treatment-related effects, the developmental LEL was ≥ 500 mg/kg/day. The maternal NOAEL was 150 mg/kg/day. The maternal LEL of 500 mg/kg/day was based on decreased body weight gain during dosing.

b. *Rat* - In the developmental toxicity study in rats, the maternal (systemic) NOAEL was not established. The maternal LEL of 25 mg/kg/day at the lowest dose tested (LDT) was based on increased salivation. The developmental (fetal) NOAEL was 100 mg/kg/day (HDT).

iii. *Reproductive toxicity study — Rat* - In the reproductive toxicity study in rats, the parental (systemic) NOAEL was 32.3 mg/kg/day. The parental LEL of 165.4 mg/kg/day was based on decreased body weights in males and females, decreased food consumption and increased adjusted liver weights in females, and cholangitis. The reproductive NOAEL was 32.3 mg/kg/day. The reproductive LEL of 165.4 mg/kg/day was based on increased weanling liver weights and decreased body weights for pups of both generations.

iv. *Pre- and post-natal sensitivity.* The pre- and post-natal toxicology data base for azoxystrobin is complete with respect to current toxicological data requirements.

v. *Conclusion.* The results of these studies indicate that infants and children are not more sensitive to exposure, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation reproductive toxicity study in rats. The additional 10X safety factor to account for sensitivity of infants and children was removed by the Agency.

2. *Acute risk.* Not applicable, no end-point.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to azoxystrobin from food will utilize 1.9% to 5.6% of

the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

4. *Short- or intermediate-term risk*. Not applicable, no end-point.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

## IV. Other Considerations

### *A. Metabolism In Plants and Animals*

1. The nature of the residue in grapes is adequately understood. These data are being translated for strawberries for this section 18 temporary tolerance.

2. The qualitative nature of the residue in animals is adequately understood for the purposes of this section 18 request. A ruminant metabolism study has been submitted, however the animal metabolism data have not been reviewed by the Office of Pesticide Program's Metabolism Assessment Review Committee. The residues of concern in ruminants appears to be different from that of plants. Unidentified metabolite compounds,designated metabolites 2, 20, and 28, appear to be the major components of the residue inruminant tissues. For the purposes of these time-limited tolerances for emergencyexemptions only, the residues of concern in animal tissues are azoxystrobin and its Z-isomer.

3. As strawberry commodities are not considered to be major poultry feed items, the natureand the magnitude of residues in poultry and eggs are not of concern for the this section18.

### *B. Analytical Enforcement Methodology*

Adequate enforcement methodology (example - gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305–5229.

## V. Conclusion

Therefore, the tolerance is established for combined residues or residues of azoxystrobin in strawberry at 0.05 ppm.

## VI. Objections and Hearing Requests

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

Any person may, by March 30, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300772] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C) Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

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

## VIII. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This final rule establishes a tolerance/exemption from the tolerance requirement under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any

enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under FFDCA section 408(l)(6), such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

*B. Executive Order 12875*

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

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

*C. Executive Order 13084*

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

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

## IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

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

Dated: January 20, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180 — [AMENDED]

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

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

2. In § 180.507, paragraph (b) by alphabetically inserting the following commodity to the table to read as follows:

**§ 180.507 Azoxystrobin; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/ RevocationDate |
|---|---|---|
| * * | * | * * |
| Strawberries | 10.0 | 7/30/00 |
| * * | * | * * |

* * * * *

[FR Doc. 99–2206 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300776; FRL–6054–3]**

**RIN 2070–AB78**

## Fenbuconazole; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of Fenbuconazole and its metabolites RH-9129 and RH-9130, expressed as the parent fenbuconazole in or on grapefruit and livestock commodities . This action is in response to EPA's granting of an emergency exemption under section 18 of the

Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapefruit. This regulation establishes maximum permissible levels for residues of fenbuconazole in these food and feed commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on June 30, 2000.

**DATES:** This regulation is effective January 29, 1999. Objections and requests for hearings must be received by EPA on or before March 30, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300776], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300776], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300776]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9356, e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to sections 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for combined residues of the fungicide fenbuconazole and its metabolites RH-9129 and RH-9130, expressed as the parent fenbuconazole, in or on whole grapefruit at 0.5 part per million (ppm), at 4.0 ppm in/on dried grapefruit, at 35 ppm in/on grapefruit oil; and at 0.1 ppm in/on meat and meat by-products of cattle, goats, hogs, horses, and sheep. These tolerances will expire and are revoked on June 30, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

## I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

## II. Emergency Exemption for Fenbuconazole on Grapefruit and FFDCA Tolerances

The Florida Department of Agriculture and Consumer Services has requested an exemption for the use of fenbuconazole on grapefruit for control of the disease, greasy spot (*Mycosphaerella citri*). Greasy spot disease has become a problem in Florida because of high relative humidity (nearly 100%) and higher temperatures for prolonged periods. The disease affects all citrus varieties and can be a more serious problem on grapefruit, due to its low resistance. The applicant asserts that this pathogen has developed resistance to a registered alternative, while other alternatives have limited efficacy and can cause damage to the fruit, causing them to be downgraded to juice grade. A recent drop in grapefruit prices have exacerbated this situation, and significant economic losses are predicted without the requested fungicide. EPA has authorized under FIFRA section 18 the use of fenbuconazole on grapefruit for control of greasy spot (*Mycosphaerella citri*) in Florida. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fenbuconazole in or on grapefruit and livestock commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on grapefruit and animal commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed levels that were authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether fenbuconazole meets EPA's registration requirements for use on grapefruit or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of fenbuconazole by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Florida to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fenbuconazole, contact the Agency's Registration Division at the address provided above.

## III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997)(FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action EPA has sufficient data to assess the hazards of fenbuconazole and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of fenbuconazole and its metabolites RH-9129 and RH-9130, expressed as the parent fenbuconazole on whole grapefruit at 0.5 ppm, at 4.0 ppm in/on dried grapefruit, at 35 ppm in/on grapefruit oil; and at 0.1 ppm in/on meat and meat by-products of cattle, goats, hogs, horses, and sheep. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

### *A. Toxicological Profile*

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

1. *Acute toxicity.* For the purposes of the acute dietary risk assessment, EPA assessments are based on an acute reference dose (RfD) of 0.3 milligrams/kilogram/day (mg/kg/day). This figure is derived from the No Observed Adversed Effect Level (NOAEL) of 30 mg/kg/day from the developmental toxicity study in rats, and an uncertainty factor of 100. The observed effect was a decrease in the number of live fetuses at the Lowest Effect Level (LEL) of 75 mg/kg/day.

2. *Short- and intermediate-term toxicity.* No dermal or systemic toxicity endpoints were identified for this exposure duration. Therefore, a risk assessment is not needed.

3. *Chronic toxicity.* EPA has established the chronic RfD for fenbuconazole at 0.03 mg/kg/day. This RfD is based on a chronic toxicity study in the rat with a NOAEL of 3.03/4.02 mg/kg/day in males/females, and an uncertainty factor of 100. The NOAEL is based on decreased body weight gains (females), hepatocellular enlargement and vaculation (females), increases in thyroid weight (both sexes) and histopathological lesions in the thyroid glands (males), at the LEL of 30.62/43.04 mg/kg/day in males/females.

4. *Carcinogenicity.* Using its Guidelines for Carcinogen Risk Assessment, EPA has classified fenbuconazole as a Group C (possible human carcinogen) chemical. EPA believes it is appropriate to use the $Q_1$* approach for determination of risk, and has calculated a $Q^1$* of $3.59 \times 10^{-3}$ $(mg/kg/day)^{-1}$.

### *B. Exposures and Risks*

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.480) for the combined residues or residues of fenbuconazole and its metabolites RH-9129 and RH-9130, expressed as the parent fenbuconazole, in or on a variety of raw agricultural commodities. Time-limited tolerances have been established for residues of fenbuconazole, alpha-2-(4-chlorophenyl)-ethyl-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, cis-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H* 1, 2, 4-triazole-1-ylmethyl-2-3*H*-furanone, expressed as fenbuconazole in or on commodities ranging from 0.1 ppm in pecans to 2.0 ppm in the stone fruit crop group. Risk assessments were conducted by EPA to assess dietary exposures and risks from fenbuconazole as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An acute dietary risk assessment for fenbuconazole is only needed for the population subgroup, females 13+ years (yrs.) old, as the effect was increased resorptions and decreased live fetuses. The acute dietary risk assessment used the Theoretical Maximum Residue Contribution (TMRC, tolerance level residues and 100% crop treated); the tolerances used for grapefruit and animal commodities are the levels given above. The Novigen Dietary Exposure Evaluation Model (DEEM) analysis was used and this analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure. Resulting exposure values (at the 99th percentile) and percentage of the acute RfD are shown below. Values for the 99th percentile are considered to be conservative as OPP policy dictates exposure estimates from as low as the 95th percentile may be utilized for risk estimates from acute DEEM runs. Thus,

these results are viewed as conservative estimates, and refinement using anticipated residue values and percent crop treated information, in conjunction with a Monte Carlo analysis, would result in lower estimates of acute dietary exposure and risk. The resulting high-end exposure estimates (food only, 99.9 percentiles) ranges from 0.0072 to 0.015 mg/kg/day for the population subgroups females 13+ yrs. old (nursing), and females 13 - 19 yrs. old (not pregnant or nursing), respectively. The percentages of the acute RfD utilized by these exposure levels, for these two subgroups are 2.3 and 5.0%, respectively.

ii. *Chronic exposure and risk.* The chronic dietary risk assessment is partially refined. Additional refinement would incorporate percent crop treated and anticipated residues for all commodities, and would result in lower exposure estimates. Again, the Novigen DEEM analysis was used, as described above. Tolerance level residues were assumed for all commodities, including stone fruits. Percent crop treated data were used for stone fruits only and 100% crop-treated data were used for all other commodities. The existing tolerances for fenbuconazole plus exposures connected with the section 18 on grapefruit result in an anticipated residue contribution (ARC) that is equivalent to 3.1% of the RfD for non-nursing infants <1 yr. old, the highest exposed subpopulation. Exposure for all other population subgroups was at a level below this. iii. Cancer Risk. Fenbuconazole is classified as a Group C Carcinogen, with a $Q_1$* of 3.59 x $10^{-3}$ $(mg/kg/day)^{-1}$. Using the partially refined exposure estimates described above under Chronic exposure and risk, the cancer risk estimate for the U.S. Population is calculated to be 8.3 x $10^{-7}$.

2. *From drinking water.* There is no established Maximum Contaminant Level or Health Advisory Levels for imidacloprid in drinking water. To date, there are no validated modeling approaches for reliably predicting pesticide levels in drinking water. The Agency uses models designed for use for ecological assessment, which are not ideal tools for use in drinking water risk assessment, as they could overestimate actual drinking water concentrations.

Thus, these models are considered a coarse screening tool for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern. For surface water, the Agency used PRZM1 (Pesticide Root Zone Model - simulates the transport of a pesticide off the agricultural field) and EXAMS (EXposure Analysis Modeling System - simulates fate and transport of a pesticide in surface water) models which are used to produce estimates of pesticide concentrations in a farm pond. For ground water the Agency used SCI-GROW (Screening Concentration In GROund Water) model to estimate the concentration of imidacloprid residues in ground water. SCI-GROW is a prototype model for estimating ''worst case' ground water concentrations of pesticides. This model assumes that the pesticide is applied at its maximum rate in areas where the ground water is particularly vulnerable to contamination. SCI-GROW is biased in that studies where the pesticide is not detected in ground water are not included in the data set. Thus, it is not expected that SCI-GROW estimates would be exceeded. In the absence of monitoring data for pesticides, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimated environmental concentrations (EECs) of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, drinking water, and residential uses. A DWLOC will vary depending on the toxic endpoint, with drinking water consumption, and body weights. Different populations will have different DWLOCs. DWLOCs are used in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. DWLOC values are not regulatory standards for drinking water. Since DWLOCs address total aggregate exposure to imidacloprid they are further discussed in the aggregate risk sections below.

i. *Acute exposure and risk.* EPA used estimated concentrations of imidacloprid in surface and ground water for acute exposure analysis of 6.7 and 0.03 g/L parts per billion (ppb), respectively. Since the ground water estimate is much less than that for surface water, only the surface water estimated maximum concentration of 6.7 ppb was used for comparison to the DWLOCs. The acute DWLOC was calculated for the segment of the population subgroup of concern with the highest food exposure, females 13 - 19 yrs. old (not pregnant or nursing). This DWLOC was calculated to be 8,600 ppb.

ii. *Chronic exposure and risk.* Since the estimated concentration for chronic exposure to ground water (0.03 ppb) was much less than that for surface water (3.6 ppb), EPA used the surface water estimate for chronic exposure analysis as a worst case estimation. The chronic DWLOCs were calculated for the population subgroup with the highest food exposure, Non-Hispanic (other than black or white). These DWLOCs were calculated to be 1,000 ppb for males and 890 ppb for females.

3. *From non-dietary exposure.* Fenbuconazole is not currently registered for use on any residential non-food sites: Therefore, a discussion of the toxicity endpoints for non-dietary exposure and a risk assessment for these uses is not germane to this review.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether fenbuconazole has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fenbuconazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fenbuconazole has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

### *C. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk.* For the population subgroups of concern, females 13+ yrs. old (nursing), and females 13 - 19 yrs. old (not pregnant or nursing), the percentages of the acute RfD utilized by these exposure levels, for these two subgroups are 2.3 and 5.0%, respectively. EPA generally has no concerns for exposures below 100% of the acute RfD. In addition, for acute exposures associated with drinking water, EPA has concluded that the DWLOC is 8,600 ppb. The EEC value is 6.7 ppb. This leads EPA to conclude that acute exposure to fenbuconazole is within acceptable limits, and there is reasonable certainty of no harm.

2. *Chronic risk.* Using the ARC exposure assumptions described above,

EPA has concluded that aggregate exposure to fenbuconazole from food will utilize <1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is 3.1% of the chronic RfD for non-nursing infants <1 yr. old, which is further discussed below. For the rest of the population subgroups, the RfD utilized is <1 - 2.5%. Based upon dietary (food only) exposure, the chronic DWLOCs were calculated for the population subgroup with the highest food exposure, Non-Hispanic (other than black or white). These DWLOCs were calculated to be 1,000 ppb for males and 890 ppb for females. Using the rough screening models described above for ground and surface water, the EEC was estimated at 3.6 ppb, significantly less than the calculated DWLOCs. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fenbuconazole in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term endpoints were not identified; additionally, fenbuconazole has no residential uses. Thus short- and intermediate-term aggregate risk assessments are not required.

4. *Aggregate cancer risk for U.S. population.* The existing tolerance plus this proposed tolerance for this exemption result in a cancer risk estimate of 8.3 x $10^{-7}$ for the overall U.S. population. The risk from the time-limited tolerances with section 18s (blueberries, grapefruit, meat, and meat by-products) was not amortized. This is sometimes done to account for the temporary nature of the section 18 use. Based on this level, and the level considered to be acceptable for cancer risk, and incorporating the usual default values for body weight and drinking water consumption, a DWLOC was calculated of 1.6 ppb for the U.S. Population. This is compared to the EEC, as derived from the rough screening models (described above) of 3.6 ppb. EPA policy is that a factor of 3 will be applied to these model values to determine whether a DWLOC has been exceeded. If the model value is <3 times the DWLOC, the pesticide is considered to have passed the screen and no further assessment is needed. In this case, the model value of 3.6 ppb is less than three times the DWLOC (3 x 1.6 = 4.8 ppb), and thus EPA concludes with reasonable certainty that residues of fenbuconazole in drinking water, considered along with other sources of chronic exposure, will not result in unacceptable levels of aggregate cancer risk estimates. EPA also notes that the chronic food exposure estimate is only partially refined, and further refinement of this exposure would result in lower risk estimates.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fenbuconazole residues.

*D. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children* —i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fenbuconazole, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In the developmental toxicity study in rats, the maternal (systemic) NOAEL was 30 mg/kg/day, based on decreases in body weight and body weight gain at the lowest observed effectlevel (LOEL) of 75 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day, based on an increase in post implantation loss and a significant decrease in the number of live fetuses per dam at the LOEL of 75 mg/kg/day. In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 10 mg/kg/day, based on decreased body weight gain at the LOEL of 30 mg/kg/day. The developmental (pup) NOAEL was 30 mg/kg/day, based on increased resorptions at the LOEL of 60 mg/kg/day.

iii. *Reproductive toxicity study.* In the 2-generation reproductive study in rats, the maternal (systemic) NOAEL was 4 mg/kg/day, based on decreased body weight and food consumption, increased number of dams not delivering viable or delivering nonviable offspring, and increases in adrenal and thyroid weights at the LOEL of 40 mg/kg/day. The reproductive (pup) NOAEL was 40 mg/kg/day, the highest dose tested (HDT).

iv. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating pre-and post-natal toxicity for fenbuconazole is complete with respect to EPA's current data requirements. EPA has determined that the studies indicated no increased susceptibility of rats or rabbits to in utero and/or postnatal exposure to fenbuconazole. In the prenatal developmental toxicity studies in rats and rabbits, and the 2-generation reproduction study in rats, toxicity to the fetuses and offspring, when observed, occurred at equivalent or higher doses and was not judged to be more severe than toxic effects on the maternal and parental animals. Based on the developmental and reproductive toxicity studies, EPA scientists concluded that the FQPA 10x uncertainty factor may be removed.

v. *Conclusion.* There is a complete toxicity database for fenbuconazole and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk.* Toxicological effects relevant to infants and children that could be attributed to a single exposure (dose) were not observed in oral toxicity studies including the developmental toxicity studies in rats and rabbits. A dose and endpoint was not identified. Therefore, an aggregate risk assessment is not required for this subpopulation.

3. *Chronic risk.* Using the exposure assumptions described above, EPA has concluded that aggregate exposure to fenbuconazole from food will utilize 3.1% of the RfD for the most highly exposed subgroup for infants and children, non-nursing infants <1 yr. old. EPA generally has no concern for

exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fenbuconazole in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk.* Short- and intermediate-term endpoints were not identified; additionally, fenbuconazole has no residential uses. Thus short- and intermediate-term aggregate risk assessments are not required.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fenbuconazole residues.

## IV. Other Considerations

### *A. Metabolism In Plants and Animals*

The nature of the residue of fenbuconazole in plants and livestock is adequately understood, for this action. The residue of concern is fenbuconazole (alpha-[2-4-chlorophenyl)-ethyl] alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, cis-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanoneandtrans-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone (also known as RH-9129 and RH-9130,respectively), expressed as fenbuconazole as specified in 40 CFR 180.480.

### *B. Analytical Enforcement Methodology*

Adequate enforcement methodology (gas chromatography with a nitrogen phosphorus detector) is available to enforce the tolerance expression. The method has not yet appeared in the Pesticide Analytical Manual II, but may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

### *C. Magnitude of Residues*

Residues of fenbuconazole and its regulated metabolites are not expected to exceed 0.5 ppm in/on whole grapefruit, 4.0 ppm in dried citrus pulp, and 35 ppm in citrus oil. Grapefruit pulp is not a poultry feed, but may be fed to other livestock. Therefore, residues are not expected to exceed 0.01 ppm in or on meat and meat by-products of cattle, goats, hogs, horses, and sheep.

### *D. International Residue Limits*

There are no CODEX, Canadian, or Mexican maximum residue limits (MRLs) for fenbuconazole on grapefruit or livestock commodities. Thus, harmonization is not an issue for this use.

### *E. Rotational Crop Restrictions*

Grapefruit is not rotated to other crops, and therefore, rotational crop restrictions are not germane to this action.

## V. Conclusion

Therefore, the tolerance is established for combined residues of fenbuconazole and its metabolites RH-9129 and RH-9130, expressed as the parent fenbuconazole in grapefruit at 0.5 ppm, in grapefruit pulp, dried, at 4.0 ppm, in grapefruit oil at 35 ppm, and in meat and meat by-products of cattle, goats, hogs, horses, and sheep at 0.01 ppm.

## VI. Objections and Hearing Requests

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

Any person may, by March 30, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given un der the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to wave any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300776] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C) Office of Pesticide Programs,

Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

## VIII. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This final rule establishes time-limited tolerances under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### *B. Executive Order 12875*

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

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

### *C. Executive Order 13084*

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

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

## IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

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

Dated: January 20, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180 — [AMENDED]

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

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

2. In § 180.480, paragraph (b) by alphabetically inserting the following commodities to the table to read as follows:

### § 180.480 Fenbuconazole; tolerances for residues.

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/ Revocation Date |
|---|---|---|
| * * * * * * * | | |
| Cattle, fat | 0.01 | 6/30/00 |
| Cattle, mbyp | 0.01 | 6/30/00 |
| Cattle, meat | 0.01 | 6/30/00 |
| Goats, fat | 0.01 | 6/30/00 |
| Goats, mbyp | 0.01 | 6/30/00 |
| Goats, meat | 0.01 | 6/30/00 |
| Grapefruit | 0.5 | 6/30/00 |
| Grapefruit pulp, dried. | 4.0 | 6/30/00 |
| Grapefruit oil | 35 | 6/30/00 |
| Hogs, fat | 0.01 | 6/30/00 |
| Hogs, mbyp | 0.01 | 6/30/00 |
| Hogs, meat | 0.01 | 6/30/00 |
| Horses, fat | 0.01 | 6/30/00 |
| Horses, mbyp | 0.01 | 6/30/00 |
| Horses, meat | 0.01 | 6/30/00 |
| * * * * * * * | | |
| Sheep, fat | 0.01 | 6/30/00 |
| Sheep, mbyp | 0.01 | 6/30/00 |
| Sheep, meat | 0.01 | 6/30/00 |
| * * * * * * * | | |

* * * * *

[FR Doc. 99–2207 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300780; FRL–6056–2]**

**RIN 2070–AB78**

## Lambda-cyhalothrin; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for the combined residues of lambda-cyhalothrin and its epimer in or on flax, barley, canola, and sugarcane. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on flax, barley, canola, and sugarcane. This regulation establishes maximum permissible levels for residues of lambda-cyhalothrin in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and are revoked on December 31, 2000.

**DATES:** This regulation is effective January 29, 1999. Objections and requests for hearings must be received by EPA on or before March 30, 1999.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number [OPP–300780], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300780], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300780]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to sections 408 and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and (l)(6), is establishing a tolerances for the combined residues of the insecticide lambda-cyhalothrin and its epimer, in or on flax seed at 0.1 parts per million (ppm), barley bran at 0.2 ppm, barley grain at 0.05 ppm, barley hay at 2.0 ppm, barley straw at 2.0 ppm, canola seed at 0.1 ppm and sugarcane at 0.03 ppm. These tolerances will expire and are revoked on December 31, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

### I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preeamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide

chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

## II. Emergency Exemption for Lambda-cyhalothrin on Flax, Barley, Canola, and Sugarcane and FFDCA Tolerances

North Dakota declared a crisis for the use of lambda-cyhalothrin on flax to control grasshoppers. The emergency was due to a lack of control of this pest with other registered alternatives. Grasshopper infestations in 1998 were significantly greater than in 1997 and conditions require treatment with lambda-cyhalothrin.

Several states declared crises for the use of lambda-cyhalothrin on barley to control the Russian wheat aphid. Although there are several registered alternative products available, each has disadvantages, including lack of efficacy, that lead to the states requesting the use of lambda-cyhalothrin. The states assert that without the use of lambda-cyhalothrin, they will incur significant economic losses.

Two states declared crises for the use of lambda-cyhalothrin on canola to control flea beetles. The applicants stated that flea beetles are significant pests of seedling canola and damage the plants by feeding on leaf tissue, stems and pods.

Sugarcane yield loss from the sugarcane borer is estimated at 60% unless adequately controlled. Registered alternatives can cause secondary outbreaks of aphids due to toxicity to non-target arthropods (parasites and predators). EPA has authorized under FIFRA section 18 the use of lambda-cyhalothrin on flax for control of grasshoppers, barley for control of the Russian wheat aphid, canola for control of flea beetles in several states, and sugarcane for control of the sugarcane borer in Louisiana. After having reviewed the submissions, EPA concurs that emergency conditions exist for these states.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of lambda-cyhalothrin in or on flax, barley, canola, and sugarcane. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on flax, barley, canola, and sugarcane after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether lambda-cyhalothrin meets EPA's registration requirements for use on flax, barley, canola, and sugarcane or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of lambda-cyhalothrin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than North Dakota, Minnesota, Colorado, Idaho, and Louisiana to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for lambda-cyhalothrin, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

## III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of lambda-cyhalothrin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of lambda-cyhalothrin and its epimer on flax seed at 0.1 ppm, barley bran at 0.2 ppm, barley grain at 0.05 ppm, barley hay at 2.0 ppm, barley straw at 2.0 ppm, canola seed at 0.1 ppm, and sugarcane at 0.03 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by lambda-cyhalothrin are discussed in this unit.

### *B. Toxicological Endpoint*

1. *Acute toxicity*. The acute dietary RfD is 0.005 milligrams/kilogram/day (mg/kg/day) based on a chronic toxicity study in dogs. The systemic No Observed Adverse Effect Level (NOAEL) was determined to be 0.5 mg/kg/day based on gait abnormalities. An uncertainty factor of 100 was applied.

2. *Short- and intermediate-term toxicity*. The short- and intermediate-term dermal toxicity NOAEL was determined to be 10.0 mg/kg/day based on mortality, clinical signs and effects on body weight and food consumption in a 21–day dermal rat study. An acceptable MOE will be ≧ 100.

3. *Chronic toxicity*. EPA has established the Reference Dose (RfD) for lambda-cyhalothrin at 0.001 mg/kg/day. This RfD is based on a No Observed Adverse Effect Level (NOAEL) of 0.1 mg/kg/day in a chronic toxicity study in dogs. Symptoms included neurotoxicity, ataxia and convulsions. An uncertainty factor of 100 was applied.

4. *Carcinogenicity*. Lambda-cyhalothrin has been classified by the Agency as a group D carcinogen (''not classifiable as to human carcinogenicity'').

*C. Exposures and Risks*

1. *From food and feed uses.* Tolerances have been established under 40 CFR 180.438 for residues of lambda-cyhalothrin and its epimer expressed as: a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclo-propanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl (*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclo-propanecarboxylate in numerous plant commodities at levels ranging from 0.01 to 6.0 ppm; in the fat of cattle, goats, hogs, horses, and sheep at 3.0 ppm; in the meat and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.2 ppm; milkfat at 5.0 ppm (reflecting 0.2 ppm in whole milk); and in poultry fat, meat, meat byproducts, and eggs at 0.01 ppm. Food additive tolerances have been established for residues of lambda-cyhalothrin in all food items (other than those already covered by a higher tolerance as a result of use on growing crops) in food handling establishments (0.01 ppm), dried hops (10.0 ppm), corn grain flour (0.15 ppm), sunflower oil (0.30 ppm), and wheat bran (0.2 ppm). Feed additive tolerances for residues of lambda-cyhalothrin on sunflower hulls (0.50 ppm), tomato pumice (6.0 ppm), and wheat bran (0.2 ppm) have been established under 40 CFR 180.438. Risk assessments were conducted by EPA to assess dietary exposures and risks from lambda-cyhalothrin as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

An acute dietary (food) risk assessment was performed that used a tier three analysis (i.e., Monte Carlo) of the Novigen DEEM (Dietary Exposure Evaluation Model) system, which employed both percent crop treated data and processing data in the calculation. Flax was added to the analysis at the 100% crop treated level. The residue value for flax was taken from canola which is another seed oil. The DEEM analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals (CSFII) conducted in 1989 through 1991. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure.

Resulting exposure values (at the 99.9th percentile) and percentage of the acute RfD occupied range from 28% for nursing infants (<1 year old) up to 72% for non-nursing infants (<1 year old). EPA generally has no concern for exposures below 100% of the RfD (when the FQPA safety factor has been removed, as it has in this case).

ii. *Chronic exposure and risk.* A tier three DEEM chronic exposure analysis was performed using anticipated residues, percent crop treated, and processing data. The analysis evaluates individual food consumption as reported by respondents in the USDA CSFII conducted in 1989 through 1991. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure.

The existing lambda-cyhalothrin tolerances (published, pending, and including the necessary Section 18 tolerances) result in Anticipated Residue Contributions (ARCs) that are equivalent to the percentages of the Chronic RfD ranging from 2% for nursing infants (<1 year old) up to 19% for children (1–6 years old). As noted above, the Agency generally has no concern for exposures below 100% of the RfD (when the FQPA safety factor has been removed).

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated (PCT) for assessing chronic dietary risk only if the Agency can make the following findings: That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; that the exposure estimate does not underestimate exposure for any significant subpopulation group; and if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated as required by the section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used a tier three DEEM analysis provided by the petitioner. This analysis was performed using anticipated residues, percent crop treated, and processing data.

The Agency believes that the three conditions, discussed in section 408 (b)(2)(F) in this unit concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. The PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of the PCT, the Agency is reasonably certain that that the percentage of the food treated is not likely to be underestimated. The regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which lambda-cyhalothrin may be applied in a particular area.

2. *From drinking water.* Estimated Environmental Concentrations (EECs) for lambda-cyhalothrin residues were determined to be 0.095 µg/L for acute surface water and 0.003 µg/L for chronic surface water.

i. *Acute exposure and risk.* [As mentioned previously, the acute risk for ''food only'' does not exceed EPA's level of concern. Drinking water levels of concern (DWLOC) for acute dietary exposure range from 14 µg/L for infants and children up to 120 µg/L for the U.S.

population (48 states). These levels are substantially higher than the surface water EEC (0.095 µg/L). Therefore, the risk from acute aggregate exposure to lambda-cyhalothrin does not exceed EPA's level of concern.

ii. *Chronic exposure and risk*. As is the case with acute risk, the chronic risk for ''food only'' does not exceed EPA's level of concern. DWLOC for chronic dietary exposure range from 8 µg/L for infants and children to 32 µg/L for the U.S. population. These levels are substantially higher than the highest chronic water EEC (0.003 µg/L). Chronic residential exposures to lambda-cyhalothrin are not expected for current registered uses. Therefore, chronic aggregate exposure to lambda-cyhalothrin does not exceed EPA's level of concern.

3. *From non-dietary exposure*. Lambda-cyhalothrin is currently registered for use on several non-food sites that include general pest control (crack/crevice/spot), termiticide, landscape, turf ornamentals, commercial ornamentals, golf course turf, and unoccupied agricultural premises. A risk assessment was performed for post application activities on lawns treated with lambda-cyhalothrin previously. At the time that this assessment was completed, exposures from lawn use were considered to be a ''worst case'' estimate of exposure from high-end of the registered residential uses.

i. *Chronic exposure and risk*. Chronic residential exposures to lambda-cyhalothrin are not expected for currently registered uses and thus a risk assessment is not required.

ii. *Short- and intermediate-term exposure and risk*. Short-term exposure and risk assessments were conducted by the Agency. The oral MOEs for infants and children was 3,500; the dermal MOEs were 1.5 million for the U.S. population and 7,810 for infants and children; and the inhalation MOEs were 15,000 for the U.S. population and 4,800 for infants and children. All of the above MOEs are well above the acceptable short term MOE of 100.

The Agency also conducted intermediate-term exposure and risk assessments. The oral MOEs for infants and children was 700; the dermal MOEs were 1.5 million for the U.S. population and 7,810 for infants and children; and the inhalation MOEs were 15,000 for the U.S. population and 4,800 for infants and children. All of the above MOEs are well above the acceptable short term MOE of 100.

4. *Cumulative exposure to substances with common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether lambda-cyhalothrin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, lambda-cyhalothrin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that lambda-cyhalothrin has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

### *D. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk*. The acute risk for ''food only'' does not exceed the Agency's level of concern, taking up 32% of the RfD for the U.S. population. The DWLOC for acute dietary exposure is 120 µg/L for the U.S. population, well above the maximum acute EEC of 0.095 µg/L.

2. *Chronic risk*. Using the ARC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to lambda-cyhalothrin from food will utilize 7% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The DWLOCs for chronic risk were calculated to be 32 µg/L for the U.S. population, well above the maximum chronic EEC of 0.003 µg/L. Chronic residential exposures to lambda-cyhalothrin are not expected for currently registered uses and thus a risk assessment is not required.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

i. *Short-term aggregate risk (food + water + residential)*. MOEs for dietary and residential exposures are well above the acceptable short-term MOE of 100 and the short-term aggregate DWLOCs are higher than average surface water EECs. Therefore, short-term aggregate risk does not exceed EPA's level of concern.

ii. *Intermediate-term aggregate risk (food + water + residential)*. MOEs for dietary, residential exposures are well over the acceptable short-term aggregate MOE of 100 and the intermediate-term aggregate drinking water DWLOCs are higher than average surface water EECs. Therefore, intermediate-term aggregate risk does not exceed EPA's level of concern.

4. *Aggregate cancer risk for U.S. population*. Because lambda-cyhalothrin has been classified as a group D carcinogen, ''not classifiable as to human carcinogenicity,'' this risk assessment is not required.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to lambda-cyhalothrin residues.

### *E. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children*—i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of lambda-cyhalothrin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using

the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. From the developmental toxicity study in rats, the maternal (systemic) NOAEL was 10 mg/kg/day. The maternal Lowest Observed Adverse Effect Level (LOAEL) of 15 mg/kg/day was based on decreased body weight gain and decreased food consumption. The developmental (fetal) NOAEL was > 15 mg/kg/day at the highest dose tested (HDT).

From the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 10 mg/kg/day. The maternal LOAEL of 30 mg/kg/day was based on decreased body weight gain. The developmental (fetal) NOAEL was > 30 mg/kg/day (HDT).

iii. *Reproductive toxicity study*. From the 3-generation reproductive toxicity study in rats, both the parental (systemic) and reproductive (pup) NOAELs were 1.5 mg/kg/day. Both the parental (systemic) and reproductive (pup) LOAELs were 5 mg/kg/day. They were based on a significant decrease in parental body weight (systemic) or a significant decrease in pup body weight (reproductive). The developmental NOAEL was 5 mg/kg/day (HDT).

iv. *Pre- and post-natal sensitivity*. The toxicology data base for lambda-cyhalothrin is complete with respect to current toxicological data requirements. There are no pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 3-generation reproductive toxicity study in rats.

v. *Conclusion*. Based on the above, EPA concludes that reliable data support the use of the standard hundredfold margin of uncertainty factor and that an additional uncertainty factor is not warranted at this time.

2. *Acute risk*. The acute risk for ''food only'' does not exceed the Agency's level of concern, taking up from 28% of the RfD for nursing infants <1 year old to 72% for non-nursing infants <1 year old. The DWLOC for acute dietary exposure is 14 µg/L for the infants and children, well above the maximum acute EEC of 0.095 µg/L.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to lambda-cyhalothrin from food will utilize from 2% of the RfD for nursing infants <1 year old to 19% of the RfD for children 1–6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The DWLOC for chronic dietary exposure is 8 µg/L for the infants and children, well above the maximum chronic EEC of 0.003 µg/L. Chronic non-dietary, non-occupational exposures to lambda-cyhalothrin are not expected for currently registered uses and thus a risk assessment for this exposure portion was not conducted.

4. *Short- or intermediate-term risk*. The short- and intermediate-term risk estimates for infants and children do not exceed the Agency's level of concern.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to lambda-cyhalothrin residues.

## IV. Other Considerations

### *A. Metabolism In Plants and Animals*

Data on plant metabolism show that lambda-cyhalothrin is metabolized by cleavage of the ester linkage to form cyclopropane carboxylic acids and the corresponding phenoxybenzoic acid and/or 3-phenoxybenzyl alcohol. The residues to be regulated are lambda-cyhalothrin and its epimer as specified in 40 CFR 180.438.

Studies of lambda-cyhalothrin metabolism in ruminants and poultry have been reviewed. In addition to the plant metabolites, lambda-cyhalothrin animal metabolites include 3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2-hydroxymethyl-2-methylcyclopropane-carboxylic acid (OH-CPA) and 4-hydroxy-3-phenoxybenzoic acid (4′-OH-3-PBAcid).

Lambda-cyhalothrin is the major component of the residue, except in the kidney and liver of ruminants and liver of poultry. In addition to the plant metabolites, 3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2-hydroxymethyl-2-methylcyclopropane-carboxylic acid (OH-CPA) and 4-hydroxy-3-phenoxybenzoic acid (4′-OH-3PBAcid) may be present in significant quantities. A residue transfer study in which cows were fed dietary levels of 8, 25 or 80 ppm lambda-cyhalothrin demonstrated that, at ≤ 8 ppm, OH-CPA levels in tissue would not exceed 0.01 ppm. The Agency has determined that animal metabolites do not need to appear in the tolerance expression at this time. As with plants, the residues to be regulated are lambda-cyhalothrin and its epimer.

### *B. Analytical Enforcement Methodology*

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

### *C. Magnitude of Residues*

Residues are not expected to exceed 0.1 ppm in flax seed; 0.05 ppm in barley grain; 0.2 ppm in barley, bran; 2 ppm in barley, straw; 2 ppm in barley, hay; 0.10 in canola seed; and 0.03 ppm in sugarcane as a result of these section 18 uses.

### *D. International Residue Limits*

No Codex MRLs for residues of lambda-cyhalothrin have been established (only cyhalothrin). No Canadian MRLs have been established for residues of lambda-cyhalothrin. Mexico has not established tolerances for residues of lambda-cyhalothrin on flax, only on cottonseed (0.05 ppm). Therefore, harmonization is not an issue.

## V. Conclusion

Therefore, the tolerance is established for combined residues of lambda-cyhalothrin and its epimer in flax seed at 0.1 parts per million (ppm), barley bran at 0.2 ppm, barley grain at 0.05 ppm, barley hay at 2.0 ppm, barley straw at 2.0 ppm, and canola seed at 0.1 ppm.

## VI. Objections and Hearing Requests

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

Any person may, by March 30, 1999, file written objections to any aspect of this regulation and may also request a

hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300780] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

## VIII. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

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

In addition, since tolerances and exemptions that are established under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### *B. Executive Order 12875*

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

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of

Executive Order 12875 do not apply to this rule.

*C. Executive Order 13084*

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

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

## IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

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

Dated: January 13, 1999.

**Peter Caulkins,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

2. In § 180.438, by revising the table in paragraph (b) to read as follows:

### § 180.438 Lambda-cyhalothrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* ***

| Commodity | Parts per million | Expiration/ revocation date |
|---|---|---|
| Barley, bran ..... | 0.2 | 12/31/00 |
| Barley, grain ..... | 0.05 | 12/31/00 |
| Barley, hay ..... | 2.0 | 12/31/00 |
| Barley, straw ..... | 2.0 | 12/31/00 |
| Canola, seed ..... | 0.1 | 12/31/00 |
| Flax, seed ..... | 0.1 | 12/31/00 |
| Sugarcane ..... | 0.03 | 12/31/00 |

* * * * *

[FR Doc. 99–2208 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 261

**[SW–FRL–6219–2]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting a petition submitted by Occidental Chemical Inc. (Occidental), to exclude from hazardous waste control (or delist) certain solid wastes. The wastes being delisted consist of Rockbox Residue, and Limestone Sludge. This action responds to Occidental Chemical's petition to delist these treated wastes on a ''generator specific'' basis from the lists of hazardous waste. After careful analysis, the EPA has concluded that the petitioned wastes are not hazardous wastes when disposed of in Subtitle D landfills/surface impoundments. This exclusion applies to Rockbox Residue and Limestone Sludge generated at Occidental Chemical's Ingleside, Texas facility. Accordingly, this final rule excludes the petitioned wastes from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills/surface impoundments but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

**EFFECTIVE DATE:** January 29, 1999.

**ADDRESSES:** The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''TXDEL–OCCIDENTAL.'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact Bill Gallagher, at (214) 665–6775. For technical information concerning this notice, contact Jon Rinehart, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–6789.

**SUPPLEMENTARY INFORMATION:**

## I. Background

*A. Authority*

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow the EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional

constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

*B. History of This Rulemaking*

Occidental Chemical-Ingleside petitioned the EPA to exclude from hazardous waste control its Limestone Sludge, Rockbox Residue, and Caustic Neutralized Wastewater waste generated at the wastewater treatment facility. The Rockbox Residue and Limestone Sludge are currently disposed in an off-site hazardous waste landfill. The Caustic Neutralized Wastewater is discharged through its National Pollution Discharge Elimination System (NPDES) permit. After evaluating the petition, EPA proposed, on May 11, 1998, to exclude all three of Occidental Chemical's wastes from the lists of hazardous wastes under §§ 261.31 and 261.32. *See* 63 *FR* 25797. This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Occidental Chemical's petition.

**II. Disposition of Petition**

Occidental Chemical Incorporated—Ingleside, Texas 78362–0710

*A. Proposed Exclusion*

Occidental Chemical petitioned EPA to exclude, from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, an annual volume of Rockbox Residue, Limestone Sludge, and Caustic Neutralized Wastewater generated from the wastewater treatment plant. Specifically, in its petition, Occidental requested that EPA grant a standard exclusion for 128 cubic yards of Rockbox Residue, 1,114 cubic yards of Limestone Sludge, and 148,284 cubic yards of Caustic Neutralized Wastewater generated per calender year. The Rockbox Residue, Limestone Sludge, and Caustic Neutralized Wastewater are listed for six EPA Hazardous Waste Numbers due to the ''derived-from'' and mixture rules. The wastes are listed as K019, K020, F001, F003, F005 and F025. The listed constituents of concern for these EPA Hazardous Waste Numbers are shown in Table 1. *See* 40 CFR part 261, Appendix VII.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

| Waste code | Basis for characteristics/listing |
|---|---|
| K019/K020 | Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride. |
| F001 | Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons. |
| F003 | N.A. Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity. |
| F005 | Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, 2-nitropropane. |
| F025 | Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichlorothylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichlorothylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, 3-chloropropene, dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, benzene, chlorobenzene, dichlorobenzene, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene. |

Occidental Chemical petitioned to exclude the Rockbox Residue, Limestone Sludge, and Caustic Neutralized Wastewater treatment residues because it does not believe that the petitioned wastes meet the criteria for which they were listed.

Occidental also believes that the wastes do not contain any other constituents that would render them hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. *See* section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d) (2)–(4).

In support of its petition, which included the sampling and analysis plan, Occidental submitted: (1) Descriptions of its waste water treatment processes and the incineration activities associated with petitioned waste; (2) results of the total constituent list for 40 CFR part 264, Appendix IX volatiles, semivolatiles, and metals except for pesticides, herbicides, and PCBs; (3) results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals; (4) results for reactive sulfide; (5) results for reactive cyanide; (6) results for pH; (7) results of the total basis for dioxin and furan; and (8) results of the dioxin and furan TCLP extract.

*B. Summary of Comments and Responses*

The EPA received public comment on May 11, 1998, on the delisting proposal from two interested parties, the Environmental Defense Fund (EDF) and the petitioner, Occidental Chemical.

Comment

*Efficacy of the TCLP.* In a recent delisting decision, EPA concluded that the TCLP may not accurately predict leachability in a highly alkaline waste. Based on that decision, the EDF commented on the efficacy of the TCLP and suggested that the pH be tested on the Limestone Sludge and Rockbox Residue as the pH of the Limestone Sludge is 9.55. It was suggested that the TCLP values may vary with changing pH values.

Response

Caustic Neutralized Wastewater is not being delisted. The EPA does not expect the pH of the Limestone Sludge or Rockbox Residue to vary greatly, based upon historical data submitted by the company. The Limestone Sludge was tested for pH on six different occasions. The values were as follows: (1) 8.81, (2) 7.97, (3) 8.03, (4) 7.95, (5) 8.19, (6) 9.55, which are in standard units. In a recent delisting action, to which the commenter referred, EPA determined, based upon unusually high pH values which sometimes exceeded 13, that the accuracy of the TCLP results was skewed. *See* 62 FR 41009 (July 31, 1997). There has been no indication that pH levels of the Limestone Sludge or Rockbox Residue even approach this

magnitude. Additionally, waste that was the subject of the earlier action was disposed of in a monofill, a fact which is at odds with the premise of the TCLP. The TCLP was designed to predict codisposal in a municipal landfill not a monofill. Occidental will dispose of its waste in a Subtitle D landfill where codisposal will occur. At this time EPA has no reason to believe the TCLP is not an efficacious test as applied to these wastes.

The EPA will revise the requirements for the verification testing to include pH testing for the wastes Rockbox Residue and Limestone Sludge. Verification sampling will determine if the waste will continue to be delisted.

*Air Pathway Risk Analysis.* A comment was received concerning the air pathway risk analysis performed by EPA. First, it was suggested that EPA did not evaluate the risk from storing the waste in tanks prior to disposal in a landfill. Second, a comment was made that the distance of 1,000 feet from the source to a potential receptor used in analysis of an air pathway was too a great distance. Third, a comment was made concerning the active life of the landfill used in the model. The model used 18.6 years when the commenter suggested that 40 years should instead be used. Fourth, it was suggested that EPA failed to consider the disposal of other Occidental wastes in the landfill, therefore, a cumulative affect should have been modeled.

Response

The wastes were modeled using a landfill life of 40 years as opposed to 18.6 years and a distance of 150 feet to the nearest receptor as opposed to 1,000 feet. There was no change in the delisting values; therefore, the delisting will be approved based on this evaluation. This analysis will be included in the RCRA public docket for today's decision additionally, EPA similarly adjusted these factors to determine the effect on the modeling for air emissions. The results were not significantly impacted. The commenter noted that other studies have been used with the different landfill life lengths. In listing determinations like the Petroleum Refining Listing Determination, a landfill life of 30 years was used in lieu of 20 years. For listing determinations, waste disposal of materials may already be managed in a nonhazardous landfill. In contrast, a petitioned waste is hazardous until it has been delisted, thus, the waste should be managed in a hazardous waste landfill until the petition is finalized. According to the 1986 Landfill Survey Act, the planned landfill units average approximately 21.3 years of life. The active units in the recalculation average less than 20 years. Currently, until further studies have been completed, EPA will continue to use a basis of 20 years after the active landfill life. The model that is utilized by EPA only considers the waste that is being delisted and no other Occidental waste that is co-disposed at a landfill.

Comment

Comment was also made concerning storage of these wastes in tanks. The position was taken that they should be considered in an air pathway risk analysis.

Response

These tanks are covered so it is not appropriate to consider an air pathway risk for this petition.

Comment

Due to the presence of dioxin in the Occidental waste, the commenter felt that a more comprehensive risk evaluation should be done before the delisting petition could be approved.

Response

The concentration of the dioxin in this waste is very low, therefore EPA felt the evaluation that was done was adequate.

*Use of the EPACMTP Model.* Occidental felt that the EPACMTP model, which was used in the initial screening to determine if the petitioned waste was a candidate for a delisting petition, should be utilized in the proposed **Federal Register**. This model was used as a tool to preliminarily determine whether the wastes could meet the criteria for delisting.

Response

The EPACML model was utilized because it is the model used in all previously approved delisting petitions. In order for the EPACMTP to actually be used in approval of a delisting petition, the model itself would have to have been proposed for formal adoption and opportunity for public comment on its adoption would have been necessary. The EPA felt instead that if the waste streams could pass the delisting levels using the EPACML model, then that model would continue to be used in the petitions. Until the Agency has completed its adoption of the EPCMTP model for delisting, the EPACML model will continue to be used.

*Typographical Errors and Corrections.* There were mathematical errors found in the petition and in the consistent use of nondetectable constituents in the delisting evaluation.

Response

The mathematical errors will be corrected in the final **Federal Register**. The nondetectable total constituents will be included.

*Addition of Brine Sludge.* The facility proposes to add brine sludge upstream of the rockbox to help neutralize the acid stream prior to entering the rockbox tank. This material is currently being disposed in a Class 1 nonhazardous landfill. The facility feels that this is a method of recycle/reuse.

Response

No analysis of brine sludge after it is mixed with Rockbox Residue has been provided to EPA, therefore, is unable to adequately assess effect on the delisted waste streams. The brine sludge may not be added to the delisted waste streams until a petition containing the required delisting criteria is submitted and approved allowing EPA to evaluate its merit.

*Increase in Waste Volume*

Comment

The facility would like to increase the waste volume for the Rockbox Residue from 128 cubic yards to 1,000 cubic yards per year. The plant apparently has gathered information that additional waste will be generated and therefore requests that the increased annual volume be allowed.

Response

A change in the volume of Rockbox Residue waste will not change the Dilution Attenuation Factor (DAF), therefore the delisting levels will remain the same. The EPA approves the request to increase the volume of Rockbox Residue from 128 cubic yards to 1,000 cubic yards and revising the exclusion.

*Removal of Caustic Neutralized Wastewater*

Comment

The facility has reconsidered its request for delisting the Caustic Neutralized Wastewater and has decided to remove the request for delisting this waste.

Response

The facility was planning on managing this waste in the same manner regardless of whether the delisting petition was approved or denied. Therefore, delisting of this waste stream will not be made final.

*Conclusions*

For reasons stated in both the proposal and this document, EPA believes that Occidental Chemical's

Limestone Sludge, and Rockbox Residue should be excluded from hazardous waste control. The EPA therefore is granting a final exclusion to Occidental Chemical, located in Ingleside, Texas, for its Limestone Sludge and Rockbox Residue. This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of part 261 and the conditions contained herein are satisfied. The maximum annual volume of Limestone Sludge is 1,114 cubic yards and the Rockbox Residue is 1,000 cubic yards.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the waste in an on-site facility, must either treat, store, or dispose of the waste or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility which is permitted, licensed or registered by a state to manage municipal or industrial solid waste.

## III. Limited Effect Of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, Illinois) are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to or managed in any State with delisting authorization, Occidental must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

## IV. Effective Date

This rule is effective January 29, 1999. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

## V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. This proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling a facility to treat its waste as non-hazardous. There is no additional impact due to today's rule. Therefore, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

## VI. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

## VII. Executive Order 13045

Protection of Children from Environmental health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because this is not an economically significant regulatory action as defined by E.O. 12866 and the environmental health or safety risks addressed by this action do not have a disproportionate effect on children.

## VIII. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

## IX. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make

available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This rule, if promulgated, will not have any adverse economic impact on any small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

## X. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined in section 804 (2) of the APA as amended.

## XI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

## XII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector. EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

## List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: December 29, 1998.

**William N. Rhea,**

*Acting Director, Multimedia Planning and Permitting.*

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Tables 1, and 2 of Appendix IX of part 261, add the following waste stream in alphabetical order by facility to read as follows:

## Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

| Facility | Address | Waste description |
|---|---|---|
| * | * | * * * * * |
| Occidental Chemical. | Ingleside, Texas. | Limestone Sludge, (at a maximum generation 1,114 cubic yards per calender year) Rockbox Residue, (at a maximum generation of 1,000 cubic yards per calender year) generated by Occidental Chemical using the wastewater treatment process to treat the Rockbox Residue and the Limestone Sludge (EPA Hazardous Waste No. F025, F001, F003, and F005) generated at Occidental Chemical.<br>Occidental Chemical must implement a testing program that meets the following conditions for the exclusion to be valid:<br>(1) *Delisting Levels:* All concentrations for the following constituents must not exceed the following levels (ppm). The Rockbox Residue and the Limestone Sludge, must be measured in the waste leachate by the method specified in 40 CFR Part 261.24.<br>(A) Rockbox Residue<br>(i) Inorganic Constituents: Barium-100; Chromium-5; Copper-130; Lead-1.5; Selenium-1; Tin-2100; Vanadium-30; Zinc-1,000<br>(ii) Organic Constituents: Acetone-400; Bromodichloromethane-0.14; Bromoform-1.0; Chlorodibromethane-0.1; Chloroform-1.0; Dichloromethane-1.0; Ethylbenzene-7,000; 2,3,7,8-TCDD Equivalent-0.00000006<br>(B) Limestone Sludge<br>(i) Inorganic Constituents: Antimony-0.6; Arsenic-5; Barium-100; Beryllium-0.4; Chromium-5; Cobalt-210; Copper-130; Lead-1.5; Nickel-70; Selenium-5; Silver-5; Vanadium-30; Zinc-1,000<br>(ii) Organic Constituents Acetone-400; Bromoform-1.0; Chlorodibromomethane-0.1; Dichloromethane-1.0; Diethyl phthalate-3,000, Ethylbenzene-7,000; 1,1,1-Trichloroethane-20; Toluene-700; Trichlorofluoromethane-1,000, Xylene-10,000, 2,3,7,8-TCDD Equivalent-0.00000006; |

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

| Facility | Address | Waste description |
|---|---|---|
| | | (2) *Waste Holding and Handling:* Occidental Chemical must store in accordance with its RCRA permit, or continue to dispose of as hazardous waste all Rockbox Residue and the Limestone Sludge generated until the verification testing described in Condition (3)(B), as appropriate, is completed and valid analyses demonstrate that condition (3) is satisfied. If the levels of constituents measured in the samples of the Rockbox Residue and the Limestone Sludge do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels waste generated during the time period corresponding to this sample must be managed and disposed of in accordance with Subtitle C of RCRA. |
| | | (3) *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures, must be performed according to SW–846 methodologies. If EPA judges the incineration process to be effective under the operating conditions used during the initial verification testing, Occidental Chemical may replace the testing required in Condition (3)(A) with the testing required in Condition (3)(B). Occidental Chemical must continue to test as specified in Condition (3)(A) until and unless notified by EPA in writing that testing in Condition (3)(A) may be replaced by Condition (3)(B). |
| | | (A) *Initial Verification Testing:* (i) During the first 40 operating days of the Incinerator Offgas Treatment System after the final exclusion is granted, Occidental Chemical must collect and analyze composites of the Limestone Sludge. Daily composites must be representative grab samples collected every 6 hours during each unit operating cycle. The two wastes must be analyzed, prior to disposal, for all of the constituents listed in Paragraph 1. The waste must also be analyzed for pH. Occidental Chemical must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the generation of the two wastes. |
| | | (ii) When the Rockbox unit is decommissioned for cleanout, after the final exclusion is granted, Occidental Chemical must collect and analyze composites of the Rockbox Residue. Two composites must be composed of representative grab samples collected from the Rockbox unit. The waste must be analyzed, prior to disposal, for all of the constituents listed in Paragraph 1. The waste must be analyzed for pH. No later than 90 days after the Rockbox is decommissioned for cleanout the first two times after this exclusion becomes final, Occidental Chemical must report the operational and analytical test data, including quality control information. |
| | | (B) *Subsequent Verification Testing:* Following written notification by EPA, Occidental Chemical may substitute the testing conditions in (3)(B) for (3)(A)(i). Occidental Chemical must continue to monitor operating conditions, analyze samples representative of each quarter of operation during the first year of waste generation. The samples must represent the waste generated over one quarter. (This provision does not apply to the Rockbox Residue.) |
| | | (C) *Termination of Organic Testing for the Limestone Sludge:* Occidental Chemical must continue testing as required under Condition (3)(B) for organic constituents specified under Condition (3)(B) for organic constituents specified in Condition (1)(A)(ii) and (1)(B)(ii) until the analyses submitted under Condition (3)(B) show a minimum of two consecutive quarterly samples below the delisting levels in Condition (1)(A)(ii) and (1)(B)(ii), Occidental Chemical may then request that quarterly organic testing be terminated. After EPA notifies Occidental Chemical in writing it may terminate quarterly organic testing. Following termination of the quarterly testing, Occidental Chemical must continue to test a representative composite sample for all constituents listed in Condition (1) on an annual basis (no later than twelve months after exclusion). |
| | | (4) *Changes in Operating Conditions:* If Occidental Chemical significantly changes the process which generate(s) the waste(s) and which may or could affect the composition or type waste(s) generated as established under Condition (1) (by illustration, but not limitation, change in equipment or operating conditions of the treatment process), Occidental Chemical must notify the EPA in writing and may no longer handle the wastes generated from the new process or no longer discharges as nonhazardous until the wastes meet the delisting levels set Condition (1) and it has received written approval to do so from EPA. |
| | | (5) *Data Submittals:* The data obtained through Condition 3 must be submitted to Mr. William Gallagher, Chief, Region 6 Delisting Program, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–O) within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: |
| | | Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. § 1001 and 42 U.S.C. § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. |
| | | As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. |
| | | In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. |

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

| Facility | Address | Waste description |
|---|---|---|
| | | (6) *Reopener:* (a) If Occidental Chemical discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then Occidental Chemical must report any information relevant to that condition, in writing, to the Director of the Multimedia Planning and Permitting Division or his delegate within 10 days of discovering that condition. (b) Upon receiving information described in paragraph (a) from any source, the Director or his delegate will determine whether the reported condition requires further action. Further action may include revoking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.<br>(7) *Notification Requirements:* Occidental Chemical must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision. |

TABLE 2.—WASTES EXCLUDED FROM EXCLUDED SPECIFIC SOURCES

| Facility | Address | Waste description |
|---|---|---|
| * | * | * * * * * |
| Occidental Chemical. | Ingleside, Texas. | Limestone Sludge, (at a maximum generation of 1,114 cubic yards per calendar year) Rockbox Residue, (at a maximum generation of 1,000 cubic yards per calendar year) generated by Occidental Chemical using the wastewater treatment process to treat the Rockbox Residue and the Limestone Sludge (EPA Hazardous Waste No. K019, K020). Occidental Chemical must implement a testing program that meets conditions found in Table 1. Wastes Excluded From Non-Specific Sources from the petition to be valid. |
| * | * | * * * * * |

[FR Doc. 99–2198 Filed 1–28–99; 8:45 am]
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[FRL–6226–1]**

## Nevada; Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Nevada has applied for Final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision covers regulatory changes that occurred between July 1, 1995 through June 30, 1997. The EPA has reviewed Nevada's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to authorize Nevada's hazardous waste program revision will take effect as provided below.

**DATES:** This final authorization for Nevada will become effective without further notice on March 30, 1999, if EPA receives no adverse comment. Should EPA receive such comments EPA will withdraw this rule before its effective date by publishing a notice of withdrawal in the **Federal Register**. Any comments on Nevada's program revision application must be filed by March 1, 1999.

**ADDRESSES:** Written comments should be sent to Lisa McClain-Vanderpool, U.S. EPA Region IX (WST–3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744–2086. Copies of Nevada's program revision application is available during the business hours of 9:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710, Phone: 702/687–5872. Contact Allen Biaggi, Administrator.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744–1510.

**FOR FURTHER INFORMATION CONTACT:** Lisa McClain-Vanderpool, U.S. EPA Region IX (WST–3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744–2086.

**SUPPLEMENTARY INFORMATION:**

### A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

### B. Nevada

Nevada initially received final authorization for the base program on August 19, 1985 effective October 18, 1985 (160 *FR* 33359). Nevada received authorization for revisions to its program on April 29, 1992 effective June 29, 1992 (57 *FR* 18083), on May 27, 1994 effective July 26, 1994 (59 *FR* 27472), on April 11, 1995 effective June 12, 1995 (60 *FR* 18358) and on June 24, 1996 effective August 23, 1996 (60 *FR* 32345).

On September 22, 1998, Nevada submitted a final complete program revision application, seeking

authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Nevada's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Nevada's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Nevada Final Authorization for the program modifications contained in the revision.

The public may submit written comments on EPA's immediate final decision until March 1, 1999. Copies of Nevada's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If EPA does not receive adverse written comment pertaining to Nevada's program revision by the end of the comment period, the authorization of Nevada's revision will become effective 60 days from the date this document is published. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

Nevada is applying for authorization for changes and additions to the Federal RCRA implementing regulations that occurred between July 1, 1995 and June 30, 1997, as listed below.

| Description of Federal requirement | Federal Register | Analogous State authority |
|---|---|---|
| Hazardous Waste Management: Liquids in Landfills III/Checklist 145. | July 11,1995, 60 FR 35703 | Nevada Revised Statutes (NRS) 459.485 and 459.490; Nevada Administrative Code (NAC) 444.8632 through 444.8634 and regulations included as Sections 8 and 9 of LCB File No. R–202–97 filed with the Secretary of State, March 5, 1998. |
| RCRA Expanded Public Participation/Checklist 148 | December 11, 1995, 60 FR 63417 | Same as above. |
| Identification and Listing of Hazardous Waste: Amendments to Definition of Solid Waste/Recovered Oil Exclusion, Correction Checklist 150. | March 26, 1996, 61 FR 13103 | Same as above. |
| Land Disposal Restrictions Phase III-Decharacterized Waste Waters, Carbamate Wastes and Spent Potliners/Checklist 151. | 61 FR 15566 and 15660, April 8, 1996; 61 FR 19117, April 30, 1996; 61 FR 33680, June 28, 1996; 61 FR 36419, July 10, 1996; 61 FR 43924, August 26, 1996; 62 FR 7502, February 19, 1997. | Same as above. |
| Conditionally Exempt Small Quantity Disposal Options under RCRA subtitle D/Checklist 153. | July 1, 1996, 61 FR 34252 | Same as above. |
| Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments and Containers/Checklist 154. | December 6, 1994, 59 FR 62896–62953; May 19, 1995, 60 FR 26828–26829; September 29,1995, 60 FR 50426–50430; November 13, 1995, 60 FR 56952–56954; February 9, 1996, 61 FR 4903–4916; June 5, 1996, 61 FR 28508–28511; and November 25, 1996, 61 FR 59932–59997. | Same as above. |
| Land Disposal Restrictions Phase III: Emergency Extension of K088 Capacity/Checklist 155. | January 14, 1997, 62 FR 1992 | Same as above. |
| Military Munitions Rule/Checklist 156 | February 12, 1997, 62 FR 6622 | Same as above. |
| Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions/Checklist 157. | May 12, 1997, 62 FR 25998 | Same as above. |
| Testing and Monitoring Activities/Checklist 158 | June 13, 1997, 62 FR 32452 | Same as above. |
| Conformance with Carbamate Vacatur/Checklist 159 | June 17, 1997, 62 FR 32974 | Same as above. |

**Note:** NRS 459.485 effective 1981, amended 1991; NRS 459.490 effective 1981, amended 1987. NAC 444.8632 adopts by reference 40 CFR part 2, subpart A; part 124, subparts A and B; parts 260 through 270, inclusive; part 273 and part 279 as modified by NAC 444.8633, NAC 444.8634, 444.86325 and the regulations included as section 8 and 9 of LCB File No. R–202–97 (filed with the Secretary of State on March 5, 1998).

Nevada agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Nevada agrees to then modify or revoke and reissue such permits as necessary to require compliance with the amended State program. Nevada is not being authorized to operate any portion of the hazardous waste program on Indian lands.

## C. Decision

I conclude that Nevada's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Nevada Final Authorization to operate its hazardous waste program as revised. Nevada now has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Nevada also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under

section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

**D. Codification in Part 272**

The EPA uses 40 CFR part 272 for codification of the decision to authorize Nevada's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart DD until a later date.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Nevada program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

**Certification Under the Regulatory Flexibility Act**

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

**Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**Compliance With Executive Order 12866**

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

**Compliance With Executive Order 12875**

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal

governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from today's action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

### Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

### Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Nevada is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

### Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

### National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

### List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 21, 1998.

**Laura Yoshii,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 99–1908 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

---

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[Docket No. 970527125–8310–04; I.D. 122297D]**

**RIN 0648–AJ95**

## Appointment of Members to the Regional Fishery Management Councils

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

**ACTION:** Final rule.

**SUMMARY:** NMFS revises guidelines for requirements and procedures for the appointment of members to the Regional Fishery Management (RFMCs). The guidelines are revised to clarify compliance requirements, improve their readability, and emphasize the March 15 deadline for information from the RFMC governors, appropriate chairpersons of tribal Indian governments and RFMC nominees. On January 30, 1998, NMFS published in the **Federal Register** a proposed rule requesting comments on revisions to regulations affecting the nomination and appointment of RFMC members. Comments on the revised guidelines contained in the proposed rule were requested by March 2, 1998. This rule implements the regulations contained in the proposed rule.

**DATES:** Effective January 29, 1999.

**ADDRESSES:** Comments regarding the collection-of-information contained in this final rule should be sent to the Director, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, Maryland 20910, and to the Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Loretta E. Williams, F/SF5, NMFS, 301–713–2337.

**SUPPLEMENTARY INFORMATION:** Additional background for this final rule may be found in the preamble to the proposed rule published at 63 FR 4618 (January 30, 1998), and in regulations contained at 50 CFR part 600.215. The primary purposes of this

final rule are (1) to clarify guidelines that relate to compliance by RFMC state governors, appropriate Pacific Fishery Management Council (PFMC) tribal Indian Governments, and RFMC nominees, (2) to emphasize the requirement for the submission of complete nominations packages by the required March 15 deadline, and (3) to reorganize and improve readability of procedures affecting the RFMC nomination and appointment process. This rule does not contains substantive changes to the existing guidelines.

**Comments and Responses**

*Comment 1*: Comments were received from one commenter.

The commenter suggests that, in cases where the terms of both an obligatory member and an at-large member expire concurrently, § 600.215(b)(5) of the proposed rule should be amended to reduce the total minimum number of obligatory and at-large nominees submitted by a governor from six to four.

*Response*: NMFS finds that existing language in § 600.215 (b)(5) meets the intent of this comment. However, NMFS has reinserted the following text to the end of paragraph (b)(5) that had been inadvertently omitted: ''provided that the resulting total number of nominees submitted by that governor for the expiring at-large seat is no fewer than three different nominees.''

*Comment 2*. The commenter stated that, because some constituent states of the RFMCs are heavily involved in the press of state legislative matters during the first quarter of the calendar year, more lead time should be allowed for the recruitment of nominees, preparation of nomination kits, and review of nominations by the governors' offices. The commenter requested that nomination kits be delivered to the governors no later than October 1 of the year preceding the March 15 deadline. *Response*: No change was made. NMFS believes it is unnecessary to establish by regulation a date for the distribution of forms and requests for information contained in the nomination packages. In addition, the expiration of members' terms and pending vacancies at the end of the RFMC year are well known; therefore, governors and chairpersons of tribal Indian Governments are encouraged to begin working with potential nominees as early as possible prior to the term expiration or vacancy. NMFS will endeavor to work with the states throughout the year to facilitate the appointment process.

**Changes From the Proposed Rule**

Section 600.215 (b)(5) has been revised to include existing language which was inadvertently omitted in the proposed rule and which clarifies requirements when the terms of obligatory and

at-large members from a state expire concurrently.

**Classification**

Because this is a non-substantive rule of agency procedure, it is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d).

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

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 will not have a significant economic impact on a substantial number of small entities. Because the rule is a non-substantive rule of procedure, it will not have an economic impact on the fishing industry or on small entities operating in the fishery.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to 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 Office of Management and Budget (OMB) control number.

This rule contains a collection-of-information requirement, subject to the Paperwork Reduction Act (PRA). The total public reporting burden for nominations submitted by RFMC governors, PFMC tribal Indian governments, and nominees is estimated to be 120 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed and completing and reviewing the collection of information.

The collection of this information has been approved by the OMB under control number 0648–0314. Send comments on these or any other aspects of the collection of information to the Office of Sustainable Fisheries and to OMB (see **ADDRESSES**).

**List of Subjects in 50 CFR Part 600**

Administrative practice and procedure, Fisheries, Fishing, Fishing vessels, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: January 25, 1999.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries, National Marine Fisheries Services.*

For the reasons set forth in the preamble, 50 CFR part 600 is amended as follows:

## PART 600–MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et. seq.*

2. Section 600.215 is revised to read as follows:

### § 600.215 Council nomination and appointment procedures.

(a) General. (1) Each year, the 3-year terms for approximately one-third of the appointed members of the Councils expire. The Secretary of Commerce (Secretary) will appoint or new members or will reappoint seated members to another term to fill the seats being vacated.

(2) There are two categories of seats to which voting members are appointed: ''Obligatory'' and ''At-large.''

(i) Obligatory seats are state specific. Each constituent state is entitled to one seat on the Council on which it is a member, except that the State of Alaska is entitled to five seats and the State of Washington is entitled to two seats on the North Pacific Fishery Management Council. When the term of a state's obligatory member is expiring or when that seat becomes vacant before the expiration of its term, the governor of that state must submit the names of at least three qualified individuals to fill that Council seat.

(ii) The Magnuson-Stevens Act also provides for appointment, by the Secretary, of one treaty Indian tribal representative to the Pacific Fishery Management Council (Pacific Council). To fill that seat, the Secretary solicits written nominations from the heads of governments of those Indian Tribes with federally recognized fishing rights from the States of California, Oregon, Washington, or Idaho. The list of nominees must contain a total of at least three individuals who are knowledgeable and experienced regarding the fishery resources under the authority of the Pacific Council. The Secretary will appoint one tribal Indian representative from this list to the Pacific Council for a term of 3 years and rotate the appointment among the tribes.

(iii) At-large seats are regional. When the term of an at-large member is expiring or when that seat becomes vacant before the expiration of a term,

the governors of all constituent states of that Council must each submit the names of at least three qualified individuals to fill the seat.

(b) *Responsibilities of State Governors.* (1) Council members are selected by the Secretary from lists of nominees submitted by Governors of the constituent states, pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act. For each applicable vacancy, a Governor must submit the names of at least three nominees who meet the qualification requirements of the Magnuson-Stevens Act. A Governor must provide a statement explaining how each of his/her nominees meet the qualification requirements, and must also provide appropriate documentation to the Secretary that each nomination was made in consultation with commercial and recreational fishing interests of that state and that each nominee is knowledgeable and experienced by reason of his or her occupational or other experience, scientific expertise, or training in one or more of the following ways related to the fishery resources of the geographical area of concern to the Council:

(i) Commercial fishing or the processing or marketing of fish, fish products, or fishing equipment;

(ii) Fishing for pleasure, relaxation, or consumption, or experience in any business supporting fishing;

(iii) Leadership in a state, regional, or national organization whose members participate in a fishery in the Council's area of authority;

(iv) The management and conservation of natural resources, including related interactions with industry, government bodies, academic institutions, and public agencies. This includes experience serving as a member of a Council, Advisory Panel,

Scientific and Statistical Committee, or Fishing Industry Advisory Committee;

(v) Representing consumers of fish or fish products through participation in local, state, or national organizations, or performing other activities specifically related to the education or protection of consumers of marine resources; or

(vi) Teaching, journalism, writing, consulting, practicing law, or researching matters related to fisheries, fishery management, and marine resource conservation.

(2) To assist in identifying qualifications, each nominee must furnish to the appropriate governor's office a current resume, or equivalent, describing career history—with particular attention to experience related to the criteria in paragraph (b)(1) of this section. Nominees may provide such information in any format they wish.

(3) A constituent State Governor must determine the state of residency of each of his/her nominees. A Governor may not nominate a non-resident of that state for appointment to a Council seat obligated to that state. A Governor may nominate residents of another constituent state of a Council for appointment to an at large seat on that Council.

(4) If, at any time during a term, a member changes residency to another state that is not a constituent state of that Council, or a member appointed to an obligatory seat changes residency to any other state, the member may no longer vote and must resign from the Council. For purposes of this paragraph, a state resident is an individual who maintains his/her principal residence within that constituent state and who, if applicable, pays income taxes to that state and/or to another appropriate jurisdiction within that state.

(5) When the terms of both an obligatory member and an at-large member expire concurrently, the Governor of the state holding the expiring obligatory seat may indicate that the nominees who were not selected for appointment to the obligatory seat may be considered for appointment to an at-large seat, provided that the resulting total number of nominees submitted by that governor for the expiring at-large seat is no fewer than three different nominees. When obligatory and at-large seats do not expire concurrently, the Secretary may select from any of the nominees for such obligatory seat and from the nominees for any at-large seat submitted by the Governor of that state, provided that the resulting total number of nominees submitted by that Governor for the expiring seats is no fewer than six. If a total of fewer than six nominees is submitted by the Governor, each of the six will be considered for the expiring obligatory seat, but not for the expiring at-large seat.

(c) *Responsibilities of eligible tribal Indian governments.* The tribal Indian representative on the Pacific Council will be selected by the Secretary from a list of no fewer than three individuals submitted by the tribal Indian governments with federally recognized fishing rights from California, Oregon, Washington, and Idaho, pursuant to section 302(b)(5) of the Magnuson-Stevens Act. To assist in assessing the qualifications of each nominee, each head of an appropriate tribal Indian government must furnish to the Assistant Administrator a current resume, or equivalent, describing the nominee's qualifications, with emphasis on knowledge and experience related to the fishery resources affected by recommendations of the Pacific Council. Prior service on the Pacific Council in a different capacity will not disqualify nominees proposed by tribal Indian governments.

(d) *Nomination deadlines.* Nomination letters and completed kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15. For appointments outside the normal cycle, a different deadline for receipt of nominations will be announced.

(1) *Obligatory seats.* (i) The governor of the state for which the term of an obligatory seat is expiring must submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments.

(ii) If the nominator fails to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she must submit lists that contain at least three different qualified nominees for each vacant seat. A nomination letter and at least three complete nomination kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are incomplete after March 15 will be returned to the nominating Governor and will be processed no further. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements and the March 15 deadline.

(e) *Responsibilities of the Secretary.* (1) The Secretary must, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries in the Council's area of authority. Further, the Secretary must take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries in the Council's area of authority are fairly represented as voting members on the Councils.

(2) The Secretary will review each list submitted by a governor or the tribal Indian governments to ascertain whether the individuals on the list are qualified for the vacancy. If the Secretary determines that a nominee is not qualified, the Secretary will notify the appropriate Governor or tribal Indian government of that determination. The Governor or tribal Indian government shall then submit a revised list of nominees or resubmit the original list with an additional explanation of the qualifications of the nominee in question. The Secretary reserves the right to determine whether nominees are qualified.

(3) The Secretary will select the appointees from lists of qualified nominees provided by the Governors of the constituent Council states or of the tribal Indian governments that are eligible to nominate candidates for that vacancy.

(i) For Governor-nominated seats, the Secretary will select an appointee for an obligatory seat from the list of qualified nominees submitted by the governor of the state. In filling expiring at-large seats, the Secretary will select an appointee(s) for an at-large seat(s) from the list of all qualified candidates submitted. The Secretary will consider only complete slates of nominees submitted by the governors of the Council's constituent states. When an appointed member vacates his/her seat prior to the expiration of his/her term, the Secretary will fill the vacancy for the remainder of the term by selecting from complete nomination letters and kits that are timely and contain the required number of candidates.

(ii) For the tribal Indian seat, the Secretary will solicit nominations of individuals for the list referred to in paragraph (c) of this section only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The Secretary will consult with the Bureau of Indian Affairs, Department of the Interior, to determine which Indian tribes may submit nominations. Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described in paragraphs (d)(1) and (2) of this section, except that the Secretary may use the list referred to in paragraph (b)(1) of this section from which the vacating member was chosen. The Secretary shall rotate the appointment among the tribes, taking into consideration:

(A) The qualifications of the individuals on the list referred to in paragraph (c) of this section.

(B) The various rights of the Indian tribes involved, and judicial cases that set out the manner in which these rights are to be exercised.

(C) The geographic area in which the tribe of the representative is located.

(D) The limitation that no tribal Indian representative shall serve more than three consecutive terms in the Indian tribal seat.

[FR Doc. 99–2188 Filed 1–28–99; 8:45 am]

BILLING CODE 3510–22–F

---

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 981222313–8320–02; I.D. 012599B]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-pelagic Trawl Gear in the Red King Crab Savings Subarea

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for groundfish with non-pelagic trawl gear in the red king crab savings subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 25, until superseded by the Final 1999 Harvest Specification for Groundfish, which will be published in the *Federal Register*.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907–586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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 CFR part 679.

The Interim 1999 Harvest Specifications of Groundfish (64 FR 50, January 4, 1999) established the interim 1999 red king crab bycatch limit in the RKCSS as 10,000 animals

In accordance with § 679.21(e)(7)(ii)(B), the Administrator, Alaska Region, NMFS, has determined that the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS will be caught. NMFS is closing the RKCSS to directed fishing for groundfish with non-pelagic trawl gear.

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 exceeding the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the amount. Further delay would only result in the amount of the interim 1999 red king crab bycatch limit specified for the RKCSS being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: January 25, 1999.

**Gary C. Matlock,**

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

[FR Doc. 99–2067 Filed 1–25–99; 4:22 pm]

BILLING CODE 3510–22–F

---

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 981222313–8320–02; I.D. 012199C]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Other Than Pollock by Catcher/Processors Identified in Section 208(e)(1)–(20) of the American Fisheries Act in the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing specified groundfish fisheries for specific catcher/

processors identified in the American Fisheries Act (AFA) in the Bering Sea and Aleutian Islands management area (BSAI). These actions are necessary to prevent exceeding the amount of the 1999 interim harvest limitations of groundfish other than pollock, established under the AFA for listed catcher/processors.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 25, 1999, until 2400 hrs, A.l.t., December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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 CFR part 679.

In accordance with section 211(b)(2)(A) of the AFA, the Interim 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 50, January 4, 1999) established harvest limitations of groundfish other than pollock for the specific catcher/processors identified in section 208(e)(1)–(20) of the AFA (listed catcher/processors). NMFS filed an emergency interim rule on January 15, 1999, that establishes inseason authority to limit harvesting activities of the listed catcher/processors to minimize the potential for specified harvest limitations being exceeded.

Under the new emergency rule regulations at § 679.20(d)(1)(iv), if the Administrator, Alaska Region, NMFS (Regional Administrator), determines that any harvest limitation of groundfish other than pollock, established under section 211(b)(2)(A) of the AFA for listed catcher/processors will be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group applicable only to the listed catcher/processors. 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 subarea or district applicable only to the listed catcher/processors (§ 697.20).

The Regional Administrator has determined that the following harvest limitation amounts are necessary as incidental catch to support other anticipated groundfish fisheries for the 1999 fishing year (amounts in metric tons):

| | |
|---|---|
| Greenland turbot: | |
| Aleutian Islands | 19 |
| Bering Sea | 85 |
| Pacific ocean perch: | |
| Eastern Aleutian Islands | 47 |
| Central Aleutian Islands | 45 |
| Western Aleutian Islands | 136 |
| Bering Sea | 12 |
| ''Other rockfish'': | |
| Aleutian Islands | 29 |
| Bering Sea | 12 |
| Sablefish trawl gear: | |
| Aleutian Islands | 0 |
| Bering Sea | 3 |
| Sharpchin/northern: Aleutian Islands | 280 |
| Shortraker/rougheye rockfish: Aleutian Islands | 8 |
| ''Other red rockfish'': Bering Sea. | |

In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances.

The Regional Administrator finds that these directed fishing allowances will be reached before the end of the year. In accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by the listed catcher processors for these species in the specified areas. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 1999.

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

## Classification

This action responds to the harvest limitations and other restrictions on the fisheries established in the Interim 1999 Harvest Specifications for Groundfish for the BSAI. It must be implemented immediately to prevent exceeding the harvest limitations of several groundfish species in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. 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 § 679.21 and is exempt from review under E.O. 12866.

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

Dated: January 25, 1999.

**Gary C. Matlock,**

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

[FR Doc. 99–2066 Filed 1–25–99; 4:11 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 64, No. 19
Friday, January 29, 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 THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 917

**[KY–219–FOR]**

### Kentucky Regulatory Program

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** OSM is withdrawing the notice of a proposed amendment to the Kentucky regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) that was published on Wednesday, January 6, 1999 (64 FR 816, FR Doc. 99–190). The proposed notice was inadvertently published by OSM and incorrectly announces amendments to the Kentucky program that the State has not made. The notice relates to silviculture or managed woodland, and fish and wildlife, postmining land uses on mountaintop removal mining operations.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2494.

### Background

By letter dated December 3, 1998 (Administrative Record No. KY–1445), Kentucky requested that OSM review some language that the State is considering as a proposed program amendment. The State had intended that if OSM finds the language to be acceptable, the State would amend the Kentucky program and submit the amendments to OSM for publication in the **Federal Register** as a proposed amendment. OSM inadvertently published the language as if it were an actual amendment to the Kentucky program. Therefore, the proposed program amendment published in the **Federal Register** dated January 6, 1999 (64 FR 816, FR Doc. 99–190), relating to silviculture or managed woodland, and fish and wildlife, postmining land uses on mountaintop removal mining operations, is withdrawn and Part 917 Title 30 of the Code of Federal Regulations is not amended.

Dated: January 20, 1999.

**Tim L. Dieringer,**

*Acting, Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 99–2217 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 100

### Alaska Federal Subsistence Regional Advisory Council Meetings; Subsistence Management Regulations for Public Lands in Alaska

**AGENCY:** Forest Service, USDA; Fish and Wildlife Service, Interior.

**ACTION:** Regional Advisory Council meetings.

**SUMMARY:** The Federal Subsistence Board announces the winter Regional Council meetings identified above. You are invited to attend and observe meeting proceedings. In addition, you are invited to provide oral testimony to the Councils on proposals to change Subsistence Management Regulations for Public Lands in Alaska for the 1999–2000 regulatory year as set forth in a proposed rule on August 17, 1998 (63 FR 43990–44032). We distributed a booklet of proposed regulation changes by mail on November 13, 1998.

The following agenda items will be discussed at each Regional Council meeting: Introduction of Regional Council members and guests; Old business; New business: Member recruitment and Review and development of recommendations on proposals to change Subsistence Management Regulations (1999–2000) for Public Lands in Alaska.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for meeting dates.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** section for meeting locations.

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, inquiries may also be directed to Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

**SUPPLEMENTARY INFORMATION:** Regional Council meetings—The Federal Subsistence Board announces the forthcoming public meetings of the Federal Subsistence Regional Advisory Councils. The Regional Councils will meet in the following Alaska locations, and begin on the specified dates:

Region 1 (Southeast)—Sitka—Feb. 11, 1999
Region 2 (Southcentral)—Anchorage—Mar. 23, 1999
Region 3 (Kodiak/Aleutians)—Port Lions—Feb. 24, 1999
Region 4 (Bristol Bay)—Dillingham—Mar. 23, 1999
Region 5 (Yukon-Kuskokwim Delta)—Alakanuk—Mar. 2, 1999
Region 6 (Western Interior)—Galena—Mar. 9, 1999
Region 7 (Seward Peninsula)—Nome—Mar. 4, 1999
Region 8 (Northwest Arctic)—Kiana—Mar. 2, 1999
Region 9 (Eastern Interior)—Delta Junction—Feb. 27, 1999
Region 10 (North Slope)—Barrow—Feb. 23, 1999

We will publish a notice of specific times and meeting locations in local and statewide newspapers prior to the meetings. We may need to change locations and dates based on weather or local circumstances. Length of the Regional Council meetings will be determined by the amount of work on each Regional Council's agenda.

The Regional Councils were established in accordance with Section 805 of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and Subsistence Management Regulations for Public Lands in Alaska,

36 CFR Part 242 and 50 CFR Part 100, Subparts A, B, and C (57 FR 22940–22964). The Regional Councils advise the Federal Government on all matters related to the subsistence taking of fish and wildlife on public lands in Alaska and operate in accordance with provisions of the Federal Advisory Committee Act.

The identified Regional Council meetings will be open to the public. You are invited to attend these meetings, observe the proceedings, and provide comments to the Regional Councils.

Dated: January 20, 1999.

**Ken Thompson,**

*Acting Regional Forester, USDA–Forest Service.*

Dated: January 19, 1999.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

[FR Doc. 99–2102 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[GA–34–9902b; FRL–6227–6]**

### Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan; Vehicle Inspection/Maintenance Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the enhanced Inspection/Maintenance (I/M) program for the State of Georgia. The program had initially been given conditional interim approval under the terms of section 110 of the Clean Air Act (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA), as noted in EPA's final conditional interim rule action in the August 11, 1997, **Federal Register**. Due to delays in implementing Phase 2 of the program, the Georgia enhanced I/M program had been disapproved on March 11, 1998, which triggered an eighteen month clock prior to the imposition of sanctions. This proposed approval action also would serve to stop the sanctions clock.

**DATES:** Written comments must be received on or before March 1, 1999.

**ADDRESSES:** Written comments should be addressed to Scott Martin at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

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

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Scott Martin at (404) 562–9036.

**SUPPLEMENTARY INFORMATION:** For additional information see the final interim rule which is published in the Rules section of this **Federal Register**.

Dated: January 13, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 99–2195 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–6225–9]**

### Nevada: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to grant final authorization to the hazardous waste program revisions submitted by Nevada Department of Environmental Protection. In the final rules section of this **Federal Register**, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the authorization is set forth in the immediate final rule. If no adverse written comments are received on this action, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule before its effective date by publishing a notice of withdrawal in the **Federal Register**. EPA will then respond to public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before March 1, 1999.

**ADDRESSES:** Mail written comments to Lisa McClain-Vanderpool, 75 Hawthorne St. (WST–3), San Francisco, CA 94105. You can examine copies of the materials submitted by Nevada during normal business hours at the following locations: U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105 , 415/744–1510; or Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710, Phone: 702/687–5872.

**FOR FURTHER INFORMATION CONTACT:** Lisa McClain-Vanderpool at the address above.

**SUPPLEMENTARY INFORMATION:** For additional information see the immediate final rule published in the rules section of this **Federal Register**.

Dated: January 15, 1999.

**Felicia Marcus,**

*Regional Administrator, Region 9.*

[FR Doc. 99–1909 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

**[OPPTS–50563A; FRL–6050–7]**

**RIN 2070–AB27**

### Diphenyl-2,4,6-Trimethylbenzoyl Phosphine Oxide; Withdrawal of Proposed Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** EPA is withdrawing a proposed significant new use rule (SNUR) for diphenyl-2,4,6-trimethylbenzoyl phosphine oxide based on receipt of new data. Based on the new data the Agency no longer finds that activities not described in the Premanufacture Notice (PMN) for this substance may result in significant changes in human or environmental exposure.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC 20460, telephone: (202)

554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability:** Electronic copies of this document are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

In the **Federal Register** of February 2, l988 (53 FR 2857), EPA proposed a SNUR to be codified at 40 CFR 721.855 establishing significant new uses for diphenyl-2,4,6-trimethylbenzoyl phosphine oxide. Because of additional data EPA has received for this substance, EPA is withdrawing this proposed rule.

## I. Background

The Agency proposed the SNUR for diphenyl-2,4,6-trimethylbenzoyl phosphine oxide in the **Federal Register** of February 2, 1988 (53 FR 2857). The background and reasons for the SNUR are set forth in the preamble of the proposed rule. After the proposed SNUR, EPA received a 90-day oral subchronic study in rats for the substance. The study resulted in a No Observed Adverse Effect Level (NOAEL) of 100 milligrams/kilograms/day (mg/kg/day). There were effects noted in the liver, blood, and testes at 300 and 1000 mg/kg/day but there was no significant evidence of neurotoxic effects at any dose. EPA had expressed concerns for severe neurotoxicity hazard in the proposed SNUR. Based on this data, EPA no longer finds that activities not described in the PMN may result in significant changes in human exposure and is withdrawing the proposed rule.

## II. Rationale for Withdrawal of the Proposed Rule

During review of the PMNs submitted for the chemical substance that is the subject of this withdrawal, EPA concluded that regulation was warranted based on available information that indicated activities not described in the PMN might result in significant changes in human exposure. Based on these findings, a SNUR was proposed.

Based on the submitted test data, EPA no longer finds that activities other than those described in the PMN may result in significant changes in human exposure. Therefore, EPA is withdrawing the proposed SNUR for this chemical substance. When this withdrawal is published in the **Federal Register**, export notification under section 12(b) of TSCA will no longer be required.

## III. Public Record

The official record for this proposed rule, as well as the public version, has been established for this proposed rule under docket control number OPPTS–50563A (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

## IV. Regulatory Assessment Requirements

### *A. Certain Acts and Executive Orders*

This proposed rule does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

### *B. Executive Order 12875*

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

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

### *C. Executive Order 13084*

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

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

## List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 19, 1999.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 99–2205 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## DEPARTMENT OF VETERANS AFFAIRS

### 48 CFR Part 829

**RIN 2900–AJ32**

### VA Acquisition Regulation: Taxes

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) by deleting procedures and controls prescribed in the VAAR whereby facilities or institutions owned or controlled by State Governments, territories, and the District of Columbia, under supervision of a Federal agency, can obtain tax-free tobacco products for gratuitous distribution to present and former members of the Armed Forces of the United States. These procedures and controls are inconsistent with VA policy against promotion of the use of tobacco products. Accordingly, we propose to delete the provisions concerning tax-free tobacco products. Further, this document proposes to remove provisions stating that contracting officers will submit requests for legal advice, through channels, to the General Counsel. These provisions are internal VA instructions to contracting officers and are not required to be published in the **Federal Register** or the Code of Federal Regulations. In addition, this document proposes to remove provisions stating that the VAAR contains refund procedures for State and local taxes, since the VAAR does not contain such provisions.

**DATES:** Comments must be received on or before March 30, 1999.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ32.'' All written comments will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Don Kaliher, Acquisition Policy Team (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420, telephone number (202) 273–8819.

**SUPPLEMENTARY INFORMATION:** The Secretary hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This rule would have a minuscule effect, if any, on small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### List of Subjects in 48 CFR Part 829

Government procurement, Taxes.

Approved: January 22, 1999.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 48 CFR parts 829 is proposed to be amended as follows:

## PART 829—TAXES

1. The authority citation for part 829 continues to read as follows:

**Authority:** 38 U.S.C. 501 and 40 U.S.C. 486(c).

2. Section 829.000 is revised to read as follows:

**829.000 Scope of part.**

This part prescribes policies and procedures for exemptions from Federal excise taxes imposed on alcohol products purchased for use in the Department of Veterans Affairs medical care program.

### Subpart 829.1—[Removed]

3. Subpart 829.1 consisting of section 829.101 is removed.

**829.270 through 829–270–2 [Removed]**

4. Sections 829.270 through 829.270–2 are removed.

[FR Doc. 99–2126 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–U

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AF30**

### Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Proposed Special Regulations for the Preble's Meadow Jumping Mouse

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** The Fish and Wildlife Service (Service) provides notice that the comment period on the Service's proposal to establish special regulations for the conservation of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (63 FR 66777, December 3, 1998) is extended through March 5, 1999. The Service notes that revisions of Mouse Protection Areas and Potential Mouse Protection Areas referenced in the December 3, 1998, proposed rule are available for review.

**DATES:** The public comment period, which was originally to close on February 1, 1999, is extended for an additional 31 days and now closes on March 5, 1999.

**ADDRESSES:** Written comments and materials should be sent to Colorado Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service's Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado.

**FOR FURTHER INFORMATION CONTACT:** LeRoy W. Carlson, Colorado Field Supervisor, telephone 303/275–2370, facsimile 303/275–2371 (see **ADDRESSES** section).

**SUPPLEMENTARY INFORMATION:**

### Background

The Preble's meadow jumping mouse, a small rodent in the family Zapodidae, is known to occur only in eastern Colorado and southeastern Wyoming. It lives primarily in heavily vegetated riparian habitats and immediately adjacent upland habitats. Habitat loss and degradation caused by agricultural, residential, commercial, and industrial development have resulted in concern over its continued existence.

On May 13, 1998, the Service published a final rule (63 FR 26517) to

list the Preble's meadow jumping mouse as a threatened species under the Endangered Species Act (Act) of 1973 (16 U.S.C. sections 1531 to 1544) without critical habitat. At the time the Preble's was listed, a special rule for the conservation of the Preble's was not promulgated and therefore virtually all of the restrictions of the Act became applicable to the species. On December 3, 1998, the Service proposed a special rule under 4(d) of the Act to establish standards for the conservation of the Preble's for 18 months.

Some revisions have been made to the geographic locations of Mouse Protection Areas and Potential Mouse Protection Areas described in the December 3, 1998, proposed rule. These revisions, based on the best scientific information currently available, are maintained by the Service at addresses provided below. These geographic locations can be viewed at the U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado, telephone 303/275–2370 or at the U.S. Fish and Wildlife Service, Wyoming Field Office, 4000 Morrie Avenue, Cheyenne, Wyoming 82001, telephone 307/722–2374. Depictions of these geographic locations are also available on our internet home page (www.r6.fws.gov/preble).

Legal notice and news releases announcing the extension of the comment period are being published in newspapers concurrently with this **Federal Register** notice.

Written statements concerning the proposed special rule should be mailed to the Service office identified in the **ADDRESSES** section above on or before March 5, 1999.

## Author

The author of this notice is Peter Plage, Colorado Field Office (see **ADDRESSES** above), telephone 303/275–2370.

## Authority

Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: January 22, 1999.

**Terry T. Terrell,**

*Deputy Regional Director, Denver, Colorado.*

[FR Doc. 99–1994 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–55–M

# Notices

Federal Register
Vol. 64, No. 19
Friday, January 29, 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

### Federal Crop Insurance Corporation

### Crop Revenue Coverage

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approves for reinsurance and subsidy the insurance of corn, grain sorghum, soybeans, cotton, and rice in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance for the 1999 crop year. This notice is intended to inform eligible producers and the private insurance industry of the CRC coverage changes for corn, grain sorghum, soybeans, cotton and rice and provide its terms and conditions.

**FOR FURTHER INFORMATION CONTACT:** Tim Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone (816) 926–7387.

**SUPPLEMENTARY INFORMATION:** Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with the Act, the Board approved a program of insurance known as CRC, originally submitted by American Agrisurance, a managing general agency for Redland Insurance Company.

The CRC program has been approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses. CRC is designed to protect producers against both price and yield losses. CRC provides a harvest revenue guarantee that pays losses from the established yield coverage at a higher price if the harvest time price is higher than the spring price.

In the 1996 crop year, the CRC program was available for corn and soybeans in all counties in Iowa and Nebraska.

In the 1997 crop year, the CRC program was expanded for corn into Colorado, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, Oklahoma, South Dakota, and Texas, and soybeans into Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, Oklahoma, South Dakota, and Texas. New CRC programs were also made available for grain sorghum in Colorado, Nebraska, Oklahoma, and crop reporting districts 20, 30, 50, and 70 in Kansas, 40 in Missouri, 50 and 80 in South Dakota, and 40, 51, 52, 81, 82, 90, 96, and 97 in Texas; for cotton in Arizona, Georgia, Oklahoma, and crop reporting districts 11, 12, 21, and 22 in Texas; and for wheat into Kansas, Michigan, Minnesota, Nebraska, South Dakota, Texas, Washington, and twenty-three counties each in Montana and North Dakota.

In the 1998 crop year, the CRC program was expanded for corn into Alabama, Arizona, Arkansas, California, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Montana, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Utah, Virginia, Washington, Wisconsin, and Wyoming; for soybeans into Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, North Dakota, South Carolina, Tennessee, Virginia, and Wisconsin; for grain sorghum into Alabama, Arkansas, California, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, Tennessee, Virginia, Wisconsin, and the remaining counties in Kansas, Missouri, South Dakota, and Texas; for cotton into Alabama, Arkansas, California, Kansas, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, South Carolina, Tennessee, Virginia, and the remaining counties in Texas; and for wheat into Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Utah, Virginia, Wisconsin, Wyoming, and remaining counties in Montana and North Dakota.

Prior to the 1998 crop year, the CRC policy provided coverage for basic and optional units only, as selected by the insured, and the expected market price was based on 95 percent of the average daily settlement price. Beginning with the 1998 crop year, insureds could select basic, optional or enterprise units for corn and soybeans and 95 or 100 percent of the average daily settlement price for corn, grain sorghum, soybeans and cotton. The CRC program was also changed to provide insurance at an appropriate premium for any producer that had been identified on the nonstandard classification system (NCS).

Beginning with the 1999 crop year for CRC wheat, producers can select basic, optional or enterprise units, 95 or 100 percent of the average daily settlement price, coverage for all acreage classified as high risk, and a separate price for durum wheat. A methodology also has been developed for determining the spring wheat Base Price in counties that had both fall and spring wheat programs, but only a fall cancellation date.

Beginning with the 1999 crop year, new CRC programs are available for rice in Arkansas, California, Florida, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas; for corn, grain sorghum, and soybeans in Maryland; and for corn, grain sorghum, soybeans, and cotton in Florida. Enterprise units are now available for all CRC crops; and, written agreements are allowed for rating purposes only. Beginning with the 1999 spring crops, insureds can select increased coverage levels of 80 and 85 percent for crops and in counties where Risk Management Agency (RMA) offers coverage levels up to 85 percent, and high-risk classification rating has been added for corn, grain sorghum, soybeans, cotton, and rice.

FCIC herewith gives notice of the above stated changes for the 1999 crop year for CRC corn, grain sorghum, soybeans, cotton, spring wheat, and rice for use by private insurance companies.

The CRC underwriting rules, rate factors and forms for 1999 spring crops will be released electronically to all reinsured companies through FCIC's Reporting Organization Server. FCIC will also make available the terms and conditions of the CRC reinsurance agreement. Requests for this information should be sent to Heyward Baker, Director, Reinsurance Services Division, Federal Crop Insurance Corporation, 1400 Independence Avenue, SW, Stop 0804, Room 6727–S, Washington, DC, 20250–0804.

Following is a complete list of insurable CRC crops by state for the 1999 crop year:

Alabama: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Arizona: Corn, Cotton, Wheat
Arkansas: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
California: Corn, Cotton, Grain Sorghum, Rice, Wheat
Colorado: Corn, Grain Sorghum, Wheat
Georgia: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Florida: Corn, Cotton, Grain Sorghum, Rice, Soybeans
Idaho: Corn, Wheat
Illinois: Corn, Grain Sorghum, Soybeans, Wheat
Indiana: Corn, Grain Sorghum, Soybeans, Wheat
Iowa: Corn, Grain Sorghum, Soybeans, Wheat
Kansas: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Kentucky: Corn, Grain Sorghum, Soybeans, Wheat
Louisiana: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
Maryland: Corn, Grain Sorghum, Soybeans
Michigan: Corn, Grain Sorghum, Soybeans, Wheat
Minnesota: Corn, Grain Sorghum, Soybeans, Wheat
Mississippi: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
Missouri: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
Montana: Corn, Wheat
Nebraska: Corn, Grain Sorghum, Soybeans, Wheat
New Mexico: Corn, Cotton, Grain Sorghum, Wheat
North Carolina: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
North Dakota: Corn, Grain Sorghum, Soybeans, Wheat
Ohio: Corn, Grain Sorghum, Soybeans, Wheat
Oklahoma: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
Oregon: Corn, Wheat
South Carolina: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
South Dakota: Corn, Grain Sorghum, Soybeans, Wheat
Tennessee: Corn, Cotton, Grain Sorghum, Rice, Soybeans, Wheat
Texas: Corn, Cotton, Grain Sorghum, Texas, Soybeans, Wheat
Utah: Corn, Wheat
Virginia: Corn, Cotton, Grain Sorghum, Soybeans, Wheat
Washington: Corn, Wheat
Wisconsin: Corn, Grain Sorghum, Soybeans, Wheat
Wyoming: Corn, Wheat

**Notice:** The Basic Provisions, Crop Provisions, and Commodity Exchange Endorsements for the 1999 CRC spring crop programs of insurance are as follows:

## Crop Revenue Coverage (CRC) Insurance Policy

(This is a continuous policy. Refer to section 3.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section 508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508(h)). The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or us. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by FCIC. No state guarantee fund will be liable to pay the loss.

Throughout the policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we,'' ''us,'' and ''our'' refer to the insurance company providing insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in the policy. If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) these Basic Provisions, with (1) controlling (2), etc.

## Basic Provisions

*Terms and Conditions*

1. Definitions

*Abandon.* Failure to continue to care for the crop, providing care so insignificant as to provide no benefit to the crop, or failure to harvest in a timely manner, unless an insured cause of loss prevents you from properly caring for or harvesting the crop or causes damage to it to the extent that most producers of the crop on acreage with similar characteristics in the area would not normally further care for or harvest it.

*Acreage report.* A report required by section 7 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county, whether insurable or not insurable.

*Acreage reporting date.* The date contained in the Special Provisions or as provided in section 7 by which you are required to submit your acreage report.

*Act.* The Federal Crop Insurance Act, (7 U.S.C. 1501 *et seq.*).

*Actuarial documents.* The material for the crop year which is available for public inspection in your agent's office, and which show the revenue guarantees, coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

*Additional coverage.* Plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage.

*Administrative fee.* An amount you must pay for limited and additional coverage for each crop year as specified in section 8.

*Agricultural commodity.* All insurable crops and other fruit, vegetable or nut crops produced for human or animal consumption.

*Another use, notice of.* The written notice required when you wish to put acreage to another use (see section 15).

*Application.* The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If cancellation or termination of insurance coverage occurs for any reason, including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us, or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

*Approved yield.* The yield determined in accordance with 7 CFR part 400, subpart G. This yield is established for basic or optional units. The Approved Yield for each basic or optional unit comprising an enterprise unit is retained for premium and final guarantee purposes under an enterprise unit.

*Assignment of indemnity.* A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your

right to an indemnity payment to any party of your choice for the crop year.

*Base Price.* The initial price determined in accordance with the Commodity Exchange Endorsement and used to calculate your premium and Minimum Guarantee.

*CRC low price factor.* A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

*CRC high price factor.* A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

*CRC rate.* A premium rate, as set forth in the actuarial documents, used to calculate the risk associated with producing a level of production.

*Cancellation date.* The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing by either you or us, or terminated in accordance with the policy terms.

*Claim for indemnity.* A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the Harvest Price is released (see section 15.)

*Consent.* Approval in writing by us allowing you to take a specific action.

*Contract.* (see ''Policy''.)

*Contract change date.* The calendar date by which we make any policy changes available for inspection in the agent's office (see section 5.)

*County.* Any county, parish, or other political subdivision of a state shown on your accepted application, including acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

*Coverage.* The insurance provided by this policy, against insured loss of revenue by unit as shown on your summary of coverage.

*Coverage begins, date.* The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 12 of these Basic Provisions for specific provisions relating to prevented planting.)

*Crop Provisions.* The part of the policy that contains the specific provisions of insurance for each insured crop.

*Crop year.* The period within which the insured crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the insured crop is normally harvested.

*Damage.* Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

*Damage, notice of.* A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 15.)

*Days.* Calendar days.

*Deductible.* The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100% − 65% = 35%).

*Delinquent account.* Any account you have with us in which premiums, and interest on those premiums, is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

*Earliest planting date.* The earliest date established for planting the insured crop (see Special Provisions and section 14.)

*End of insurance period, date of.* The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12.)

*FCIC.* The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

*Field.* All acreage of tillable land within a natural or artificial boundary (*e.g.*, roads, waterways, fences, etc.)

*Final Guarantee.* The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The Approved Yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The Approved Yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

If you elect enterprise unit coverage, the Basic Units or Optional units comprising the enterprise unit will retain separate Final Guarantees.

*Final planting date.* The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

*FSA.* The Farm Service Agency, an agency of the USDA, or a successor agency.

*FSA farm serial number.* The number assigned to the farm by the local FSA office.

*Good farming practices.* The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

*Harvest Price.* The final price determined in accordance with the Commodity Exchange Endorsement and used to calculate your Calculated Revenue and the Harvest Guarantee.

*Insured.* The named person shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

*Insured crop.* The crop for which coverage is available under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

*Interplanted.* Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

*Irrigated practice.* A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the Final Guarantee on the irrigated acreage planted to the insured crop.

*Late planted.* Acreage initially planted to the insured crop after the final planting date.

*Late planting period.* The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Crop Provisions or Special Provisions.

*Limited coverage.* Plans of insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage, but less than 65 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage.

*Limited resource farmer.* A producer or operator of a farm:

(a) With an annual gross income of $20,000 or less derived from all sources, including income from a spouse or other members of the household, for each of the prior two years; or

(b) With less than 25 acres aggregated for all crops, where a majority of the

producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed $20,000.

*Loss, notice of.* The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 15.)

*MPCI.* Multiple peril crop insurance program, a program of insurance offered under the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act) and implemented in 7 CFR chapter IV.

*Negligence.* The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

*Non-contiguous.* Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

*Person.* An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. ''Person'' does not include the United States Government or any agency thereof.

*Planted acreage.* Land in which seed, plants, or trees have been placed appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

*Policy.* The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured crop, and the applicable regulations published in 7 CFR chapter IV.

*Practical to replant.* Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed or plants will not be considered a valid reason for failure to replant.

*Premium billing date.* The earliest date upon which you will be billed for insurance coverage based on your acreage report. The premium billing date is contained in the Special Provisions.

*Prevented planting.* Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

*Production report.* A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 4). The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop, by measurement of farm-stored production, or by other records of production approved by us on an individual case basis.

*Replanting.* Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the insured acreage with the expectation of producing at least the yield used to determine the Final Guarantee.

*Representative sample.* Portions of the insured crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

*Sales closing date.* A date contained in the Special Provisions by which an application must be filed. The last date by which you may change your crop insurance coverage for a crop year.

*Section (for the purposes of unit structure).* A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

*Share.* Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest.

*Special Provisions.* The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

*State.* The state shown on your accepted application.

*Substantial benefit interest.* An interest held by any person of at least 10 percent in the applicant or insured.

*Summary of coverage.* Our statement to you, based upon your acreage report, specifying the insured crop and the Revenue Guarantee provided by unit.

*Tenant.* A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of ''Share'' above.)

*Termination date.* The calendar date contained in the Crop Provisions upon which your insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

*Timely planted.* Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

*Unit.*

(a) Basic unit—A unit established in accordance with section 2 (a).

(b) Optional unit—A unit established from basic units in accordance with section 2 (b).

(c) Enterprise unit—A unit established from basic units or optional units in accordance with section 2 (c).

*USDA.* United States Department of Agriculture.

*Void.* When the policy is considered not to have existed for a crop year as a result of concealment, fraud, or misrepresentation (see section 27).

*Written Agreement.* A document that alters designated terms of a policy as authorized under these Basic Provisions. See section 34.

2. Unit Structure.

(a) Basic unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.) Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop, or proceeds from the sale of the insured crop, on such land will be considered as owned by the lessee (see definition of ''Share'' above).

(b) Optional unit—Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 2(a) may be divided into optional units if, for each optional unit:

(1) You meet the following:

(i) You have records, that are acceptable to us, of planted acreage and the production from each optional unit for at least the last crop year used to determine your Final Guarantee;

(ii) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(iii) All optional units you select for the crop year are identified on the acreage report for that crop year (Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason); and

(iv) You have records of marketed or stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each optional unit is kept separate until loss adjustment is completed by us.

(2) Each optional unit must meet one or more of the following, unless otherwise specified in the Crop Provisions:

(i) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure such as Spanish grants, as the equivalents of sections for unit purposes. In areas which have not been surveyed using sections, section equivalents or in areas where boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; and

(ii) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the Final Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit. In this case, production from both practices will be used to determine your approved yield.

(3) If you do not comply fully with the provisions in this section, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined by us to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(c) Enterprise unit—A unit that consists of all insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. If you select and qualify for an enterprise unit, you will qualify for a premium discount based on the insured crop and number of acres in the enterprise unit. The following requirements must be met to qualify for an enterprise unit:

(1) The enterprise unit must contain 50 or more acres;

(2) The acreage that comprises the enterprise unit must also qualify;

(i) For two or more basic units of the same insured crop as defined in section 2(a) that are located in two or more separate sections, section equivalents or FSA farm serial numbers; or

(ii) For two or more optional units of the same insured crop established by separate sections, section equivalents, or FSA farm serial numbers as defined in section 2(b)(2)(i).

(3) These basic units or optional units that comprise the enterprise unit must each have insurable acreage of the same crop in the crop year insured;

(4) You must comply with all reporting requirements for the enterprise unit. (You must maintain required production records on a basic or optional unit basis if you wish to change your unit structure for any subsequent crop year.);

(5) The qualifying basic units or optional units may not be combined into an enterprise unit on any basis other than as described herein; and

(6) If you do not comply with the reporting provisions for the enterprise unit, your yield for the enterprise unit will be determined in accordance with section 4(e).

(d) Selection of unit structure—Basic, optional, or enterprise units will be determined when the acreage is reported but may be adjusted, combined, or separated to reflect the actual unit structure when adjusting a loss. If you select an enterprise unit structure, you must elect that option in writing by the earliest sales closing date for the insured crops. If you do not qualify for an enterprise unit when the acreage is reported, we will assign the basic unit structure.

All applicable unit structures must be stated on the acreage report for each crop year.

3. Life of Policy, Cancellation, and Termination

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy, or by us.

(b) Your application for insurance must contain all the information required by us to insure the crop. Applications that do not contain all social security numbers and employer identification numbers, as applicable, (except as stated herein) coverage level, price percentage, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop refuses to provide a social security number or employer identification number, the amount of coverage available under the policy will be reduced proportionately by that person's share of the crop.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) If any amount due, including administrative fees or premium, is not paid, or an acceptable arrangement for payment is not made on or before the termination date for the crop on which the amount is due, you will be determined to be ineligible to participate in any crop insurance program authorized under the Act in accordance with 7 CFR part 400, subpart U.

(1) For a policy with unpaid administrative fees or premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

(2) For a policy with other amounts due, the policy will terminate effective on the termination date immediately after the account becomes delinquent;

(3) Ineligibility will be effective as of the date that the policy was terminated for the crop for which you failed to pay an amount owed and for all other insured crops with coincidental termination dates;

(4) All other policies that are issued by us under the authority of the Act will also terminate as of the next termination date contained in the applicable policy;

(5) If you are ineligible, you may not obtain any crop insurance under the Act until payment is made, you execute an agreement to repay the debt and make the payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy;

(6) If you execute an agreement to repay the debt and fail to timely make any scheduled payment, you will be ineligible for crop insurance effective on the date the payment was due until the debt is paid in full or you file a petition to discharge the debt in bankruptcy and subsequently obtain discharge of the amounts due. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate;

(7) Once the policy is terminated, the policy cannot be reinstated for the current crop year unless the termination was in error;

(8) After you again become eligible for crop insurance, if you want to obtain coverage for your crops, you must reapply on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payment after the sales closing date, you cannot apply for insurance until the next crop year); and

(9) If we deduct the amount due us from an indemnity, the date of payment for the purpose of this section will be the date you sign the properly executed claim for indemnity.

(10) For example, if crop A, with a termination date of October 31, 1998, and crop B, with a termination date of March 15, 1999, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 1998, and crop A's policy is terminated on that date. Crop B's policy is terminated as of March 15, 1999. If you enter an agreement to repay the debt on April 25, 1999, you can apply for insurance for crop A by the October 31, 1999, sales closing date and crop B by the March 15, 2000, sales closing date. If you fail to make a scheduled payment on November 1, 1999, you will be ineligible for crop insurance effective on November 1, 1999, and you will not be eligible unless the debt is paid in full or you file a petition to have the debt discharged in bankruptcy and subsequently receive discharge.

(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. The premium will be deducted from the indemnity or collected from the estate. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) We may terminate your policy if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

(i) You are not eligible to participate in the Crop Revenue Coverage program if you have elected the MPCI Catastrophic Risk Protection Endorsement except if you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage Policy, you may elect to insure the ''high risk land'' under an MPCI Catastrophic Risk Protection Endorsement, provided the Catastrophic Risk Protection Endorsement is obtained from us. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under an MPCI Catastrophic Risk Protection Endorsement will be considered as separate crops for insurance purposes, including the payment of administrative fees.

(j) When obtaining limited or additional coverage, you must provide information regarding crop insurance coverage on any crop previously obtained from an approved insurance provider, including the date such insurance was obtained and the amount of the administrative fee.

4. Coverage Level, Price Percentage, and Approved Yield for Determining Final Guarantee and Indemnity

(a) For each crop year, the Final Guarantee, coverage level, and price percentage at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the Special Provisions or in the actuarial documents.

(b) You may select only one coverage level from among those offered by us for each insured crop. By written notice to us, you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) You may select only one price percentage for each insured crop. You may change the price percentage for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. The price percentage you select applies to both the Base Price and Harvest Price. Since the average daily settlement price may change each year, if you do not select a new price percentage on or before the sales closing date, we will assign a price percentage which bears the same relationship to the price percentage schedule that was in effect for the preceding year. (For example: If you selected a price percentage of 100 for the previous crop year, and you do not select a new price percentage for the current crop year, we will assign a price percentage of 100 for the current crop year.)

(d) This policy is an alternative to the Multiple Peril Crop Insurance program and satisfies the requirements of section 508 (b)(7) of the Act.

(e) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date unless otherwise stated in the Special Provisions.

(1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your Approved Yield for the purpose of determining your Final Guarantee for the current crop year.

(2) If you have filed a claim for any crop year, the documents signed by you

which state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC.

(3) Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you do not provide the information stated above, the optional units will be combined into the basic unit.

(f) We may revise your Final Guarantee for any unit, and revise any indemnity paid based on that Final Guarantee, if we find that your production report under paragraph (e) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production, acreage, or other material information.

(g) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such a person to sign.

5. Contract Changes

(a) We may change the terms of your coverage under this policy from year to year.

(b) Any changes in policy provisions, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions. You may view the documents or request copies from your crop insurance agent.

(c) You will be notified, in writing, of changes to the Basic Provisions, Crop Provisions, and Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

6. Liberalization

If we adopt any revision that broadens the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

7. Report of Acreage

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops with us that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops with us that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 7(a) (1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(A) The acreage reporting date contained in the Special Provisions;

(B) The date determined in accordance with sections 7(a) (1) or (2); or

(C) Five (5) days after the end of the late planting period for the insured crop, if applicable.

(b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report on or before the acreage reporting date, so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop in the county (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(d) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity that may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed, subject to the provisions contained in section 7(g).

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice, or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower liability than the actual liability determined, the Final Guarantee on the unit will be reduced to an amount that is consistent with the reported information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information. If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

8. Annual Premium and Administrative Fees

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the premium billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any prevented planting payment or indemnity due you for any crop insured with us under the authority of the Act.

(c) The annual premium amount is determined by:

(1) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable MPCI actuarial documents, and times

the Base Price as defined in the Commodity Exchange Endorsement;

(2) Multiplying the Approved Yield times the coverage level, times the CRC Rate specified in the actuarial documents, and times the Low Price Factor specified in the actuarial documents ;

(3) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable MPCI actuarial documents, and times the High Price Factor specified in the actuarial documents;

(4) Adding sections 8(c)(1), (2), and (3);

(5) Multiplying the result of section 8(c)(4) times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Area Adjustment Factor; Rate Class Option Factor; Option Factor; and Yield Adjustment Surcharge specified in the actuarial documents;

(6) Multiplying the Approved Yield times the coverage level, times the MPCI Base Rate specified in the applicable actuarial documents, times the MPCI Market Price Election, times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Area Adjustment Factor; Rate Class Option Factor; Option Factor; and Yield Adjustment Surcharge specified in the actuarial documents, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level and is contained in the actuarial documents; and

(7) Subtracting section 8(c)(6) from section 8(c)(5) to determine the annual producer paid premium.

(d) The annual premium amount for any applicable High Risk Classification is determined by:

(1) Multiplying the Approved Yield (with yield adjustments specified in the actuarial documents) times the coverage level, times the High Risk Classification Rate specified in the actuarial documents, times the Rate Differential specified in the actuarial documents, and times the Base Price as defined in the Commodity Exchange Endorsement;

(2) Multiplying the result of section 8(d)(1) times the acres insured, times your share at the time coverage begins, times any applicable Rate Class Option Factor; and Option Factor specified in the actuarial documents, and times the High Risk Classification Premium Factor calculated using the High Risk Classification Premium Formula specified in the actuarial documents;

(3) Multiplying the Approved Yield (with yield adjustments specified in the actuarial documents) times the coverage level, times the High Risk Classification Rate specified in the actuarial documents, times the Rate Differential specified in the actuarial documents, times the MPCI Market Price Election, times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Class Option Factor; and Option Factor specified in the actuarial documents, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level and is contained in the actuarial documents; and

(4) Subtracting section 8(d)(3) from section 8(d)(2) to determine the annual producer paid premium.

(e) In addition to the premium charged:

(1) If you elect limited coverage, you must pay an administrative fee each crop year of $50 per crop per county, not to exceed $200 per county, or $600 for all counties in which you elected to obtain limited coverage.

(2) If you elect additional coverage, you must pay an administrative fee of $20 per crop for each crop year in which crop insurance coverage remains in effect.

(3) The administrative fee must be paid no later than the time that premium is due.

(4) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop. If you falsely file a zero acreage report, you may be subject to criminal and administrative sanctions.

(5) The administrative fee for limited coverage will be waived if you request it and you qualify as a limited resource farmer.

(6) The administrative fee for additional coverage is not subject to any limits and may not be waived.

(7) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.

9. Insured Crop

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions or Special Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates or Final Guarantee have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions; or

(6) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.

10. Insurable Acreage

(a) Acreage planted to the insured crop in which you have a share is insurable except acreage:

(1) That has not been planted and harvested within one of the 3 previous crop years, unless:

(i) Such acreage was not planted:

(A) To comply with any other USDA program;

(B) Because of crop rotation, (*e.g.*, corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again);

(C) Due to an insurable cause of loss that prevented planting; or

(D) Because a perennial tree, vine, or bush crop was grown on the acreage.

(ii) Such acreage was planted but was not harvested due to an insurable cause of loss; or

(iii) The Crop Provisions specifically allow insurance for such acreage.

(2) That has been strip-mined, unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) That is interplanted, unless allowed by the Crop Provisions;

(5) That is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) That is planted in any manner other than as specified in the policy provisions for the crop.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or the reasonable expectation of

receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation exists.

(c) Notwithstanding the provisions in section 9(b)(1), if acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as ''non-irrigated,'' or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage that we will insure to the amount allowed under any acreage limitation program established by the USDA if we notify you of that restriction prior to the sales closing date.

11. Share Insured

(a) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:

(1) The insurance is requested for an entity such as a partnership or a joint venture; or

(2) You as landlord will insure your tenant's share, or you as tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report.

(b) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.

(c) Acreage rented for a percentage of the crop, or a lease containing provisions for BOTH a minimum payment (such as a specified amount of cash, bushels, pounds, etc.,) AND a crop share will be considered a crop share lease.

(d) Acreage rented for cash, or a lease containing provisions for EITHER a minimum payment OR a crop share (such as a 50/50 share or $100.00 per acre, whichever is greater) will be considered a cash lease.

12. Insurance Period

(a) Except for prevented planting coverage (see section 18), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 3);

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on a unit; 1

(4) The calendar date contained in the Crop Provisions for the end of the insurance period;

(5) Abandonment of the crop on the unit; or

(6) As otherwise specified in the Crop Provisions.

13. Causes of Loss

The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) Failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop, if applicable.

14. Replanting Payment

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date or within the late planting period if a late planting period is applicable.)

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the earliest planting date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

15. Duties in the Event of Damage or Loss

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop (we may accept a notice of loss provided later than 72 hours after your initial discovery if we still have the ability to accurately adjust the loss);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions;

(4) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies; and

(5) Give us notice of your expected revenue loss not later than 45 days after the date the Harvest Price is released.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop that is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop. We will not give consent for any of the actions in sections 15(b)(1) through (4) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the date the Harvest Price is released. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during

the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you;

(2) Completion of arbitration or appeal proceedings; or

(3) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30-day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by FCIC.

16. Production Included in Determining Indemnities

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) Appraised production will be used to calculate your claim if you will not be harvesting the acreage. To determine your indemnity based on appraised production, you must agree to notify us if you harvest the crop and advise us of the production. If the acreage will be harvested, harvested production will be used to determine any indemnity due, unless otherwise specified in the policy.

(d) The amount of an indemnity that may be determined under the applicable provisions of your crop policy may be reduced by an amount, determined in accordance with the Crop Provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by you as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage prevented from being planting will be based on a reduced Final Guarantee as provided for in the crop policy and will not be further reduced to reflect expenses not incurred.

17. Late Planting

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The Final Guarantee for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:

(1) The Final Guarantee for each acre planted as specified in this subsection will be determined by multiplying the Final Guarantee that is provided for acreage of the insured crop that is timely planted by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage; and

(3) All production from acreage as specified in this section will be included as production to count for the unit.

(c) The premium amount for insurable acreage specified in this section will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due, and no indemnity will be paid).

(d) Any acreage on which an insured cause of loss is a material factor in preventing completion of planting, as specified in the definition of ''planted acreage'' (e.g., seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the Final Guarantee will be calculated in accordance with section 17(b)(1).

18. Prevented Planting

(a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence;

(2) You include any acreage of the insured crop that was prevented from being planted on your acreage report; and

(3) You did not plant the insured crop during or after the late planting period. If such acreage was planted to the insured crop during or after the late planting period, it is covered under the late planting provisions.

(b) The actuarial documents may contain additional levels of prevented planting coverage that you may purchase for the insured crop:

(1) Such purchase must be made on or before the sales closing date.

(2) If you do not purchase one of those additional levels by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions.

(3) If you have an MPCI Catastrophic Risk Protection Endorsement for any acreage of ''high risk land,'' the additional levels of prevented planting coverage will not be available for that acreage; and

(4) You may not increase your elected or assigned preventing planting coverage level for any crop year if a cause of loss that will or could prevent planting is evident prior to the time you wish to change your prevented planting coverage level.

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if on the final planting date (or within the late planting period if you elect to try to plant the crop):

(1) For non-irrigated acreage, the area that is prevented from being planted has

insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 18(f)(4) or (5). The eligible acres for each insured crop will be determined in accordance with the following table:

| Type of crop | Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee | Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee |
|---|---|---|
| (i) The crop is not required to be contracted with a processor to be insured. | (A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program. | (B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 18(e)(1)(i)(A). |
| (ii) The crop must be contracted with a processor to be insured. | (A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.). | (B) The number of acres of the crop as determined in section 18(e)(1)(ii)(A). |

(2) Any eligible acreage determined in accordance with the table contained in section 18(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 17(b).

(f) Regardless of the number of eligible acres determined in section 18(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Any prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field unless the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any of the 4 most recent crop years;

(2) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(3) For which the actuarial documents do not designate a premium rate unless a written agreement designates such premium rate;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year (excluding share arrangements), unless you have coverage greater than the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage. (If one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used);

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing

only). If you state that you will not be cash renting the acreage and claim a prevented planting payment on the acreage, you could be subject to civil and criminal sanctions if you cash rent the acreage and do not return the prevented planting payment for it;

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That exceeds the number of acres eligible for a prevented planting payment;

(9) That exceeds the number of eligible acres physically available for planting;

(10) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the Final Guarantee (Evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);

(11) Based on an irrigated practice Final Guarantee unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice Final Guarantee will be limited to the number of acres allowed for that practice under sections 18(e) and (f); or

(12) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop years. Types for which separate insurance guarantees are available must be included in your APH database in at least one of the four most recent crop years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 18(e)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 18(e) and (f).

(g) If you purchased a limited or additional coverage policy for a crop, and you executed a High Risk Land Exclusion Option that separately insures acreage which has been designated as ''high risk'' land by FCIC under a Catastrophic Risk Protection Endorsement for that crop, the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in sections 18(e) and (f).

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 18(e)(1), your prevented planting production guarantee, premium, and prevented planting payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted.

(1) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting guarantee that would result in a payment of $40 per acre. You also had 50 acres of potato eligibility that would result in a $100 per acre payment, 90 acres of grain sorghum eligibility that would result in a $30 per acre payment, and 100 acres of soybean eligibility that would result in a $25 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn ($40 per acre), 90 acres of grain sorghum ($30 per acre), and 10 acres of soybeans ($25 per acre).

(2) Prevented planting coverage will be allowed as specified in this section (18(h)) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based.

(i) The prevented planting payment for any eligible acreage within a basic or optional unit will be determined by:

(1) Multiplying the Final Guarantee for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(i)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 18(i)(2) by your share.

(j) The prevented planting payment for any eligible acreage within an enterprise unit will be determined by:

(1) Multiplying the Final Guarantee for each basic unit or optional unit within the enterprise unit, for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(j)(1) by the number of eligible prevented planting acres in each basic unit or optional unit within the enterprise unit;

(3) Multiplying the result of section 18(j)(2) by your share; and

(4) Total the results from section 18(j)(3).

19. Crops as Payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

20. Arbitration

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration or appeal can exceed the amount of liability established or which should have been established under the policy.

21. Access to Insured Crop and Records, and Record Retention

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also provide upon our request, separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records will, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to the units by us;

(3) Combination of the optional units; or

(4) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

22. Other Insurance

(a) Other Like Insurance—You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire—If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to such other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

(c) For the purpose of subsection (b) of this section, the amount of loss from fire will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

23. Conformity to Food Security Act

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provision (title XVII of the Food Security Act of 1985 (Pub. L. 99–198)) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you during your period of ineligibility, and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

24. Amounts Due Us

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 24(d)) if any, second to the reduction of accrued interest, and then to the reduction of the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

(e) Amounts owed to us by you may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

25. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us, you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal regulations.

26. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year, and may vary with each publication.

27. Concealment, Misrepresentation or Fraud

(a) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:

(1) This policy will be voided; and

(2) You may be subject to remedial sanctions in accordance with 7 CFR part 400, subpart R.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid for the crop year in which the voidance was effective.

(d) Voidance will be effective on the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years.

28. Transfer of Coverage and Right to Indemnity

If you transfer any part of your share during the crop year, you may transfer your coverage rights, if the transferee is eligible for crop insurance. We will not

be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

29. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60-day period has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

30. Subrogation (Recovery of Loss From a Third Party)

Since you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

31. Descriptive Headings

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

32. Notices

(a) All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.

(b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

33. Multiple Benefits

(a) If you are eligible to receive an indemnity under a limited or additional coverage plan of insurance and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.

(b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based on your production records and the highest price election or amount of insurance available for the crop.

(c) FSA will determine and pay the additional amount due you for any applicable USDA program, after first considering the amount of any crop insurance indemnity.

(d) Farm ownership and operating loans may be obtained from USDA in addition to crop insurance indemnities.

34. Written Agreements

Only rates or rates of premium for this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 34(e);

(b) The application for a written agreement must contain the rate or rate of premium applicable to this policy that will be in effect if the written agreement rate is not approved;

(c) If approved, the written agreement will specify the rate or rate of premium that will be in effect;

(d) Each written agreement will only be valid for one crop year (If the written agreement is not specifically renewed the following year, the rates for subsequent crop years will be the rate specified in the actuarial document), or if no rate is specified the acreage will not be insurable; and

(e) An application for a written agreement submitted after the sales closing date may be approved if you demonstrate your physical inability to apply prior to the sales closing date, or it is submitted in accordance with any regulation which may be promulgated under 7 CFR 400, and after physical inspection of the acreage by us, if required, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

**Crop Revenue Coverage**

*Coarse Grains Crop Provisions*

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

*Calculated Revenue.* The production to count multiplied by the Harvest Price.

*Coarse grains.* Corn, grain sorghum, and soybeans.

*Grain sorghum.* The crop defined as sorghum under the United States Grain Standards Act.

*Harvest.* Combining, threshing, or picking the insured crop for grain.

*Local market price.* The cash grain price per bushel for U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

*Planted acreage.* In addition to the definition contained in the Basic Provisions, coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions or actuarial documents.

*Silage.* A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

2. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of each crop in the county insured as grain under this policy will have the same coverage level and price percentage elections.

3. Contract Changes

In accordance with Section 5 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

| State and county | Cancellation and termination dates |
|---|---|
| (a) For corn and grain sorghum: | |
| Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. | January 15. |
| El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas. | February 15. |
| Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina. | February 28. |
| All other Texas counties and all other states | March 15 |
| (b) For soybeans: | |
| Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof. | February 15. |
| Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas. | February 28. |
| All other Texas counties and all other states | March 15. |

5. Insured Crop

(a) In accordance with section 9 of the Basic Provisions, the crop insured will be each coarse grain crop you elect to insure for which premium rates and prices are provided by the actuarial documents:

(1) In which you have a share;

(2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area, including air seeded soybeans subject to our approval;

(3) That is not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume; and

(4) Planted for harvest as grain.

(b) For corn only, in addition to the provisions of section 5(a), the corn crop insured will be all corn that is yellow dent or white corn, including mixed yellow and white, waxy, high-lysine corn, high-oil corn blends containing mixtures of at least ninety percent high yielding yellow dent female plants with high-oil male pollinator plants, commercial varieties of high-protein hybrids, and excluding:

(1) High-amylose, high-oil except as defined in section 5(b), flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn.

(2) A variety of corn adapted for silage use when the corn is reported for insurance as grain.

(c) For grain sorghum only, in addition to the provisions of section 5(a), the grain sorghum crop insured will be all of the grain sorghum in the county:

(1) That is a combine-type hybrid grain sorghum (grown from hybrid seed); and

(2) That is not a dual-purpose type of grain sorghum (a type used for both grain and forage).

(d) For soybeans only, in addition to the provisions of section 5(a), the soybean crop insured will be all of the soybeans in the county that are planted for harvest as beans.

6. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

In accordance with the provisions under section 12 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

| | |
|---|---|
| (a) For corn: | |
| (1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. | September 30. |
| (2) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington. | October 31. |
| (3) All other counties and states | December 10. |
| (b) For grain sorghum: | |
| (1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. | September 30. |
| (2) All other Texas counties and all other states | December 10. |
| (c) For soybeans: | |
| All states | December 10. |

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if applicable, due to a cause of loss contained in section 8 (a) through (g) occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

9. Replanting Payments

(a) In accordance with section 14 of the Basic Provisions, replanting payments for coarse grains are allowed if the coarse grains are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or:

(1) For corn, 8 bushels multiplied by the Base Price, multiplied by your insured share;

(2) For grain sorghum, 7 bushels multiplied by the Base Price, multiplied by your insured share; and

(3) For soybeans, 3 bushels multiplied by the Base Price multiplied by your insured share.

(c) When the crop is replanted using a practice that is uninsurable as an original planting, the Final Guarantee for the unit will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide, extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) In addition to the requirements of section 15 of the Basic Provisions, you must notify us before harvest begins if you intend to harvest corn acreage for silage.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of Coarse Grains by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result of 11(b)(2) by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in 11(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 11(c)(2) from the respective result of section 11(c)(1);

(4) Multiplying each result of section 11(c)(3) by your share; and

(5) Total the results of section 11(c)(4).

If the result of section 11(c)(5) is greater than zero, an indemnity will be paid. If the result of section 11(c)(5) is less than zero, no indemnity will be due.

(d) The total production in bushels to count from all insurable acreage for the crop on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Planted for grain but harvested as silage, if you fail to give us notice before harvest begins;

(D) Damaged solely by uninsured causes; or

(E) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(e)); and

(iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(e) Mature coarse grain production may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) Fifteen percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent);

(ii) Fourteen percent for grain sorghum; and

(iii) Thirteen percent for soybeans.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor;

(B) Grain sorghum not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except smut odor), or meets the special grade requirements for smutty grain sorghum; or

(C) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. (Test weight for quality adjustment purposes may be determined by our loss adjuster).

(4) Coarse grain production that is eligible for quality adjustment, as specified in sections 11(e)(2) and 11(e)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Prevented Planting

Your prevented planting coverage will be 60 percent of your Final Guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

**Crop Revenue Coverage**

*Mandatory Actuarial Document Endorsement*

Commodity Exchange Endorsement—Coarse Grains

(This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Coarse Grains crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Coarse Grains policy are determined.

(III) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by summing all the daily settlement prices for the contract specified in the applicable Base Price and/or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price and/or Harvest Price definition, and dividing that sum by the total number of days included in the sum. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price and/or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price and/or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price and/or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price and/or Harvest Price definition, during the month specified in the applicable Base Price and/or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(IV) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

*Corn (for Grain)—Chicago Board of Trade (CBOT)—Counties With a March 15 Cancellation Date*

Base Price (CBOT)—The February harvest year average daily settlement price for the harvest year's CBOT December corn futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by March 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The November harvest year average daily settlement price for the harvest year's CBOT December corn futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by December 10 of the harvest year, and will be available in your agent's office.

*Corn (for Grain)—CBOT—Counties With a Cancellation Date Prior to March 15*

Base Price (CBOT)—The December pre-harvest year average daily settlement price for the harvest year's CBOT September corn futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial

Document Addendum (Special Provisions) by January 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The August harvest year average daily settlement price for the harvest year's CBOT September corn futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year, and will be available in your agent's office.

*Grain Sorghum (for Grain)—CBOT—Counties With a March 15 Cancellation Date*

Base Price (CBOT)—The Preliminary Grain Sorghum Base Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Preliminary Grain Sorghum Base Price equals the February harvest year average daily settlement price for the harvest year's CBOT December corn futures contract (rounded to the nearest whole cent), multiplied times .95 and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by March 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The Preliminary Grain Sorghum Harvest Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Preliminary Grain Sorghum Harvest Price equals the November harvest year average daily settlement price for the harvest year's CBOT December corn futures contract (rounded to the nearest whole cent) multiplied times .95 and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by December 10 of the harvest year, and will be available in your agent's office.

*Grain Sorghum (for Grain)—CBOT—Counties With a Cancellation Date Prior to March 15*

Base Price (CBOT)—The Preliminary Grain Sorghum Base Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Preliminary Grain Sorghum Base Price equals the December pre-harvest year average daily settlement price for the harvest year's CBOT September corn futures contract (rounded to the nearest whole cent) multiplied times .95 and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by January 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The Preliminary Grain Sorghum Harvest Price multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Preliminary Grain Sorghum Harvest Price equals the August harvest year average daily settlement price for the harvest year's CBOT September corn futures contract (rounded to the nearest whole cent) multiplied times .95 and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year, and will be available in your agent's office.

*Soybeans—CBOT—Counties With a March 15 Cancellation Date*

Base Price (CBOT)—The February harvest year average daily settlement price for the harvest year's CBOT November soybean futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by March 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The October harvest year average daily settlement price for the harvest year's CBOT November soybean futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus three dollars ($3.00), or greater than the Base Price plus three dollars ($3.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by November 10 of the harvest year, and will be available in your agent's office.

*Soybeans—CBOT—Counties With a Cancellation Date Prior to March 15*

Base Price (CBOT)—The December pre-harvest year average daily settlement price for the harvest year's CBOT September soybean futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by January 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The August harvest year average daily settlement price for the harvest year's CBOT September soybean futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus three dollars ($3.00), or greater than the Base Price plus three dollars ($3.00). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year, and will be available in your agent's office.

All other terms and conditions of the Policy remain unchanged.

**Crop Revenue Coverage**

*Cotton Crop Provisions*

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

*Calculated Revenue.* The production to count multiplied by the Harvest Price.

*Cotton.* Varieties identified as American Upland Cotton.

*Final Guarantee.* In lieu of the definition contained in the Basic

Provisions, the number of dollars guaranteed per acre is determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The Approved Yield per acre, multiplied by the applicable cotton yield conversion factor for non-irrigated skip-row planting patterns, multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The Approved Yield per acre, multiplied by the applicable cotton yield conversion factor for non-irrigated skip-row planting patterns, multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

If you elect enterprise unit coverage, the Basic Units or Optional Units comprising the enterprise unit will retain separate Final Guarantees.

*Growth area.* A geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

*Harvest.* The removal of the seed cotton from the open cotton boll, or the severance of the open cotton boll from the stalk by either manual or mechanical means.

*Mature cotton.* Cotton that can be harvested either manually or mechanically.

*Planted acreage.* In addition to the definition contained in the Basic Provisions, cotton must be planted in rows, unless otherwise provided by the Special Provisions or actuarial documents. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

*Skip-row.* A planting pattern that:

(1) Consists of alternating rows of cotton and fallow land or land planted to another crop the previous fall; and

(2) Qualifies as a skip-row planting pattern as defined by FSA.

2. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of each crop in the county insured as cotton under this policy will have the same coverage level and price percentage elections.

3. Contract Changes

In accordance with Section 5 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

| State and county | Cancellation and termination dates |
|---|---|
| Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Vctoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. | January 15. |
| Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crocket, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas. | February 28. |
| All other Texas counties and all other states | March 15. |

5. Insured Crop

In accordance with section 9 of the Basic Provisions, the crop insured will be all the cotton lint, in the county for which premium rates are provided by the actuarial documents:

(a) In which you have a share; and

(b) That is not (unless allowed by the Special Provisions):

(1) Colored cotton lint;

(2) Planted into an established grass or legume;

(3) Interplanted with another spring planted crop;

(4) Grown on acreage from which a hay crop was harvested in the same calendar year unless the acreage is irrigated; or

(5) Grown on acreage on which a small grain crop reached the heading stage in the same calendar year unless the acreage is irrigated or adequate measures are taken to terminate the small grain crop prior to heading and less than 50 percent of the small grain plants reach the heading stage.

6. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions:

(a) The acreage insured will be only the land occupied by the rows of cotton when a skip row planting pattern is utilized; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

(a) In lieu of section 12(b)(2) of the Basic Provisions, insurance will end upon the removal of the cotton from the field.

(b) In accordance with the provisions under section 12 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

(1) September 30 in Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof;

(2) January 31 in Arizona, California, New Mexico, Oklahoma, and all other Texas counties; and

(3) December 31 in all other states.

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions, insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if applicable, due to a cause of loss contained in section 8(a) through (g) occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

9. Duties in the Event of Damage or Loss

(a) In addition to your duties under section 15 of the Basic Provisions, in the event of damage or loss:

(1) The cotton stalks must remain intact for our inspection; and

(2) If you initially discover damage to the insured crop within 15 days of harvest, or during harvest, you must leave representative samples of the unharvested crop in the field for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit.

(b) The stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss given to us.

10. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 10(b)(1); and

(3) Multiplying the result of 10(b)(2) by your share.

If the result of section 10(b)(3) is greater than zero, an indemnity will be paid. If the result of section 10(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in 10(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 10(c)(2) from the respective result of section 10(c)(1);

(4) Multiplying each result of section 10(c)(3) by your share; and

(5) Total the results of section 10(c)(4);

If the result of section 10(c)(5) is greater than zero, an indemnity will be paid. If the result of section 10(c)(5) is less than zero, no indemnity will be due.

(d) The total production (in pounds) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes;

(D) For which you fail to provide records of production that are acceptable to us; or

(E) On which the cotton stalks are destroyed, in violation of section 9;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production of white cotton may be adjusted for quality deficiencies in accordance with section 10(e)); and

(iv) Potential production on insured acreage you want to put to another use or you wish to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count) ; or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage, including any mature cotton retrieved from the ground.

(e) Mature white cotton may be adjusted for quality when production has been damaged by insured causes. Unless otherwise provided by the Special Provisions, such production to count will be reduced if the price quotation for cotton of like quality (price quotation ''A'') for the applicable growth area is less than 75 percent of price quotation ''B''. Price quotation ''B'' is defined as the price quotation for the applicable growth area for cotton of the color and leaf grade, staple length, and micronaire reading designated in the Special Provisions for this purpose. Price quotations ''A'' and ''B'' will be the price quotations contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service on the date the last bale from the unit is classed. If not available on the date the last bale was classed, the price quotations will be determined on the date the last bale from the unit was delivered to the warehouse, as shown on the insured's account summary obtained from the gin. If eligible for quality adjustment, the amount of production to be counted will be determined by multiplying the number of pounds of production eligible for such adjustment by the factor derived from dividing price quotation ''A'' by price quotation ''B'.

(f) Colored cotton lint will not be eligible for quality adjustment.

11. Prevented Planting

(a) In addition to the provisions contained in section 18 of the Basic Provisions, your prevented planting Final Guarantee will be based on your approved yield without adjustment for skip-row planting patterns.

(b) Your prevented planting coverage will be 50 percent of your Final Guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

**Crop Revenue Coverage**

*Mandatory Actuarial Document Endorsement*

Commodity Exchange Endorsement—Cotton

(This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Cotton crop policy provisions and Actuarial Documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Cotton policy are determined.

(III) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by summing all the daily settlement prices for the contract specified in the applicable Base Price and/or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price and/or Harvest Price definition, and dividing that sum by the total number of days included in the sum. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price and/or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price and/or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price and/or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price and/or Harvest Price definition, during the month specified in the applicable Base Price and/or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(IV) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

*Cotton—New York Cotton Exchange (NYCE)—Counties With a February 28 or March 15 Cancellation Date*

Base Price (NYCE)—The January 15 to February 14 harvest year average daily settlement price for the harvest year's NYCE December cotton futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by February 20 of the harvest year, and will be available in your agent's office.

Harvest Price (NYCE)—The November harvest year average daily settlement price for the harvest year's NYCE December cotton futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus seventy cents ($0.70), or greater than the Base Price plus seventy cents ($0.70). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by December 10 of the harvest year, and will be available in your agent's office.

*Cotton—NYCE Counties with a January 15 Cancellation Date*

Base Price (NYCE)—The December pre-harvest year average daily settlement price for the harvest year's NYCE October cotton futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The available Price Percentages and subsequent Base Price will be released as a Actuarial Document Addendum (Special Provisions) by January 10 of the harvest year, and will be available in your agent's office.

Harvest Price (NYCE)—The September harvest year average daily settlement price for the harvest year's (NYCE) October cotton futures contract (rounded to the nearest whole cent) multiplied times the selected Price Percentage and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus seventy cents ($0.70), or greater than the Base Price plus seventy cents ($0.70). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by October 10 of the harvest year, and will be available in your agent's office.

All other terms and conditions of the Policy remain unchanged

**Crop Revenue Coverage Insurance Policy**

*Rice Crop Provisions*

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) The Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) The Basic Provisions, with (1) controlling (2), etc.

1. Definitions

*Average Daily Settlement Price.* Refer to the definition contained in the Commodity Exchange Endorsement—Rice.

*Calculated Revenue.* The production to count multiplied by the Harvest Price.

*Flood irrigation.* An irrigated practice commonly used for rice production whereby the planted acreage is intentionally covered with water that is maintained at a uniform and shallow depth throughout the growing season.

*Harvest.* Combining or threshing the rice for grain. A crop that is swathed prior to combining is not considered harvested.

*Local market price.* The cash price per pound for the U.S. No. 3 grade of rough rice offered by buyers in the area in which you normally market the rice. Factors not associated with grading under the United States Standards for Rice including, but not limited to, protein and oil content or milling quality will not be considered.

*Planted.* The uniform placement of an adequate amount of rice seed into a prepared seedbed by one of the following methods:

(a) Drill seeding—Using a grain drill to incorporate the seed to a proper soil depth;

(b) Broadcast seeding—Distributing seed evenly onto the surface of an un-flooded seedbed followed by either timely mechanical incorporation of the seed to a proper soil depth in the seedbed or flushing the seedbed with water; or

(c) Broadcast seeding into a controlled flood—Distributing the rice seed onto a prepared seedbed that has been intentionally covered to a proper depth by water. The water must be free of movement and be completely contained on the acreage by properly constructed levees and gates.

Acreage seeded in any other manner will not be insurable unless otherwise provided by the Special Provisions.

*Prevented planting guarantee.* The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 13.

*Saline water.* Water that contains a concentration of salt sufficient to cause damage to the insured crop.

*Second crop rice.* The regrowth of a stand of rice following harvest of the initially insured rice crop that can be harvested in the same crop year.

*Swathed.* Severance of the stem and grain head from the ground without removal of the rice kernels from the plant and placing in a windrow.

*Total milling yield.* Rice production consisting of heads, second heads, screenings, and brewer's rice as defined by the official United States Standards for Rice.

2. Unit Structure

Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

3. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of each crop in the county insured as grain under this policy will have the same coverage level and price percentage elections.

4. Contract Changes

In accordance with section 5 in the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 3(b) of the Basic Provisions, the cancellation and termination dates are:

| State and county | Cancellation and termination date |
|---|---|
| Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas; and all Texas Counties south thereof. | January 15. |
| Florida | February 15. |
| All other Texas counties and all other states | February 28. |

6. Insured Crop

In accordance with section 9 of the Basic Provisions, the crop insured will be all the rice in the county for which a premium rate is provided by the actuarial documents:

(a) In which you have a share;

(b) That is planted for harvest as grain;

(c) That is flood irrigated; and

(d) That is not wild rice.

7. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions:

(a) We will not insure any acreage planted to rice:

(1) The preceding crop year unless allowed by the Special Provisions; or

(2) That does not meet the rotation requirements shown in the Special Provisions; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant.

8. Insurance Period

In accordance with the provisions of section 12 of the Basic Provisions, the calendar date for the end of the insurance period is October 31 immediately following planting.

9. Causes of Loss

(a) In addition to the provisions under section 13 of the Basic Provisions, any loss covered by this policy must occur within the insurance period. The specific causes of loss for rice are:

(1) Adverse weather conditions (except drought);

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(9) A Harvest Price that is less than the Base Price.

(b) In addition to the causes of loss not insured against in section 13 of the Basic Provisions, we will not insure against any loss of production due to the application of saline water.

10. Replanting Payment

(a) A replanting payment for rice is allowed as follows:

(1) You must comply with all requirements regarding replanting payments contained under section 14 of the Basic Provisions;

(2) The rice must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage; and

(3) The replanted rice must be seeded at a rate that is normal for initially planted rice (if new seed is planted at a reduced seeding rate into a partially damaged stand of rice, the acreage will not be eligible for a replanting payment).

(b) In accordance with the provisions of section 14 of the Basic Provisions, the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or 400 pounds, multiplied by the Base Price, multiplied by your insured share.

(c) When rice is replanted using a practice that is uninsurable for an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

11. Duties in the Event of Damage or Loss

In addition to your duties under section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of rice by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 12(b)(1); and

(3) Multiplying the result of 12(b)(2) by your share.

If the result of section 12(b)(3) is greater than zero, an indemnity will be paid. If the result of section 12(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in section 12(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 12(c)(2) from the respective result of section 12(c)(1);

(4) Multiplying each result of section 12(c)(3) by your share; and

(5) Total the results of section 12(c)(4).

If the result of section 12(c)(5) is greater than zero, an indemnity will be paid. If the result of section 12(c)(5) is less than zero, no indemnity will be due.

(d) The total production to count (in pounds) from all insurable acreage on the unit will include: All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(e));

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage, including any production from a second rice crop harvested in the same crop year.

(e) Mature rough rice may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 12 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Rice, result in rice not meeting the grade requirements for U.S. No. 3 (grades U.S. No. 4 or worse) because of red rice, chalky kernels or damaged kernels;

(ii) The rice has a total milling yield of less than 68 pounds per hundredweight;

(iii) The whole kernel weight is less than 55 pounds per hundredweight of milled rice for medium and short grain varieties;

(iv) The whole kernel weight is less than 48 pounds per hundredweight of milled rice for long grain varieties; or

(v) Substances or conditions are present that are identified by the Food and Drug Administration of other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions specified in section 12(e)(2) resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions specified in section 12(e)(2) result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions specified in section 12(e)(2) are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade rice under the authority of the United States Agriculture Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Notwithstanding the preceding sentence, test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Rice production that is eligible for quality adjustment, as specified in sections 12(e)(2) and (3), will be reduced as follows:

(i) In accordance with quality adjustment factors contained in the Special Provisions; or

(ii) If quality adjustment factors are not contained in the Special Provisions, as follows:

(A) The market price of the qualifying damaged production and the local market price will be determined on the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit. The price for the qualifying damaged production will be the market price for the local area to the extent feasible. Discounts used to establish the net price of the damaged production will be limited to those that are usual, customary, and reasonable. The price will not be reduced for:

(1) Moisture content;

(2) Damage due to uninsured causes; or

(3) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of the rice; except, if the price of the damaged production can be increased by conditioning, we may reduce the price of the production after it has been conditioned by the cost of conditioning but not lower that the value of the production before conditioning.

(We may obtain prices from any buyer of our choice. If we obtain prices from one or more buyers located outside your local market area, we will reduce such prices by the additional costs required to deliver the rice to those buyers.);

(B) The value of the damaged or conditioned production will be divided by the local market price to determine the quality adjustment factor; and

(C) The number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds (if appropriate)) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

13. Prevented Planting

Your prevented planting coverage will be 45 percent of your Final Guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

**Crop Revenue Coverage**

*Mandatory Actuarial Document Endorsement*

Commodity Exchange Endorsement—Rice

(This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

**How this endorsement affects your coverage:**

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Rice crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Rice policy are determined.

(III) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by summing all the daily settlement prices for the contract specified in the applicable Base Price and/or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price and/or Harvest Price definition, and dividing that sum by the total number of days included in the sum. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price and/or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price and/or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price and/or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price and/or Harvest Price definition, during the month specified in the applicable Base Price and/or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(IV) This endorsement defines the Base Price and Harvest Price as shown in section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

*Rice—Chicago Board of Trade (CBOT)—(All Counties With a January 15 Cancellation Date)*

Base Price (CBOT)—The December pre-harvest year average daily settlement price per pound for the harvest year's CBOT September rough rice futures contract (rounded to the nearest one-tenth (1/10) of a cent) multiplied times the selected Price Percentage and rounded to the nearest one-tenth (1/10) of a cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by January 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The August harvest year average daily settlement price per pound for the harvest year's CBOT September rough rice futures contract (rounded to the nearest one-tenth (1/10) of a cent) multiplied times the selected Price Percentage and rounded to the nearest one-tenth (1/10) of a cent. The Harvest Price cannot be less than the Base Price minus five cents ($0.05), or greater than the Base Price plus five cents ($0.05). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by September 10 of the harvest year, and will be available in your agent's office.

*Rice—(CBOT)—(All Counties With February 15 or February 28 Cancellation Dates)*

Base Price (CBOT)—The January harvest year average daily settlement price per pound for the harvest year's CBOT November rough rice futures contract (rounded to the nearest one-tenth (1/10) of a cent) multiplied times the selected Price Percentage and rounded to the nearest one-tenth (1/10) of a cent. The available Price Percentages and subsequent Base Price will be released as an Actuarial Document Addendum (Special Provisions) by February 10 of the harvest year, and will be available in your agent's office.

Harvest Price (CBOT)—The October harvest year average daily settlement price per pound for the harvest year's CBOT November rough rice futures contract (rounded to the nearest one-tenth (1/10) of a cent) multiplied times the selected Price Percentage and rounded to the nearest one-tenth (1/10) of a cent. The Harvest Price cannot be less than the Base Price minus five cents ($0.05), or greater than the Base Price plus five cents ($0.05). The Price Percentage used to calculate the Harvest Price is equal to the selected Price Percentage used to calculate the Base Price. The Harvest Price will be released as an Actuarial Document Addendum (Special Provisions) by November 10 of the harvest year, and will be available in your agent's office. All other terms and conditions of the Policy remain unchanged.

Signed in Washington, DC on January 22, 1999.

**John Zirschky,**

*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. 99–2109 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–08–P

---

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. 99–001N]**

### Codex Alimentarius Commission: Meeting of the Codex Committee on Food Additives and Contaminants

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Office of the Under Secretary for Food Safety, United States Department of Agriculture, and the Food and Drug Administration (FDA), Department of Health and Human Services, are sponsoring a public meeting on February 9, 1999, to provide information and receive public comments on agenda items that will be discussed at the Thirty-first Session of the Codex Committee on Food Additives and Contaminants (CCFAC), which will be held in the Hague, the Netherlands, March 22–26, 1999. The Office of the Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information and address agenda items on the Thirty-first Session of the CCFAC.

**DATES:** The public meeting is scheduled for Tuesday, February 9, 1999, from 2 p.m. to 4 p.m.

**ADDRESSES:** The public meeting will be held in Room 1419, FOB 8, 200 C St. SW, Washington, DC. Send an original and two copies of written comments to: FSIS Docket Clerk, Docket # 99–001N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th St., SW, Washington, DC 20250–3700. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW, Washington, DC 20250–3700, Telephone: (202) 205–7760; Fax: (202) 720–3157.

**SUPPLEMENTARY INFORMATION:**

## Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Food Additives and Contaminants establishes or endorses maximum or guideline levels for individual food additives, contaminants (including environmental contaminants), and naturally occurring toxicants in foodstuffs and animal feeds. In addition, the Committee prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives; recommends specifications of identity and purity for food additives for adoption by the Commission; considers methods of analysis for their determination in food; considers and elaborates standards or codes for related subjects such as the labelling of food additives when sold as such; and review process for food irradiation.

*Issues to be discussed at the public meeting:*

*General Issues*

1. Adoption of the Agenda
2. Matters Referred by the Codex Alimentarius Commission and other Codex Committees
3. Summary Report of the 51st Meeting of the Joint FAO/WHO Expert Committee on Food Additives (JECFA)
4. Action Required as a Result of Changes in ADI Status and other Toxicological Recommendations
5. Discussion Paper on the Application of Risk Analysis Principles for Food Additives and Contaminants

*Food Additives*

1. Endorsement and/or Revision of Maximum Levels for Food Additives in Codex Standards
2. Consideration of the Codex General Standard for Food Additives
3. Discussion Paper on the Use of Colours in Foods
4. Specifications for the Identity and Purity of Food Additives Arising from the 51st JECFA Meeting
5. Proposed Amendments to the International Numbering System

*Contaminants*

1. Endorsement and/or Revision of Maximum Levels for Contaminants in Codex Standards
2. Comments on Section 3.2 (Health Related Limits for Certain Substances) of the Codex Standard for Natural Mineral Water
3. Codex General Standard for Contaminants and Toxins in Foods: Report of the ad hoc Working Group on Contaminants and Toxins
4. Methodology and Principles for Exposure Assessment in the Codex General Standard for Contaminants and Toxins in Foods
5. Mycotoxins in Food and Feed
   (a) Ochratoxin
   (b) Zearalenone
   (c) Patulin
6. Industrial and Environmental Contaminants in Foods
   (a) Proposed Draft Code of Practice for Source Directed Measures to Reduce Contamination of Food with Chemicals
   (b) Lead
   (c) Tin
   (d) Cadmium
   (e) Arsenic
   (f) Dioxins

*General Issues*

1. Proposals for Priority Evaluation of Food Additives and Contaminants by JECFA
2. Other Business and Future Work
   (a) Comments on Methods of Analysis for the Determination of Food Additives and Contaminants in Foods
   (b) Comments on the Inventory of Processing Aids
   (c) Comments on Packaging Provisions to Maintain the Stability of Iodized Salt in the Codex Standard for Food Grade Salt

At the February 9, 1999, public meeting, the agenda items will be described and discussed and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to CCFAC activities of the Thirty-first Session.

Done at Washington, DC on January 26, 1999.

**F. Edward Scarbrough,**

*U.S. Manager for Codex.*

[FR Doc. 99–2222 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–DM–P

---

## DEPARTMENT OF AGRICULTURE

### Forest Service

### The Summit at Snoqualmie Master Development Plan; Mt. Baker-Snoqualmie and Wenatchee National Forests, King and Kittitas Counties, Washington

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service, USDA, will prepare an environmental impact statement (EIS) for Ski Lifts, Inc. (The Summit at Snoqualmie) ski area proposal to develop its Master Development Plan. The Summit at Snoqualmie consists of four ski areas: Alpental; Summit West; Summit Central and Summit East. The proposed action would expand the area under special use permit to 1,905 acres, an increase of 41 acres, to provide for additional parking at Summit West and to connect the Summit Central and Summit East ski areas. The proposed development includes the replacement and addition of chair and surface lifts; addition of a multi-user gondola at Alpental; new lifts and terrain within the existing SUP boundary; and expanded night skiing at Alpental and Summit Central. In addition, the proposal includes the expansion and addition of parking lots at Summit West, Summit Central and Alpental, day lodges and other related facilities, maintenance facilities and utilities to support the skiing and other recreational opportunities. The project also includes reforestation at Summit West and Summit Central, as well as

identified watershed restoration projects.

At Alpental, implementation of the proposed MDP would increase the Skiers-At-One-Time (SAOT) capacity from 1,710 to 2,800. Accordingly, the peak day capacity of the facility would increase from 1,881 Persons-at-One-Time (PAOT) to 3,080. At The Summit at Snoqualmie (excluding Alpental), the MDP proposes to increase the SAOT capacity from 7,410 to 10,900. Consequently, the peak day capacity of The Summit at Snoqualmie will increase from 8,151 to 11,990.

**DATES:** Comment concerning the scope of this analysis should be in writing and postmarked by March 5, 1999.

**ADDRESSES:** Send written comments to Daniel T. Harkenrider, Acting Forest Supervisor, 21905 64th Avenue West, Mountlake Terrace, Washington, 98043, Attention: The Summit At Snoqualmie Master Development Plan.

**FOR FURTHER INFORMATION CONTACT:** Larry Donovan, Winter Sports Specialist, Mt. Baker-Snoqualmie National Forest Supervisor's Officer, 21905 64th Avenue West, Mountlake Terrace, Washington 98043–2278. Phone (425) 744–3403. Internet: Idonovan/r6pnw__mbs@fs.fed.us.

**SUPPLEMENTARY INFORMATION:** The Summit at Snoqualmie operates under a Special Use Permit from the USDA Forest Service. Presently, alpine skiing/snowboarding and other four-season resort activities are provided to the public through a Special Use Permit administered by the Mt. Baker-Snoqualmie National Forest.

Currently, there are four master plans for the Summit at Snoqualmie, dating from the time each of the four areas (Alpental, Summit West, Summit Central and Summit East) were managed as separate ski areas. The purpose (objective) of this project is to develop one Master Development Plan for the management and development of The Summit at Snoqualmie over the next 7–10 years. The goal of the Master Development Plan is to ensure the long-term economic viability of The Summit at Snoqualmie, maintain the competitive position of The Summit at Snoqualmie with other ski areas in the Puget Sound Basin; maintain and restore a healthy ecosystem; and be consistent with the Mt. Baker-Snoqualmie National Forest Plan.

The proposed action is the submitted Master Development Plan proposal. At Alpental it would include: replacement of one existing chairlift, re-alignment of one existing chairlift, construction of one new chairlift and construction of a gondola, providing for year-round access to the top of the facility. Two existing lifts would remain unchanged and the two existing surface tows would be removed. Downhill terrain would be expanded by 18.5 acres and night skiing terrain would increase by 34 acres. The proposed action would include the addition of 17,500 square feet of visitor support facilities, including a mountain-top restaurant. Parking would be expanded from 8.4 acres to 8.5 acres. The proposed action would also include watershed restoration projects as identified in the Upper South Fork Snoqualmie and Coal Creek Watershed Condition Assessment. Implementation could begin in the summer of 2000 and would continue for approximately 7–10 years.

At the Summit at Snoqualmie (Summit West, Summit Central and Summit East), the Master Development Plan proposal would include 23 chairlifts and surface tows. It includes the elimination, replacement or realignment of 21 of the 22 existing chair and surface lifts. When coupled with new chairlift construction there would be a total of 17 chairlifts and 6 surface tows. Downhill terrain would be expanded by 54 acres and night skiing would increase from 386 acres to 440 acres. The proposed action would include the addition of 60,708 square feet of guest support facilities, including a new mountain-top restaurant at Alpental and remodeling the existing mountain-top restaurant at Summit West. Parking would be expanded from 26.3 to 32.7 acres. The proposed action would also include watershed restoration projects as identified in the Upper South Fork Snoqualmie and Coal Creek Watershed Condition Assessment. Implementation could begin in the summer of 2000 and would continue for approximately 7–10 years.

The site-specific environmental analysis provided in The Summit at Snoqualmie Master Development Plan EIS will assist the Forest Supervisor in determining which improvements are needed to meet the goals and objectives, as stated above.

An EIS will be produced, which will display alternatives considered including (1) no action (continued management of the ski area under the existing master development plans), and (2) the proposed action. Three additional alternatives have been tentatively identified: (3) reduced development in the area between Summit Central and Summit East (Section 16); (4) no development in the area between Summit Central and Summit East (Section 16); and (5) reduced disturbance to riparian reserves. The EIS will analyze the direct, indirect and cumulative effects of the alternatives. Past, present and projected activities on both private and National Forest System lands will be considered. The EIS will disclose the effects of site-specific mitigation.

*Comments from the public will be used to:*

- Identify potential issues.
- Identify major issues to be analyzed in depth.
- Eliminate minor issues or those that have been covered by a previous environmental analysis, such as the Mt. Baker-Snoqualmie or Wenatchee Land and Resource Management Plans.
- Identify alternatives to the proposed action.

*Issues identified as the result of internal scoping include:*

- Consistency with the Forest Plan/Aquatic Conservation Strategy Objectives.
- Consistency with the Snoqualmie Pass Adaptive Management Area Plan (1997).
- Ability to maintain or increase the north/south Late-Successional connective corridors in the areas between Summit Central and Summit East; and Summit West and Summit Central.
- Ability to maintain snag and large downed wood habitat with the development of ski runs and chairlifts.
- Maintenance of habitat for Threatened & Endangered, Sensitive and Survey & Manage species.
- Potential removal/degradation of wetland habitat.
- Opportunity to implement restoration projects that will improve visual quality and reduce erosion.
- Potential disruption of the back-country skiing route to Nordic Pass.

Scoping and public involvement are continuing. An initial scoping letter was mailed on January 15, 1999. Two public scoping meetings will be held: February 8, 1999, from 5:30 PM to 9:00 PM at the Cle Elum Ranger Station, 803 West 2nd Street, Cle Elum, WA 98922; and February 10, 1999, from 5:30 PM to 9:00 PM at the West Coast Bellevue Hotel, 625 116th Avenue NE, Bellevue, WA 98004. The information and comments received will be used in the preparation of the draft EIS.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under

36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be submitted with or without the name and address within 30 days.

The draft EIS is expected to be filed in May 1999. Following the release of the draft EIS, there will be a public comment period of at least 45 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register.**

The Forest Service believes that it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS 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 EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 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 45-day 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 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 EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the EIS. (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.)

The final EIS is scheduled to be completed in December 1999. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The lead agency is the Forest Service. The Forest Supervisors of the Mt. Baker-Snoqualmie and Wenatchee National Forest are the responsible officials. The responsible officials will document the decision and the reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations 36 CFR Parts 215 or 251.

Dated: January 19, 1999.

**Daniel T. Harkenrider,**

*Acting Forest Supervisor.*

[FR Doc. 99–1974 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ski Lifts, Inc. Master Plan, Mt. Baker-Snoqualmie National Forest, King and Kittitas Counties, Washington

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation Notice.

**SUMMARY:** On July 16, 1993, a Notice of Intent to prepare an environmental impact statement for the Ski Lifts, Inc. Master Plan on the lands administered by the Mt. Baker-Snoqualmie National Forest was published in the **Federal Register** (58 FR 38358). This notice is being withdrawn because an updated Notice of Intent that reflects the submitted Master Development Plan proposal, current issues and preliminary alternatives will be published. The 1993 Forest Service Notice of Intent is hereby rescinded.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this cancellation to Larry Donovan, EIS Team Leader, Supervisor's Office, Mt. Baker-Snoqualmie National Forest, 21905 64th Avenue W., Mountlake Terrace, Washington, phone 425–744–3403.

Dated: January 20, 1999.

**Daniel T. Harkenrider,**

*Acting Forest Supervisor.*

[FR Doc. 99–2147 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Willamette PIEC Advisory Committee will meet on Thursday, February 11, 1999. The meeting will be held at the Salem BLM Office; 1717 Fabry Road SE; Salem, Oregon 97306; phone (503) 375–5642. The meeting is scheduled to begin at 9:00 a.m. and will conclude at approximately 4:00 p.m. The tentative agenda includes: (1) Introduction and orientation of new members, (2) Wilderness Management, (3) Willamette River Initiative and Corp of Engineer floodplain restoration projects, (4) Recommended topics for joint IAC/PAC meeting, (5) Public Forum.

The Public Forum is expected to occur at approximately 10:30 a.m., and time allotted for individual presentations will be limited 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may also be submitted prior to the meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest, 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: January 25, 1999.

**H. Woody Fine,**

*Acting Forest Supervisor.*

[FR Doc. 99–2148 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

### Designation for the Northeast Indiana (IN) Area

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

**ACTION:** Notice.

**SUMMARY:** GIPSA announces designation of Northeast Indiana Grain Inspection, Inc. (Northeast Indiana), to provide

official services under the United States Grain Standards Act, as amended (Act).

**EFFECTIVE DATE:** February 1, 1999.

**ADDRESSES:** USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Hart, at 202–720–8525.

**SUPPLEMENTARY INFORMATION:** In the December 21, 1998, **Federal Register** (63 FR 70386), GIPSA asked persons interested in providing official services in the Northeast Indiana area to submit an application for designation. Applications were due by January 15, 1999. Northeast Indiana, the only applicant, applied for designation to provide official services in the entire Northeast Indiana area.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act and, according to Section 7(f)(l)(B), determined that Northeast Indiana is able to provide official services in the Northeast Indiana geographic area.

Effective February 1, 1999, and ending January 31, 2002, Northeast Indiana is designated to provide official services in the geographic area specified in the December 21, 1998, **Federal Register**.

Interested persons may obtain official services by contacting Northeast Indiana at 219–639–6390.

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

Dated: January 22, 1999.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 99–2171 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–EN–P

---

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Alabama Electric Cooperative, Inc.; Notice of Intent

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of Intent to Hold Scoping Meeting and Prepare an Environmental Assessment and/or Environmental Impact Statement.

**SUMMARY:** Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR part 1794), proposes to prepare an Environmental Assessment (EI) and/or an Environmental Impact Statement (EIS) for its Federal action related to a proposal by Alabama Electric Cooperative, Inc., to construct and operate a 250 to 500 megawatt (MW) combined cycle electric generating plant in south Alabama.

**MEETING INFORMATION:** RUS will conduct a scoping meeting in an open house forum on Monday, February 15, 1999, at the Jackson City Hall, 400 Commerce Street, Jackson, Alabama from 6 p.m. until 8 p.m. for the Washington County site. A similar meeting will be held on Tuesday, February 16, 1999, at Alabama Electric Cooperative's Boardroom, Highway 29 North, Andalusia, Alabama, from 6 p.m. until 8 p.m. for the Covington and Escambia County sites.

**FOR FURTHER INFORMATION CONTACT:** Bob Quigel, Engineering and Environmental Staff, Rural Utilities Service, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–0468. The E-mail address is bquigel@rus.usda.gov.

**SUPPLEMENTARY INFORMATION:** Alabama Electric Cooperative, Inc., proposes to construct the plant at one of three potential sites. These sites are the Damascus site in Escambia County, Alabama, along Highway 29 South in Township 2 North, Range 13 East, Section 6, the Lowman site in Washington County, Alabama, just off U.S. Highway 43 in Township 6 North, Range 1 East, Section 24, and at Alabama Electric Cooperative's existing McWilliams Plant located in Covington County, Alabama, along Highway 29 North in Township 5 North, Range 16 East, Section 17.

The project as proposed would consist of a 250 to 500 MW gas-fired combined cycle plant. The plant may be designed to use No. 2 diesel as a backup fuel for periods when natural gas may be in short supply. The plant will require air and water quality permits from the Alabama Department of Environmental Management. Plant water will be drawn from and released to the Conecuh River if either the Covington or Escambia County sites are selected, and from the Tombigbee River if the Washington County site is selected. Air impacts are anticipated to be minimal because the plant will utilize clean fuels and will be designed in accordance with Best Available Control Technology. The plant will require a site of 40 acres or more in size. The specific plant layout will be designed to avoid significant impact to threatened or endangered species, cultural resources, wetlands or other areas considered to be environmentally unique or sensitive.

Locating the project at the Damascus site would require construction of a 34-mile, 12–20 inch gas pipeline and 18 miles of double circuit 230 kV transmission line. Locating the project at the Lowman site would require the construction of a 32-mile, 12–20 inch gas pipeline and 1 mile each of double circuit 230 kV transmission line and single circuit 230 kV transmission line. Locating the plant at the McWilliams Plant would require the construction of a 69-mile, 10–12 inch gas pipeline, 1 mile of double circuit 230 kV transmission line and 17 miles of single circuit 230 kV transmission line.

Alternatives considered by RUS and Associated Electric Cooperative, Inc., to constructing the generation facility proposed include: (a) no action, (b) power purchases, (c) coal fired technology, (d) alternative technology such as solar, wind, and biomass, and (e) non-generation alternatives such as conservation, interruptible loads, and load management.

Alabama Electric Cooperative, Inc., has developed a siting study/alternative evaluation which is available for public review at RUS at the address provided in this notice or at Alabama Electric Cooperative, Inc., Highway 29 North, Andalusia, Alabama. This document will also be available at the Andalusia Public Library on South Three Notch Street in Andalusia, Alabama, and at the White Smith Memorial Library at 213 College Ave. in Jackson, Alabama.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposed project. Representatives from RUS and Alabama Electric Cooperative, Inc., will be available at both scoping meetings to discuss RUS' environmental review process, describe the project and alternatives under consideration, discuss the scope of environmental issues to be considered, answer questions, and accept oral and written comments. Written comments will be accepted for at least 30 days after the public scoping meetings. Written comments should be sent to RUS at the address provided in this notice.

From information provided in the siting study/alternative evaluation, input that may be provided by government agencies, private organizations, and the public, Alabama Electric Cooperative, Inc., will prepare an environmental analysis to be submitted to RUS for review. If RUS finds the environmental analysis acceptable, it will serve as RUS' environmental assessment of the

project. Should RUS determine that the preparation of an EIS is not warranted, it will prepare a Finding of No Significant Impact (FONSI). The FONSI will be made available for public review and comment for 30 days. Public notification of a FONSI would be published in the **Federal Register** and in newspapers with a circulation in the project area. RUS will not take its final action related to the project prior to the expiration of the 30-day period.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with environmental review requirements as prescribed by CEQ and RUS environmental policies and procedures.

Dated: January 22, 1999.

**Lawrence R. Wolfe,**

*Acting Director, Engineering and Environmental Staff.*

[FR Doc. 99–2110 Filed 1–28–99; 8:45 am]

BILLING CODE 3410–15–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletions from the Procurement List.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List services previously furnished by such agencies.

**EFFECTIVE DATE:** March 1, 1999.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On October 9, November 30, December 11 and 18, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R. 54436, 65746, 68428, 70099 and 70100) of proposed additions to and deletions from the Procurement List:

### Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

*Commissary Shelf Stocking, Custodial and Warehousing*

*Bangor ANGB*

*Bangor, Maine*

Food Service Attendant
MacDill Air Force Base, Florida

*Janitorial/Custodial*

National Oceanic and Atmospheric Administration
National Marine Fisheries Service (NMFS)

Southeast Fisheries Science Center (SEFSC)
75 Virginia Beach Drive
Miami, Florida

*Janitorial/Custodial*

Various U.S. Army Reserve Centers
Fort Indiantown Gap, Pennsylvania

Operation of Individual Equipment Element Store
Luke Air Force Base, Arizona

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

### Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the services.

3. The action may result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following services are hereby deleted from the Procurement List:

Access Control
Fleet and Industrial Supply Center
250 Executive Way
Oakland, California

Cardboard & Paper Scrap Recovery
Bonneville Power Administration
11743 NE Sumner Street
Portland, Oregon

Document Processing
Naval Air Station
Alameda, California

Grounds Maintenance
Department of the Army
Television and Audio Support Activities
Mather Air Force Base, California

*Janitorial/Custodial*

Bonneville Power Administration
Kalispell Maintenance Complex
2520 Highway #2 East
Kalispell, Montana

*Janitorial/Custodial*

Basewide
Fort Indiantown Gap
Annville, Pennsylvania

*Janitorial/Custodial*

Philadelphia International Airport
Air Mobility Command Terminal D/Concourse D
Philadelphia, Pennsylvania

*Janitorial/Custodial*

U.S. Army Reserve Center #3
400 Dry Hill Road
Beckley, West Virginia

Laundry Service
Naval Station
Long Beach, California

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 99–2172 Filed 1–28–99; 8:45 am]

BILLING CODE 6353–01–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Proposed Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to Procurement List.

**SUMMARY:** The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** March 1, 1999.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Commodities*

SuperDisk Drive
7045–01–454–8199
NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania

Pen, Rollerball, Free Ink
7520–01–461–2660
7520–01–461–2663
7520–01–461–2664
7520–01–461–2665
NPA: San Antonio Lighthouse San Antonio, Texas

*Services*

*Administrative Services*

GSA Regional Emergency Management Control Center
GSA Complex
Auburn, Washington
NPA: Northwest Center for the Retarded Seattle, Washington

Base Supply Center
Mountain Home Air Force Base, Idaho
NPA: Envision, Inc. Wichita, Kansas

Base Supply Center
Fallon Naval Air Station
Fallon, Nevada
NPA: The Lighthouse for the Blind, Inc. Seattle, Washington

Grounds Maintenance
BRECC 3900 Loch Raven Boulevard
Baltimore, Maryland
NPA: Baltimore Association for Retarded Citizens, Inc. Baltimore, Maryland

Mailroom Operation
Internal Revenue Service
(Requirements for Anchorage, Alaska; Honolulu, Hawaii; Portland, Oregon and Seattle, Washington)
NPA: Portland Habilitation Center, Inc.
Portland, Oregon

Operation of Individual Equipment Element Store
Mountain Home Air Force Base, Idaho
NPA: Envision, Inc.
Wichita, Kansas

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 99–2173 Filed 1–28–99; 8:45 am]

BILLING CODE 6353–01–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–351–829]**

### Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Postponement of Time Limit for Countervailing Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Postponement of Time Limit for Preliminary Results of Countervailing Duty Investigation

**SUMMARY:** The Department of Commerce is extending the time limit of the preliminary determination in the countervailing duty investigation of hot-rolled flat-rolled carbon-quality steel products from Brazil because we determine that additional time is necessary to make the preliminary determination.

**EFFECTIVE DATE:** January 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Lockard or Javier Barrientos, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

**SUPPLEMENTARY INFORMATION:**

### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

### Postponement

On October 15, 1998, the Department of Commerce (''the Department'') initiated the countervailing duty investigation of hot-rolled flat-rolled carbon-quality steel products from Brazil. *See Initiation of Countervailing Duty Investigation: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil,* 63 FR 56623 (October 22, 1998). On December 1, 1998, the Department deemed this investigation to be extraordinarily complicated, and postponed the preliminary determination to no later than January 25, 1999. *See Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Postponement of Time Limit for Countervailing Duty Investigation,* 63 FR 67459 (December 7, 1998). For the same reasons referenced in our earlier postponement, the Department has determined that

additional time is necessary to make the preliminary determination. Therefore, pursuant to section 703(c)(1) of the Act, we are postponing the preliminary determination in this investigation to no later than February 12, 1999.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: January 22, 1999.

**Robert. S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99–2221 Filed 1–28–99; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Government Owned Inventions

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of government owned inventions available for licensing.

**SUMMARY:** The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

**FOR FURTHER INFORMATION CONTACT:** Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

**SUPPLEMENTARY INFORMATION:** NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

*NIST Docket Number:* 97–015US.

*Title:* Noise Reduction In Volume Holographic Memories.

*Abstract:* A method for improving the quality of holographic images by reducing local noise in a holographic memory system is disclosed. The method is characterized by: storing a white reference image and a black reference image in the memory system, storing a series of data images in the memory system, applying a simple model based on a point-to-point of linear interpolation to the series of data images, the white reference image and the black reference image to provide a series of corrected data images having reduced noise. The simple model is preferably in a form which is characterized by temporal stability for the series of data images for each set of the black and white reference images.

*NIST Docket Number:* 97–045US.

*Title:* Granting Assisted Acousto-Optic Tunable Filter and Method.

*Abstract:* Dense wavelength division multiplexing (D–WDM) is promising in future information networks to increase the communication bandwidth. The invention is an acousto-optic tunable filter that can increase the number of channels significantly by combining a diffraction grating with an acousto-optic spectrum analyzer. The novel grating-assisted acousto-optic tunable filter (GA–AOTF) allows a very narrow spectral bandwidth (only 5% of those of conventional AOTFs) resulting in a significant increase in bandwidth and available channels by a factor of approximately 20.

**Robert E. Hebner,**

*Acting Deputy Director.*

[FR Doc. 99–2072 Filed 1–28–99; 8:45 am]

BILLING CODE 3510–13–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 011199E]**

### International Whaling Commission; Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participating on the Committee and a tentative schedule of meetings and of important dates.

**DATES:** The February 19, 1999, Interagency Meeting will be held at 2:00 p.m. See **SUPPLEMENTARY INFORMATION** for tentative 1999 meeting schedules.

**ADDRESSES:** The February 19, 1999, meeting will be held in Room 1863, Herbert C. Hoover Building, Department of Commerce, 14th and Constitution, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Catherine Corson, (301) 713–2322.

**SUPPLEMENTARY INFORMATION:** The February 19, 1999, Interagency Committee meeting will review recent events relating to the IWC and issues that will arise at the 1999 IWC annual meeting.

The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary for Oceans and Atmosphere, who is also the U.S. Commissioner to the IWC. The U.S. Commissioner has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other interested agencies.

Each year, NOAA conducts meetings and other activities to prepare for the annual meeting of the IWC. The major purpose of the preparatory meetings is to provide input in the development of policy by individuals and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in United States whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information and to establish the necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practices.

### Tentative Meeting Schedule

The schedule of additional meetings and deadlines, including those of the IWC, during 1999 follows. Specific locations and times will be published in the **Federal Register**.

*April 9, 1999 (Department of Commerce, Herbert C. Hoover Building, Room 1863, Washington, D.C.)*: Interagency Committee meeting to review recent events relating to the IWC and to review U.S. positions for the 1998 IWC annual meeting.

*April 30 to May 3, 1999 (Grenada)*: IWC Scientific Committee

**Working Groups.**

*May 3 to 15, 1999 (Grenada)*: IWC Scientific Committee.

*May 17 to 19, 1999 (Grenada)*: IWC Whale Killing Methods Workshop.

*May 19 to 21, 1999 (Grenada)*: IWC Commission Committee, Sub-committees and Working Groups.

*May 24 to 28, 1998 (Grenada)*: IWC 51st Annual Meeting.

**Special Accommodations**

Department of Commerce meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Catherine Corson at least 5 days prior to the meeting date.

Dated: January 25, 1999.

**Hilda Diaz-Soltero,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 99–2187 Filed 1–28–99; 8:45 am]

BILLING CODE 3510–22–F

## DEPARTMENT OF DEFENSE

### Department of the Army

### Corps of Engineers

### Notice of Availability of the Draft Supplement III to the Final Environmental Impact Statement for the Manteo (Shallowbag) Bay Project, Dare County, North Carolina; Dated January 1999

**AGENCY:** Army Corps of Engineers, Wilmington District, DOD.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Army Corps of Engineers has prepared Supplement No. 2 General Design Memorandum and a Draft Supplement III to the Final Environmental Impact Statement (EIS) for the Manteo (Shallowbag) Bay project, located in Dare County, North Carolina. The project was originally authorized in 1970, and called for the deepening of the navigation channel from the Atlantic Ocean through Oregon Inlet to Wanchese, North Carolina. Because of the dynamic and hazardous nature of Oregon Inlet, dual jetties, combined with a means to bypass sand around the inlet, were authorized to provide safe navigation and reduce the frequency of maintenance dredging.

A range of jetty spacings was analyzed to determine the optimum for protecting navigation, channeling tidal flows, preventing sound side setup, and facilitating larval fish passage through the inlet. Based on this analysis, a jetty spacing of 3,000 feet was selected. Three alternative jetty designs were analyzed to determine whether cost effective measures are available to minimize potential impacts on larval fish: (a) The previously proposed project at a 3,000-foot spacing; (b) jetties along the same alignment which are 1,000 feet shorter; and (c) jetties which are 1,000 feet shorter along the same alignment and with a weir section in the north jetty to allow larval fish passage during mid to high tides. Refined modeling and offshore surveys have indicated that shorter jetties will be effective at intercepting littoral sands and capturing sediments in the ebb tide delta, therefore, shorter jetties are being recommended. Analysis of the weir jetty alternative indicates that movement of larval fishes into the inlet would be facilitated by the presence of a weir. Initial construction costs would be slightly lower and there would be unquantifiable fishery benefits. A weir jetty would allow for the movement of sand over the weir into the inlet where it could be readily bypassed during any season instead of the summer season bypassing required under the previously proposed plan. The dredging only plan has also been reexamined. It has been confirmed that, due to high rate of shoaling in Oregon Inlet, construction and maintenance of the authorized improved channel without jetties is not economically feasible. The no action alternative, which includes the continuation of year-round sidecast dredging supplemented by pipeline and hopper dredging in an effort to maintain the existing project, does not provide a safe, navigable channel in Oregon Inlet. The hazardous navigation conditions will continue to cause vessel losses and damages, injuries to crews, and occasional deaths. After consideration of the environmental consequences of the spacing changes and refinements to the jetty alternative, the dredging only alternative, and the no action alternative, the preferred alternative is to construct shortened jetties with a 3,000-foot spacing and a weir section in the north jetty.

The Supplement No. 2 General Design Memorandum and Draft Supplement III to the Final EIS are now being circulated to allow the public and other interested parties to comment on this sand management plan and other project features which have changed since the last EIS supplement, dated May 1985. All interested persons are invited to provide their views on any aspect of the proposed project.

**FOR FURTHER INFORMATION CONTACT:** For information on the Supplement No. 2 General Design Memorandum contact Mr. William Dennis, U.S. Army Corps of Engineers, Wilmington District, PO Box 1890, Wilmington, North Carolina 28402–1890, at (910) 251–4780; and for information on the DEIS supplement contact Mr. William Adams, U.S. Army Corps of Engineers, Wilmington District, P.O. Box 1890, Wilmington, North Carolina 28402–1890, at (910) 251–4748.

**SUPPLEMENTARY INFORMATION:** Lands on either side of the inlet are in public ownership, with Cape Hatteras National Seashore to the north and Pea Island National Wildlife Refuge to the south. Without sand bypassing, jetties, which trap sand as it moves along the beach, can cause significant erosion of adjacent shorelines. During 1991, the U.S. Army Corps of Engineers and the Department of the Interior formed a Joint Task Force to develop a sand-bypassing plan that was agreeable to both parties. The outcome of this effort was the development of a Sand Management Plan which went beyond previous sand bypassing plans by predefining project related shoreline impacts and delineating shoreline reaches which will be managed as a project responsibility.

**SCOPING:** Individuals and agencies may present written comments relevant to the Draft EIS Supplement by sending the information to Mr. William Adams at the address above prior to March 18, 1999. Comments, suggestions, and requests to be placed on the mailing list for announcements and for the Final EIS Supplement are also welcome and can be furnished to Mr. Adams at the above address or via e-mail to: william.f.adams@saw02.usace.army.mil, or by FAX at (910) 251–4965.

Copies of the Draft EIS Supplement are available from Mr. William Adams at the address above. Review copies are also available in the library of the Wilmington District Headquarters located at 69 Darlington Avenue, Wilmington, North Carolina.

Dated: January 13, 1999.

**Terry R. Youngbluth,**

*Colonel Corps of Engineers, District Engineer.*

[FR Doc. 99–2186 Filed 1–28–99; 8:45 am]

BILLING CODE 3710–GN–M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Corps of Engineers

### Intent To Prepare a Draft Programmatic Environmental Impact Statement for the Section 33, the ''Missouri River Between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska,'' Bank Stabilization Project

**AGENCY:** Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The dams and reservoirs on the upper Missouri River have caused a lowering of the streambed in the open reaches downstream from the dams. They have also caused a continuing net loss of high-bank lands, the reduction or elimination of the annual cycle of erosion and accretion, and a widening of the channel in some locations. The ''Section 33'' program was created by Congress with the expressed purpose of allowing the Corps of Engineers to assist affected landowners in alleviating these effects through a variety of measures. These measures include maintaining or rehabilitating existing bank stabilization structures, constructing new bank stabilization structures, purchasing affected property and monetary compensation.

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action and Draft EIS should be directed to Candace M. Thomas, Chief, Environmental and Economics Section, Water Resources Branch, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102–4978 or at 402–221–4575.

**SUPPLEMENTARY INFORMATION:** The purpose of this programmatic Environmental Impact Statement (EIS) is to evaluate the potential degree or level of implementation of the alternative measures authorized by Congress, and their expected environmental impacts. Because the specific components of the Section 33 program are not known at this time, and specific sites have not been identified for development, this will be a programmatic EIS that identifies the general impacts and issues associated with each of the alternatives evaluated. The programmatic EIS provides for the coverage of general matters in a broader environmental document. Subsequent narrower and site-specific environmental analyses will be performed when specific projects are determined in the future.

The Missouri River reaches included in the Section 33 program are as follows:

a. Fort Peck Dam to about twenty miles upstream of Lake Sakakawea (RM 1770 to RM 1580).

b. Garrison Dam to the upper end of Lake Oahe (RM 1390 to RM 1303).

c. Oahe Dam to about Pierre, South Dakota (RM 1071 to RM 1066).

d. About five miles downstream from Fort Randall Dam to Springfield, South Dakota (RM 875 to RM 832).

e. Gavins Point Dam to about 20 miles upstream of Sioux City, Iowa (RM 810 to RM 752).

Scoping meetings will be held on February 22, 1999 at the Sherman Motor Inn in Wolf Point, Montana at 6:30 p.m.; on February 23, 1999 at the Doublewood Inn in Bismarck, North Dakota at 6:30 p.m.; and on February 25, 1999 at the Prairie Inn & Convention Center in Vermillion, South Dakota at 6:30 p.m. These scoping meetings, as well as agency meetings, will be held to solicit input on the issues, studies needed, alternatives to be evaluated, and other related matters. Written comments will also be requested.

**Candace M. Thomas,**

*Chief, Environmental & Economics Section, Water Resources Branch, Engineering Division.*

[FR Doc. 99–2185 Filed 1–28–99; 8:45 am]

BILLING CODE 3710–62–M

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 1, 1999.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov,* or should be faxed to 202–708–9346.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 25, 1999.

**Kent H. Hannaman,**

*Leader, Information Management Group, Office of the Chief Financial and Chief Information Officer.*

### Office of Vocational and Adult Education

*Type of Review:* New.

*Title:* National Survey to Determine the Need for Special Education Services.

*Frequency:* One time.

*Affected Public:* State, local or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 689.

Burden Hours: 668.

*Abstract:* The Office of Correctional Education is conducting a study to

determine the number of incarcerated juvenile and youthful offenders with disabilities. This study is being undertaken by the American Institutes for Research. Three surveys and methodology are being presented for review.

[FR Doc. 99–2111 Filed 1–28–99; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Submission of Data by State Educational Agencies

**AGENCY:** National Center for Education Statistics, Department of Education.

**ACTION:** Notice of dates of submission of state revenue and expenditure reports for fiscal year 1998 and of revisions to those reports.

**SUMMARY:** The Secretary of Education announces dates for the submission by state educational agencies (SEAs) of expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey) for fiscal year (FY) 1998. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Bureau of the Census is the data collection agent for the Department's National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2000 appropriated funds.

**DATES:** The date on which submissions will first be accepted is March 15, 1999. The mandatory deadline for the final submission of all data, including any revisions to previously submitted data, is September 7, 1999.

**ADDRESSES:** SEAs may mail ED Form 2447 to: Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800.

Alternatively, SEAs may hand deliver submissions to: Governments Division, Bureau of the Census, 8905 Presidential Parkway, Washington Plaza II, Room 508, Upper Marlboro, MD 20772, by 4 p.m. (Eastern Time).

If an SEA's submission is received by the Bureau of the Census after September 8, in order for the submission to be accepted, the SEA must show one of the following as proof that the submission was mailed on or before the mandatory deadline date:

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.
4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Service.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lawrence R. MacDonald, Chief, Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800. Telephone: (301) 457–1574. 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 notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to: Frank Johnson, National Center for Education Statistics, U.S. Department of Education, Washington, DC 20208–5651. Telephone: (202) 219–1618.

**SUPPLEMENTARY INFORMATION:** Under the authority of section 404(a) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)), which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines the average state per pupil expenditure (SPPE) for elementary and secondary education, as defined in the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 8801 (12)).

In addition to using the SPPE data as useful information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including Title I of the Elementary and Secondary Education Act of 1965 as amended by the Improving America's Schools Act of 1994 (Title I), Impact Aid, and Indian Education. Other programs such as the Goals 2000: Educate America Act, the Technology Literacy Challenge Fund, the Education for Homeless Children and Youth Program under Title VII of the Stewart B. McKinney Homeless Assistance Act, the Dwight D. Eisenhower Professional Development Program, and the Safe and Drug-Free Schools and Communities Program make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I allocations.

In January 1999, the Bureau of the Census, acting as the data collection agent for NCES, will mail to SEAs ED Form 2447 with instructions and request that SEAs submit data to the Bureau of the Census on March 15, 1999, or as soon as possible thereafter. SEAs are urged to submit accurate and complete data on March 15, or as soon as possible thereafter, to facilitate timely processing. Submissions by SEAs to the Bureau of the Census will be checked for accuracy and returned to each SEA for verification. All data, including any revisions, must be submitted to the Bureau of the Census by an SEA not later than September 7, 1999.

Having accurate and consistent information, on time, is critical to an efficient and fair allocation process, as well as the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, NCES establishes, for allocation purposes, September 7, 1999, as the final date by which ED Form 2447 must be submitted. However, if an SEA submits revised data after the final deadline that results in a lower SPPE figure, its allocations may be adjusted downward or the Department may request the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs. If an SEA submits revised data after September 7, the data may also be too late to be included in the final NCES published dataset.

### Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) via the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an

electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

**Note:** The official version of a document is the document published in the **Federal Register**.

**Authority:** 20 U.S.C. 9003(a).

Dated: January 25, 1999.

**C. Kent McGuire,**

*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 99–2162 Filed 1–28–99; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Office of Science and Office of Environmental Management; Office of Science Financial Assistance Program Notice 99–06; Environmental Management Science Program: Research Related to Subsurface Contamination/Vadose Zone Issues

**AGENCY:** U.S. Department of Energy (DOE).

**ACTION:** Correction.

In notice document 99–543 beginning on page 1607, in the issue of Monday, January 11, 1999, make the following correction:

On page 1608, in the third column, under the heading ''Preapplications'', in the third line the date should read ''February 9, 1999''.

Issued in Washington, DC on January 20, 1999.

**John Rodney Clark,**

*Associate Director of Science for Resource Management.*

[FR Doc. 99–2175 Filed 1–28–99; 8:45 am]

BILLING CODE 6450–01–U

## DEPARTMENT OF ENERGY

### Golden Field Office; Notice of Solicitation for Financial Assistance Applications; Million Solar Roofs Initiative Small Grant Program for State and Community Partnerships

**AGENCY:** Department of Energy.

**ACTION:** Notice of Solicitation for Financial Assistance Applications Number DE–PS36–99GO10419.

**SUMMARY:** The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit applications for Million Solar Roofs Program for State and Community Partnerships. The selected applicant's will receive financial assistance under a grant with DOE.

**DATES:** The solicitation will be issued on or about January 22, 1999.

**ADDRESSES:** To obtain a copy of the Solicitation once it is issued, interested parties must access the Golden Field Office Application, Award and Solicitation page at http://www.eren.doe.gov/golden/solicit.htm, click on ''solicitations'' and then locate the solicitation number identified above. DOE does not intend to issue written copies of the solicitation.

**SUPPLEMENTARY INFORMATION:** DOE's Million Solar Roofs (MSR) Initiative is an initiative to install solar energy systems on one million U.S. buildings by 2010. It was announced by President Clinton on June 26, 1997 in his speech before the United Nations Session on Environment and Development. This effort includes two types of solar energy technology—photovoltaics that produce electricity from sunlight and solar thermal panels that produce heat for domestic hot water, space heating or heating swimming pools. A key strategy of the Initiative is to catalyze market demand in local areas through the establishment of State and Community MSR Partnerships. The Congressional language in Public Law 105–245 authorizing these funds specifically directs DOE to use these funds to eliminate barriers to the use of solar energy systems and to support partnerships. The overall goal of this solicitation is to assist State and Community Partnerships in contributing to the installation of one million solar energy systems on U.S. rooftops by the year 2010. This solicitation is only open to both existing and new MSR State and Community Partnerships. These Partnerships bring together business, government and community organizations at the regional level with a commitment to install a pre-determined number of solar energy systems. There were nine such existing partnerships under the MSR Initiative, as of October 1, 1998. They received their MSR Partnership designation by writing a letter of commitment to DOE with their goal for actual installations by 2010. In return, DOE provides access to a variety of financing options; training and technical assistance from DOE's existing infrastructure; recognition and support; and a link to solar energy businesses, associations and related industries that can provide assistance. New MSR Partnerships can declare their intent to join the Initiative by including such a letter with their application for this solicitation. A complete description of partnerships and their representative activities can be found in Appendix A and on the MSR website at *http://www.MillionSolarRoofs.org.*

DOE's Office of Energy Efficiency and Renewable Energy will only consider proposals from interested State and Community Partnerships to help fund their MSR program development and implementation activities. Projects will be managed by the DOE Regional Support Offices. DOE intends to allocate a portion of total available funding to each of the six DOE regions based on a formula that considers existing partnerships and the potential for new partnerships to be established. Applicants will only be competing against other partnerships in their DOE region.

The project or activity must be conducted in a designated MSR partnership community. Any member of a State or Community Partnership, except industry associations, can apply on behalf of the Partnership, including builders, energy service providers, utilities, non-governmental organizations, local governments, state governments, or Federal government agencies. The different organizations/offices involved in a State or Community Partnership are encouraged to collaborate on their response to this solicitation. There is no cost-sharing requirement for these grants although cost-sharing will be considered in the selection process. Subject to the availability of funds, multiple Awards for a total of $600,000 (DOE funding) in Fiscal Year (FY) 1999 are anticipated as a result of this Solicitation (approximately 12 to 30 small grants, $10,000 to $50,000 in size) will be awarded. Solicitation number DE–PS36–99GO10419 will include complete information on the program including technical aspects, funding, application preparation instructions, application evaluation criteria, and other factors that will be considered when selecting applications for funding. No pre-application conference is planned. Issuance of the solicitation is planned on or about January 22 , 1999, with responses due on February 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ruth Adams, Contracting Officer, at 303–275–4722, e-mail ruth__adams@nrel.gov, or Robert Martin, Project Officer, at 303–275–4763, e-mail robert__martin@nrel.gov.

Issued in Golden, Colorado, on January 21, 1999.

**Ruth E. Adams,**

*Chief, Procurement, GO.*

[FR Doc. 99–2177 Filed 1–28–99; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Science; Basic Energy Sciences Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Wednesday, February 24, 1999, 8:30 a.m. to 5:00 p.m.; and Thursday, February 25, 1999, 8:30 a.m. to 2:00 p.m.

**ADDRESSES:** Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

**FOR FURTHER INFORMATION CONTACT:** Sharon Long; Office of Basic Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: 301–903–5565.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Meeting:* The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

*Tentative Agenda:* Agenda will include discussions of the following:

- Opening Remarks and Introduction from Dr. Martha Krebs, Director, Office of Science
- Fiscal Year 2000 Budget Status
- Scientific Simulation Initiative Update
- Report from the National Institutes of Health (NIH) on NIH Macromolecular Crystallography Activities at Synchrotron Radiation Light Sources
- Status of the Spallation Neutron Source Science Program
- User Fees at Basic Energy Sciences Facilities
- Report of the Solid State Sciences Committee on Condensed-Matter and Materials Physics
- BESAC Fourth Generation Light Source Panel Report
- BESAC E-Beam Review Status
- Update on Complex and Collective Phenomena Workshop
- BESAC/Office of Science—Roadmapping

*Public Participation:* The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Sharon Long at 301–903–6594 (fax) or sharon.long@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

*Minutes:* The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW; Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 26, 1999.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 99–2176 Filed 1–28–99; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP99–145–000]**

### Williams Natural Gas Company; Notice of Request Under Blanket Authorization

January 25, 1999.

Take notice that on January 11, 1999, as supplemented on January 19, 1999, Williams Gas Pipelines Central, Inc. (Williams), One Williams Center, P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–145–000 a request pursuant to Sections 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) for authorization to utilize facilities installed for the delivery of NGPA Section 311 transportation gas to Missouri Public Service (MPS) for the Greenwood (Greenwood) power plant located in Jackson County, Missouri, for purposes other than NGPA Section 311 transportation under Williams blanket certificate issued in Docket No. CP82–479–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that the facilities consist of a 16-inch tap on its 20-inch Grain Valley pipeline (Line XMA) and a triple run orifice meter setting, a 10′ × 12′ meter house, electronic flow measurement equipment, and appurtenant facilities setting on a 50′ by 105′ site in the plant yard. Williams anticipates that these facilities will be used for deliveries of gas other than NGPA Section 311 transportation and is seeking authorization to perform those deliveries. Williams states that it began delivering gas to MPS for Greenwood on December 19, 1996 with an initial delivery of 1,915 Dth. The annual volume to be delivered is estimated to be 685,000 Dth increasing to 729,000 Dth within three years. Williams estimates that the peak day volume will be 25,000 Dth. Williams notes that subject authorization will allow MPS receipt point and capacity release flexibility in the future.

Williams states the operation of the subject facilities will have no impact on its peak day or annual deliveries since the power plant load is primarily from May through October. According to Williams, the cost to construct the subject facilities was $249,942, which was fully reimbursed by MPS. Williams contends that since it is an open access transporter pursuant to Section 284 blanket certificate, the volume of gas delivered to MPS after the request will not exceed the volume of gas authorized prior to the request. Williams has attached copies of its clearance letters from the Missouri Department of Natural Resources, the U.S. Fish and Wildlife Service, and the Missouri State Historic Preservation Officer. Additionally, Williams has attached a copy of its Upland Erosion Control, Revegetation and Maintenance Plan utilized in the construction of the facilities. Williams states that it is sending a copy of the request to the Missouri Public Service Commission. Williams states that the proposal is not prohibited by an existing tariff, and Williams has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

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 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. 99–2154 Filed 1–28–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

January 25, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2731–020.

c. *Date Filed:* May 27, 1998.

d. *Applicant:* Central Vermont Public Service Corporation.

e. *Name of Project:* Weybridge Project.

f. *Location:* On Otter Creek, at river mile 19.5 from the confluence with Lake Champlain, in Addison County, Vermont. There are no federal lands located within the project area.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John C. Greenan, P.E., Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701, (802) 747–5707.

i. *FERC Contact:* Any questions on this notice should be addressed to Jack Duckworth, E-mail address, jack.duckworth@ferc.fed.us, or telephone (202) 219–2818.

j. Deadline for comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application has been accepted for filing and is ready for environmental analysis at this time.

l. Description of the Project: The project consists of the following existing facilities: (1) a 30-foot-high, 302.6-foot-long concrete gravity dam consisting of two spillway sections, a 150-foot-long west spillway section, topped with a 6-foot-high hinged steel flashboard, and abutted by a 20-foot-wide and 10-foot-high Taintor gate, and a 116-foot-long east spillway section topped with an automatically inflated rubber weir; (2) a 1.5-mile-long, 62-acre impoundment with a normal water surface elevation of 174.3 feet above mean sea level (msl); (3) a powerhouse integral with the dam containing a single turbine generator with an installed capacity of 3,000 kilowatts (kW); (4) transmission facilities; and (5) appurtenant facilities.

m. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room, 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address shown in item h.

n. this notice also consists of the following standard paragraph: D10.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing response; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all person listed on the service list prepared by the Commission in this proceeding, in accordance with 19 CFR 4.34(b), and 385.2010.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–2155 Filed 1–28–99; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Application Ready for Environmental, Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

January 25, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2737–002.

c. *Date Filed:* June 25, 1998.

d. *Applicant:* Central Vermont Public Service Corporation.

e. *Name of Project:* Middlebury Lower Project.

f. *Location:* On Otter Creek, at river mile 24.5 from the confluence with Lake Champlain, in Addison County, Vermont. There are no federal lands located within the project area.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. John C. Greenan, P.E., Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701, (802) 747–5707.

i. *FERC Contact:* Any questions on this notice should be addressed to Jack Duckworth, E-mail address, jack.duckworth@ferc.fed.us, or telephone (202) 219–2818.

j. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a 30-foot-high, 478-foot-long concrete gravity dam consisting of two ogee spillway sections, a 123-foot-long western spillway section, and a 260-foot-long eastern spillway section; (2) a 1-mile-long, 16 acre impoundment with a normal water surface elevation of 314.5 feet above mean sea level (msl); (3) a powerhouse integral with the dam containing three Francis turbine units for a total installed capacity of 2,250 kilowatts (kW); (4) transmission facilities; and (5) appurtenant facilities.

m. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address shown in item h.

n. This notice also consists of the following standard paragraph: D10.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All rely comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''Recommendations,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

**David P. Boergers,**

*Secretary.*

[FR Doc. 99–2156 Filed 1–28–99; 8:45 am]

BILLING CODE 6717–01–M

---

## DEPARTMENT OF ENERGY

## Western Area Power Administration

## Resource Pool Size

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of public process on resource pool size and notice of informal public information meetings.

**SUMMARY:** The Western Area Power Administration (Western) is seeking public comment on the size of project-specific resource pools needed to meet the fair share needs of Native American tribes in the marketing areas served by the Central Valley Project, Washoe Project, and the Salt Lake City Area Integrated Projects.

**DATES:** The consultation and comment period will end March 1, 1999. To be assured of consideration, written comments must be received by the end of the consultation and comment period.

Three informal public information meetings have been scheduled. The first will be held on February 3, 1999, starting at 9 a.m. at Western's Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona. The second will be held on February 5, 1999, starting at 9 a.m. at the Department of Energy's Training Center, 1401 Maxwell, Kirtland Air Force Base NE., Albuquerque, New Mexico. The third will be held on February 9, 1999, starting at 1:30 p.m. at Western's Sierra Nevada Regional Office, 114 Parkshore Drive, Folsom, California. The purpose of the informal meetings is to educate Native Americans on Western's power allocation policies, including the resource pool that will be the source of allocations of power to eligible Native American tribes. Although the target audience for these workshops is Native American tribes, these meetings are open to the public.

**ADDRESSES:** Written comments may be hand-delivered, mailed, emailed, or faxed to Robert C. Fullerton, Project Manager, Corporate Services Office, Western Area Power Administration, 1627 Cole Boulevard, P.O. Box 3402, Golden, CO 80401–0098, telephone (303) 275–2700, fax (303) 275–1290, email: fullerto@wapa.gov. All documentation developed or retained by Western during the course of this public process will be available for inspection and copying at this address.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Fullerton, Project Manager, Corporate Services Office, Western Area Power Administration, 1627 Cole Boulevard, P.O. Box 3402, Golden, CO 80401–0098, telephone (303) 275–2700, email: fullerto@wapa.gov.

Joel K. Bladow, Regional Manager, Rocky Mountain Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, telephone (970) 490–7201, email: bladow@wapa.gov.

J. Tyler Carlson, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457,

Phoenix, AZ 85005–6457, telephone (602) 352–2453, email: carlson@wapa.gov.

David Sabo, Customer Service Center Manager, Colorado River Storage Project, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, telephone (801) 524–6372, email: sabo@wapa.gov.

Jerry W. Toenyes, Regional Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4418, email: toenyes@wapa.gov.

Gerald C. Wegner, Regional Manager, Upper Great Plains Region, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800, telephone (406) 247–7405, email:wegner@wapa.gov.

**SUPPLEMENTARY INFORMATION:** Western's inquiry on the impact of electric utility restructuring started pursuant to the publication of notice in the **Federal Register** on December 1, 1998 (63 FR 66166). We sought input on six questions to help in the consideration of the impact of electric utility industry restructuring on the way that Western allocates power. While the comment period for this inquiry closed on January 15, 1999, a separate issue has been identified that must be addressed before completion of pending marketing plans. That issue is the size of the project-specific resource pools that are needed to meet the fair share needs of Native American tribes. The resource pools are derived from power that is not extended to existing long-term firm power customers.

Considerable attention was devoted to the resource pool issue during the course of development of the Energy Planning and Management Program (Program) (60 FR 54151). The Program, which was adopted on October 20, 1995, established a framework for the project-specific allocation of hydropower. Pursuant to the Program, Western signed resource extension contracts with existing customers of the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects. Resource pools of up to 6 percent of the marketable resource were set aside to meet a fair share of the needs of new customers, including Native American tribes, and other purposes as determined by Western. Four percent of the marketable resource was initially made available, and additional resource pool increments of up to 1 percent will be made available 5 and 10 years into the 20-year contract term.

While the resource pools size for the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects has already been determined, the Program anticipated that the resource pool size for the Central Valley Project, Washoe Project, and Salt Lake City Area Integrated Projects would be determined on a project-specific basis. In February of 1997, Western proposed application of the Program to the Salt Lake City Area Integrated Projects, and further proposed ''an initial resource pool of up to 4 percent of available Federal resource . . . for new customers to encourage customer development of new technologies for conservation or renewable resources and for contingencies.'' In that **Federal Register** notice, published on February 26, 1997 (62 FR 8709), Western also proposed potential reductions to resource commitments 5 and 10 years into the contract term, for the same purposes as the initial resource pool.

On that same day, Western announced its Proposed 2004 Power Marketing Plan, which provided for marketing of power from Central Valley Project and Washoe Project powerplants after the year 2004. In a **Federal Register** notice published at 62 FR 8710, Western proposed a 4 percent initial resource pool for new allocations and an additional incremental resource pool of up to 2 percent in the year 2014.

While there was considerable public comment on resource pool size as a result of the publication of these two **Federal Register** notices in February of 1997, there is a need to receive further public comment on the fair share needs of eligible Native American tribes before the size of project-specific resource pools can be decided and pending marketing plans can be completed.

Under the Program, entities that desire to purchase power from Western for resale to consumers, including municipalities, cooperatives, public utility districts, and public power districts, must have utility status. Native American tribes are not subject to this requirement. Western has stated that we would consider arrangements for the delivery of the benefits of cost-based Federal power to Native American tribes without utility status.

Dated: January 22, 1999.

**Michael S. Hacskaylo,**

*Adminstrator.*

[FR Doc. 99–2178 Filed 1–28–99; 8:45 am]

BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–5499–4]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 11, 1999 Through January 15, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (62 FR 17856).

### Draft EISs

ERP No. D–AFS–J65287–UT Rating LO, South Spruce Ecosystem Rehabilitation Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron and Kane Counties, UT.

*Summary:* EPA review has not identified any potential environmental impacts which require substantive changes to the proposal.

ERP No. D–AFS–J65289–UT Rating EC2, Pine Tract Project, Implementation, Coal Lease Tract (UTU–76195); Modification to Federal Coal Lease (U–63214 Quitchupah Lease) and Permit Amendment Application to Subside Box Canyon, Manti-La Sal National Forest, Ferron/Price Ranger District, Emery and Sevier Counties, UT.

*Summary:* EPA expressed environmental concerns with the narrow scope, air quality analysis, coal/methane conflicts and impacts from transportation of coal. EPA requested further information on cumulative impacts.

ERP No. D–AFS–K61145–CA Rating EC2, Ansel Adams, John Muir, Dinkey Lakes and Monarch Wildernesses, Proposed New Management Direction, Amending the Land and Resource Management Plans for the Inyo, Sierra and Sequoia National Forests, Implementation, Inyo, Madera, Mono and Fresno Counties, CA.

*Summary:* EPA expressed environmental concerns regarding proposed management direction for four Wilderness Areas, and particularly noted the lack of analysis of direct, indirect, and cumulative impacts associated with cattle and sheep grazing. Some comments were held pending the release of a revised NEPA document to address issues related to recreational stock and commercial

outfitters that emerged during the public comment period.

ERP No. D–AFS–L65309–ID Rating EC2, Spruce Moose and Moose Lake Right-of-Way Analysis Area, Implementation, Timber Harvesting, Road Construction, Reforestation and Watershed Restoration, Clearwater National Forest, Lochsa Ranger District, Idaho County, ID.

*Summary:* EPA expressed environmental concerns on the continued cutting of Old Growth forest, and the potential for contributing additional sediment to streams that are currently degraded by sediment. The DEIS does not disclose adequate information concerning water quality, status of stream listings under CWA Section 303(d), and cumulative effects.

ERP No. DR–AFS–L65261–AK Rating EC2, Port Houghton/Cape Fanshaw Timber Harvest Sale Project, Implementation, Revision to Tongass National Forest Land Management Plan, Tongass National Forest, Chatham and Stikine Area, South of Juneau, AK.

*Summary:* EPA expressed environmental concerns related to the potential adverse impact of the project on the marine environment.

ERP No. DS–AFS–K65193–NV Rating EO2, Griffon Mining Project, Implementation, Updated Information, Revision for Expanding Gold Mining, Plan of Operations, Humboldt-Toiyabe National Forests, Ely Ranger District, White Pine County, NV.

*Summary:* EPA expressed environmental objections based on the potential for significant environmental degradation of the project-affected watershed. EPA requested additional information in the Final Supplement (EIS) regarding water quality impacts, mitigation/monitoring measures, and waste rock characterization of material from the proposed mine expansion and whether the project impacts were consistent with the Clean Water Act and applicable permit conditions. Mitigation recommendations were provided.

**Final EISs**

ERP No. F–AFS–J65281–UT, Spruce Ecosystem Recovery Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron County, UT.

*Summary:* Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–K65275–CA, Fourmile Hill Geothermal Development Project, Construction, Operation and Maintenance, 49.9 megawatt (MW) Geothermal Power Plant, Federal Geothermal Leases CA–21924 and CA–21926, Glass Mountain Known Geothermal Resource Area, Klamath and Modoc National Forests, Siskiyou and Modoc Counties, CA.

*Summary:* EPA continued to express environmental objections based on potential adverse impacts to water resources. These impacts would likely be less than significant, assuming proper implementation of mitigation, monitoring and contingency plans. EPA also acknowledged the strong public opposition to the proposed project, and questioned the need for the project at this time, based on information provided in the Final EIS by the lead agencies, and the agencies' obligations under NEPA to balance environmental amenities and values with economic and technical consideration in decision making.

ERP No. F–NPS–L61217–OR, Oregon Caves National Monument, General Management Plan, Development Concept Plan, Josephine County, OR.

*Summary:* Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NPS–L65277–WA, Lake Crescent Management Plan, Implementation, Olympic National Park, WA.

*Summary:* Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: January 26, 1999.

**B. Katherine Biggs,**

*Associated Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 99–2210 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–U

---

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–5499–3]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed January 18, 1999 Through January 22, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990015, FINAL EIS, FAA, NY, Terminal Doppler Weather Radar (TDWR) Installation and Operation, Serve the John F. Kennedy International Airports (JFK) and La Guardia (LFA), Site Specific, Air Station Brooklyn, Borough of Queens, King County, NY, Due: March 08, 1999, Contact: Jerome D. Schwartz (202) 267–9841.

EIS No. 990016, FINAL EIS, IBR, WA, Programmatic EIS—Yakima River Basin Water Enchancement (Phase 2) Project, Implementation, Benton, Yakima and Kittitas Counties, WA, Due: March 08, 1999, Contact: Ms. Lola Sept (208) 378–5032.

EIS No. 990017, DRAFT EIS, IBR, CA, Contra Loma Reservoir Project, Future Use and Operation of Contra Costa Water District, COE Section 404 Permit, Contra Costa County, CA, Due: March 25, 1999, Contact: Bob Eckart (916) 978–5051.

EIS No. 990018, LEGISLATIVE FINAL EIS, USN, NV, Fallon Naval Air Station, Renewal of the B–20 Land Withdrawal, City of Fallon, Churchill County, NV, Due: March 08, 1999, Contact: Sam Dennis (650) 244–3007.

EIS No. 990019, FINAL SUPPLEMENT, BLM, CO, Glenwood Springs Resource Area, Resource Management Plan and Wilderness Recommendations, Implementation and Recommendations, Garfield, Mesa, Routt, Eagle, and Pitkin Counties, CO, Due: March 08, 1999, Contact: Steve Moore (970) 947–2800.

EIS No. 990020, DRAFT EIS, TVA, TN, GA, Peaking Capacity Additions, Construction and Operation of Natural Gas-Fired Combustion Turbines, NPDES and COE Section 404 Permits; Three Sites Proposed: Colbert Fossil Plant, Colbert County, AL, Gallatin Fossil Plant, Sumner County, TN and Johnsonville Fossil Plant, Humphreys County, TN, Due: March 22, 1999, Contact: Gregory L. Askew, P.E. (423) 632–6418.

EIS No. 990021, DRAFT EIS, BLM, NM, New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management, Implementation, NM, Due: May 17, 1999, Contact: J. W. Whitney (505) 438–7438.

EIS No. 990022, FINAL EIS, BLM, AK, Squirrel River Wild and Scenic River Suitability Study, Designation and Non-Designation, National Wild and Scenic Rivers System, AK, Due: March 08, 1999, Contact: Lon Kelly (907) 474–2368.

EIS No. 990023, DRAFT EIS, NPS, AL, Little River Canyon National Preserve, General Management Plan, Implementation, DeKalb and Cherokee Counties, AL, Due: April 06, 1999, Contact: William Spring (256) 845–9605.

EIS No. 990024, FINAL EIS, GSA, VA, U.S. Patent and Trademark Office (PTO) Consolidation, Acquisition of 2.4 million Rentable Square Feet with a 20-year Lease Term, Three Possible

Sites: Crystal City, Carlyle and Eisenhower Avenue, VA, Due: March 08, 1999, Contact: Carl Winters (202) 401–1025.

EIS No. 990025, DRAFT EIS, UMC, AZ, Yuma Marine Corps Air Station (MCAS), To Improve Ordnance Handling and Storage, Construct a new Combat Aircraft Loading Area (CALA); New Station Ordnance Area and Relocation of MCAS Yuma, AZ, Due: March 22, 1999, Contact: Richard Samrah (520) 341–3163.

EIS No. 990026, DRAFT EIS, AFS, ID, WA, Douglas-fir Beetle Project, Proposal To Harvest Tree, Regenerated Forest, Aquatic Restoration and Fuels Reduction, Idaho Panhandle National Forest, Coeur d'Alene River and Priest Lake Ranger District and Colville National Forest, Newport Ranger District, Kootenai, Shoshone and Bonner Counties, ID and Pend Orielle County, WA, Due: March 22, 1999, Contact: David J. Wright (208) 664–2318.

**Amended Notices**

EIS No. 980526, FINAL EIS, FHW, DC, Canal Road Entrance to the Georgetown University Improvements, Reconstruction between Whitehurst Freeway and Foxhall Road, Washington, D.C., Due: February 22, 1999, Contact: Edward Sheldal (202) 523–0163.

Published FR 01–08–99—Review Period extended.

EIS No. 990002, DRAFT EIS, DOA, MN, Snake River Watershed Plan, Watershed Protection and Flood Prevention, NPDES Permit and COE Section 404 Permit, Marshall Pennington and Polk Counties, MN, Due: March 01, 1999, Contact: Vic Ruhland (612) 602–7900.

Published FR—01–15–99 Correction of Agency's code from DOE to DOA.

Dated: January 26, 1999.

**B. Katherine Biggs,**

*Associated Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 99–2211 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–U

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6227–9]**

## Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held on February 2–4, 1999, at the Washington Marriott, 1221 22nd Street, NW, Washington, D.C. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

**DATES:** Tuesday, February 2, 1999, Work Group meetings only; plenary sessions Wednesday, February 3 and Thursday, February 4, 1999.

**ADDRESSES:** Washington Marriott, 1221 22nd Street, NW, Washington, D.C.

**AGENDA ITEMS:** The meetings of the CHPAC are open to the public. The Outreach and Communications Work Group, the Science and Research Work Group, the Regulatory Process Work Group will meet from 10:00 a.m. to 5:00 p.m. on Tuesday, February 2, 1999. The Economics and Assessment Work Group will meet from 8:30 a.m. to 4:30 p.m. on Tuesday, February 2, 1999.

The plenary session will begin on Wednesday, February 3 from 8:30 a.m. to 5:00 p.m. and Thursday, February 4, from 8:30 a.m. to 12:30 p.m. The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Some tentative agenda items include reports from the Work Groups, a panel discussion on key economics issues and a session on the role of economics in EPA decisionmaking. There will be a public comment period on Wednesday, February 3, 1999, from 4:30–5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Contact Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107, 401 M Street, SW, Washington, D.C. 20460, (202) 260–7778, goode.paula@epa.gov.

Dated: January 22, 1999.

**E. Ramona Trovato,**

*Director, Office of Children's Health Protection.*

[FR Doc. 99–2200 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6228–1]**

## National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public meeting.

**SUMMARY:** Under the Federal Advisory Committee Act, P.L. 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Reinvention Criteria Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The NACEPT Reinvention Criteria Committee (RCC) has been asked to help the Agency understand how incentives can be used most successfully to inspire firms, companies, communities, and individuals to go beyond mere compliance with existing regulations and to begin the process of addressing outstanding environmental problems. In particular, the committee is focusing on the following questions:

- What opportunities exist for EPA to use incentives to promote environmental stewardship in industry? In local communities? In the general public?
- How can EPA evaluate the effectiveness of incentives to encourage environmental stewardship that leads to improved environmental results? How can EPA measure the impact that incentives have on public confidence? What criteria should be used to decide whether the use of incentives is appropriate?
- How can the concept of performance ladders be used to tailor incentives most effectively?

This meeting is being held to provide the EPA with perspectives from representatives of state, and local governments, environmental organizations, academia, industry, and NGOs.

**DATES:** The RCC will hold a 1½-day public meeting at the Best Western Old Colony Inn, located at 615 First Street, Alexandria, Virginia, on Monday March 15, from 1:00pm to 5:30pm and Tuesday March 16, 1999 from 8:30am to 5:00pm.

**ADDRESSES:** Materials or written comments may be transmitted to the committee through Gwendolyn Whitt, Designated Federal Officer, NACEPT RCC, U.S. EPA, Office of Cooperative

Environmental Management (1601F), 401 M Street, SW, Washington, D.C. 20460. There will also be an opportunity for the public to make comments directly to the committee during the first day of the meeting. Requests to make public comments must be submitted no later than March 1,1999 to Gwendolyn Whitt, at the address above or faxed to (202)-260–6882.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Whitt, Designated Federal Officer, NACEPT, at (202) 260–9484.

Dated: January 21, 1999.

**Gordon Schisler,**

*Deputy Director, Office of Cooperative Environmental Management.*

[FR Doc. 99–2199 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–853; FRL–6055–8]**

## Notice of Filing of Pesticide Petitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by the docket control number PF–853, must be received on or before March 1, 1999.

**ADDRESSES:** By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Hoyt Jamerson, Registration Support Branch, Registration Division (7505), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 268, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–9368; e-mail: jamerson.hoyt@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–853] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–853) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

### List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 21, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

### Summary of Petition

The petitioner summary of the pesticide petitions is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petitions was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summaries with minor editing. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

### Interregional Research Project Number 4 (IR-4)

*PP 5E4434, 5E4559 and 7E4872,*

EPA has received pesticide petitions (5E4434, 5E4559, and 7E4872) from the Interregional Research Project Number 4 (IR-4), Center for Minor Crop Pest Management, Technology Center of New Jersey, Rutgers, the State University of New Jersey, 681 U.S. Highway # 1 South, North Brunswick, NJ 08902-3390, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the fungicide aluminum tris (o-ethylphosphonate) (referred to in this document as fosetyl-Al) in or on certain raw agricultural commodities as follows:

1. EPA has received an amendment to PP 5E4434 from IR-4 proposing to amend the time-limited tolerance established for blueberries at 40 ppm. IR-4 requests that the tolerance for bluberries be amended by extending the expiration date to December 31, 2000. The time extension will allow IR-4 to develop additional magnitude of residue data in support of a permanent tolerance for blueberries.

2. PP 5E4559 proposes the establishment of a tolerance for grapes at 10 parts per million (ppm). Registration for use of fosetyl-Al on

grapes would be limited to areas east of the Rocky Mountains based on the geographical representation of the residue data submitted.

3. PP 7E4872 proposes the establishment of a tolerance for macadamia nuts at 0.3 ppm.

EPA has determined that the petitions contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

*A. Residue Chemistry*

1. *Plant metabolism*. The metabolism of fosetyl-Al in plants is adequately understood. Adequate data on the nature of the residues in plants, including identification of major metabolites and degradates of fosetyl-Al, are available. Radio labeled studies on the uptake, translocation and metabolism in plants show that the chemical proceeds through hydrolytic cleavage of the ethyl ester. The major residues are fosetyl-Al, phosphorus acid and ethanol. The tolerances are established for the parent only, that is fosetyl-Al. There is no reasonable expectation of residues occurring in eggs, milk, and meat of livestock and poultry since there are no livestock feed items associated with commodities treated with fosetyl-Al.

2. *Analytical method*. Adequate methods are available for enforcement purposes. There are two analytical methods acceptable for determining residues of fosetyl-Al in plants: a gas chromatography method is available for enforcement of tolerance in pineapple and is listed as Method I in PAM, Vol. II; a gas chromatography/phosphorus specific flame photometric detector (FPD-P) method (Rhone-Poulenc Method No. 163) for citrus has undergone a successful method tryout on oranges and has been sent to the FDA for inclusion in PAM as Method II.

*B. Toxicological Profile*

1. *Acute toxicity*. A complete battery of acute toxicity studies for fosetyl-Al technical have been conducted. The acute oral rat and primary dermal irritation studies indicate category IV toxicity. A guinea pig dermal sensitization study shows fosetyl-Al is not a skin sensitizer. The primary eye irritation study in rabbits shows fosetyl-Al to be an eye irritant with Category I toxicity.

2. *Genotoxicty*. Fosetyl-Al is neither mutagenic nor genotoxic. The genetic toxicity potential of fosetyl-Al was assessed in several assays.

3. *Reproductive and developmental toxicity*. Rhone-Poulenc concludes that fosetyl-Al is not a reproductive toxicant and shows no evidence of estrogenic or androgenic related effects.

i. In a 3-generation reproduction study, fosetyl-Al was administered to rats at dietary levels of 0, 6,000, 12,000 or 24,000 ppm. No adverse effects on reproductive performance or pup survival were observed in any dose group. The lowest-observed adverse effect level (LOAEL) was established at 12,000 ppm based on effects on animal weights and urinary tract changes. The no-observed adverse effect level (NOAEL) for all effects was 6,000 ppm.

ii. A teratology study in rats dosed via oral gavage at 500, 1,000 or 4,000 milligrams/kilogram/day (mg/kg/day) showed a developmental NOAEL of 1,000 mg/kg. At 4,000 mg/kg, there was maternal toxicity, as evidenced by effects on animal weights, maternal deaths, increased resorptions and delayed fetal ossification.

iii. A rabbit teratology study showed no toxic effects at oral doses up to 500 mg/kg.

Effects of fosetyl-Al on fetal development were observed only in the rat at a dose producing severe maternal toxicity. In the absence of maternal toxicity, NOAEL on fetal development were observed, i.e. at 1,000 mg/kg/day in rats or at 500 mg/kg/day in rabbits.

4. *Subchronic toxicity*. In subchronic studies, no significant toxicity was observed even at doses exceeding the limit of 1,000 mg/kg/day.

5. *Chronic toxicity*. Chronic feeding studies have been conducted in dogs and rats. The LOAEL for chronic effects of fosetyl-Al is 10,000 ppm (250 mg/kg/day) based on a 2 year feeding study with dogs fed diets containing 0, 10,000, 20,000 and 40,000 ppm. This NOAEL is based on a slight degenerative effect on the testes at the 20,000 ppm dose level. In the rat, calculi in the urinary bladder and related histopathological changes in the bladder and kidneys of males and females were observed at 30,000/40,000 ppm (1,500/2,000 mg/kg/day).

6. *Carcinogenicity*. Long-term feeding studies were conducted with technical grade fosetyl-Al in mice and rats and with monosodium phosphite, the primary urinary metabolite of fosetyl-Al, in rats. In addition, a mechanistic study in rats was conducted with feeding levels up to 50,000 ppm. Fosetyl-Al was administered via admixture in the diet to CD rats at target levels of 0, 2,000, 8,000, and 30,000/40,000 ppm for approximately 2 years. After 2 weeks at 40,000 ppm, this dietary level was reduced to 30,000 ppm. Calculi in the urinary bladder were observed for several male and female rats at 30,000/40,000 ppm. Microscopic examination revealed transitional cell carcinomas and papillomas in the urinary bladders of high dose males. In addition, a statistically significant increase in adrenal pheochromocytomas (benign and malignant combined) was observed in males at 8,000 and 30,000/40,000 ppm. The adrenal slides were independently reread by two consulting pathologists who found no significant dose-related increases in the incidence of pheochromocytomas or hyperplasia.

A subsequent mechanistic study in rats conducted with dietary levels of 8,000, 30,000 and 50,000 ppm demonstrated that the massive doses of 30,000 and 50,000 ppm fosetyl-Al alter calcium/phosphorous homeostasis resulting in severe acute renal injury, similar to that observed in the chronic rat study, and the formation of calculi in kidneys, ureters, and bladder. Under conditions of chronic exposure, these effects could lead to the formation of bladder tumors as seen in the chronic rat study. At 8,000 ppm, no evidence of renal injury was observed, a result consistent with the absence of bladder tumors.

A carcinogenicity study in rats was conducted with monosodium phosphite administered via dietary mixture at levels of 2,000, 8,000, and 32,000 ppm. No evidence of oncogenicity was observed in this study. A 2 year feeding/carcinogenicity study was conducted in mice fed diets containing fosetyl-Al at 0, 2,500, 10,000, or 20,000/30,000 ppm. The 20,000 ppm dose was increased to 30,000 ppm during week 19 of the study. The NOAEL for all effects was 20,000/30,000 ppm (3,000/4,500 mg/kg/day). There were no carcinogenic effects observed under the conditions of this study.

The Office of Pesticide Programs', Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) concluded that the pesticidal use of fosetyl-Al is unlikely to pose a carcinogenic hazard for humans given that; (i) tumors develop in rats under extreme conditions that are unlikely to be achieved other than under laboratory conditions (at a dose in excess of the OPP dose limit for carcinogenicity studies); (ii) tumors in rats are believed to develop only at doses that produce stones; (iii) human dietary exposure to fosetyl-Al is only about one-500,000th of the NOAEL for stone formation in the rat (the most sensitive experimental model); and (iv) the dose of fosetyl-Al which can be absorbed dermally by applicators is also probably too low to

result in stone formation. EPA has therefore chosen to use the Reference Dose (RfD) to quantify dietary risk to humans.

7. *Animal metabolism*. Rat metabolism studies showed that most of the radiolabel rapidly appeared in exhaled carbon dioxide. There was also some radiolabel excreted in the urine as phosphite, along with a smaller amount as the unchanged parent compound. It appears that fosetyl-Al is essentially completely absorbed after ingestion and extensively hydrolyzed to carbon dioxide which is exhaled. The phosphite is excreted in the urine without further oxidation to phosphate. Aluminum does not appear to be absorbed to a significant extent from the gastrointestinal tract.

8. *Metabolite toxicology*. There are no metabolites of toxicological concern. The tolerances are established for the parent only, that is fosetyl-Al.

9. *Endocrine disruption*. No evidence of estrogenic or androgenic effects were noted in any study with fosetyl-Al. NOAEL on mating or fertility indices and gestation, live birth, or weaning indices were noted in a 3-generation rat reproduction study at doses well above EPA's limit of 1,000 mg/kg/day. Therefore, Rhone-Poulenc concludes that fosetyl-Al does not have any effect on the endocrine system.

*C. Aggregate Exposure*

1. *Dietary exposure*—i. *Food*. The calculated potential dietary exposure for the U.S. population is 0.065760 milligram/kilogram/bodyweight/day (mg/kg/bwt/day). Potential exposure for nursing and non-nursing infants less than 1-year old, children aged 1 to 6 years, and children aged 7 to 12 years is calculated to be 0.134076, 0.116682, and 0.069637 mg/kg/bwt/day, respectively. Chronic dietary exposure was estimated using established and proposed tolerance residue levels, 1987 food consumption data, and 100% crop treated.

ii. *Drinking water*. There is no established maximum contaminant level (MCL) or health advisory level (HAL) for fosetyl-Al. Rhone-Poulenc expects the potential for ground water and/or surface water contamination by fosetyl-Al and its degradates to be very low, in most cases, due to the rapid degradation of the compound in soil to non-toxic degradates under both aerobic and anaerobic conditions. Under aerobic laboratory conditions, the half-life of fosetyl-Al is between 1 and 1.5 hours in loamy sand, silt loam and clay loam and 20 minutes in sandy loam soil. The degradation proceeds through the hydrolysis of the ethyl ester bond, resulting in the formation of phosphorous acid and ethanol. The ethanol is further degraded into carbon dioxide. An anaerobic aquatic soil metabolism study was conducted. When anaerobic conditions were established by flooding soil, the half-life was 40 hours with silty clay loam and 14 hours with sandy loam soil.

2. *Non-dietary exposure*. Considering that fosetyl-Al is applied by commercial applicators on about 0.03% of available lawn acres (the majority being commercial landscapes), the likelihood of post application exposure occurring, particularly in a residential situation, is extremely low. The use of fosetyl-Al by the homeowner constitutes a minor use of the product since only small quantities are expected to be sold in 1998. Other applications by professional operators, e.g. golf courses, nurseries, sod farms, present only very limited exposure to a limited population of adults but do not pose any exposure to small children. Thus, Rhone-Poulenc concludes that the ornamental and turf uses are not expected to add significantly to the aggregate exposure for fosetyl-Al, and only dietary exposure has been taken into consideration for risk assessment purposes.

*D. Cumulative Effects*

According to Rhone-Poulenc the effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. The formation of calculi and bladder tumors in rats is the only significant toxicological effect observed with fosetyl-Al. These effects were observed in rat only at a dose which not only exceeds estimated human exposure by several orders of magnitude but is in excess of the OPP dose limit for carcinogenicity studies. Therefore, an aggregate assessment based on common mechanisms of toxicity is not appropriate as exposure to humans will be well below the levels producing calculi and bladder tumors in rats. Further, considering the rapid elimination of fosetyl-Al in the rat metabolism study, any effects associated with fosetyl-Al are unlikely to be cumulative with any other compound. Based on these reasons, only the potential risks of fosetyl-Al are considered in the exposure assessment.

*E. Safety Determination*

1. *U.S. population*. EPA has established an RfD of 3.0 mg/kg/day using a 100 fold safety factor and a NOAEL of 250 mg/kg/bodyweight/day from the two year feeding study in dogs. A chronic dietary risk assessment using established and proposed tolerance residue levels results in utilization of 2.2, 4.5, 3.9, and 2.3% of the RfD for the whole U.S. population, non-nursing infants less than 1 year old, children aged 1 to 6 years, and children aged 7 to 12 years, respectively. Thus, the dietary exposure for fosetyl-Al is well below the RfD of 3.0 mg/kg/day and is negligible for all segments of the population including infants and children. Based on a lack of acute toxicity and the large margins of exposure (MOE) in the chronic dietary assessment, Rhone-Poulenc concludes that fosetyl-Al does not pose any acute dietary risks.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fosetyl-Al, the available developmental and reproductive toxicity studies and the potential for endocrine modulation were considered.

Developmental toxicity studies in two species indicate that fosetyl-Al has no teratogenic potential at any dose level. Further, NOEAL on fetal development were observed in rabbits at doses up to 500 mg/kg/day or in rats at doses up to 1,000 mg/kg/day. In a 3-generation rat reproduction study, NOAEL on reproductive performance or pup survival were observed up to 24,000 ppm (equivalent to a dose well above EPA's limit dose (LTD) of 1,000 mg/kg/day). Maternal and developmental NOAELs and LELs were comparable in all studies indicating no increase susceptibility of developing organisms. Further, fosetyl-Al has no endocrine-modulation characteristics as demonstrated by the lack of endocrine effects in developmental, reproductive, subchronic, and chronic studies. The probability of non-occupational sources of exposure to fosetyl-Al is negligible. Therefore, based upon the completeness and reliability of the toxicity data and the conservative exposure assessment, Rhone-Poulenc concludes that there is a reasonable certainty that no harm will result to infants and children from exposure to the residues of fosetyl-Al and no additional uncertainty factor is warranted.

*F. International Tolerances*

There are presently no Codex maximum residue levels established for residues of fosetyl-Al on any crop.

[FR Doc. 99–2202 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–50850; FRL–6056–7]**

### Issuance of an Experimental Use Permit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted an experimental use permit to the following applicant. The permit is in accordance with, and subject to, the provisions of 40 CFR part l72, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

**FOR FURTHER INFORMATION CONTACT:** By mail: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 212, CM #2, Arlington, VA, 703–305–6502, e-mail: sibold.ann@epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has issued the following experimental use permit:

*264–EUP–119*. Issuance. Rhone-Poulenc AG Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This experimental use permit allows the use of 0.0012 pounds of the insecticide fipronil on 60 acres of turfgrass that is not used for grazing or recreation to evaluate the control of imported fire ants. The program is authorized only in the States of Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit is effective from December 21, 1998 to December 21, 1999.

Persons wishing to review this experimental use permit are referred to the designated contact person. Inquires concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**Authority**: 7 U.S.C. 136.

### List of Subjects

Environmental protection, Experimental use permits.

Dated: January 21, 1999.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 99–2203 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPTS–00235; FRL–5772–5]**

### Printed Wiring Board Cleaner Technologies Substitute Assessment, Making Holes Conductive; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability.

**SUMMARY:** The Environmental Protection Agency's (EPA) Design for The Environment (DfE) Program is announcing the availability of a document providing pollution prevention and human health and environmental risk reduction information for the Printed Wiring Board industry.

**ADDRESSES:** The document is available free of charge for a limited time from the Pollution Prevention Information Clearinghouse (PPIC), Environmental Protection Agency (7409), 401 M St. SW., Washington, DC 20460, telephone 202–260–1023, fax 202–260–4659 and e-mail at: ppic@epamail.epa.gov. Also, the document can be viewed and downloaded from the DfE Program web site at http://www.epa.gov/dfe.

**FOR FURTHER INFORMATION CONTACT:** Dipti Singh, Design for the Environment Program, Office of Pollution Prevention and Toxics (7406), Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460; 202–260–1678, fax 202–260–0981, e-mail: oppt.dfe@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Project Background

The document entitled ''Printed Wiring Board Cleaner Technologies Substitutes Assessment: Making Holes Conductive'' (EPA 744–R–97–002a and b) details the findings of EPA's Design for the Environment (DfE) Printed Wiring Board (PWB) Project regarding alternative technologies for performing the ''making holes conductive'' function during the manufacture of PWB's. The draft report was released in August 1996 (August 22, 1997, 62 FR 44692; (FRL–5724–5)). Minor changes made due to internal review have been incorporated in the final document.

EPA's Design for the Environment (DfE) Program began working with the Printed Wiring Board (PWB) Industry in 1994, to identify and evaluate environmentally beneficial and cost effective alternatives to PWB manufacturing technologies. The DfE PWB Project is a voluntary, cooperative partnership between EPA, the PWB industry, public-interest groups, and other stakeholders. The goal of this Project is to provide information that will assist the PWB industry in making informed decisions when evaluating and implementing beneficial alternatives to PWB manufacturing technologies.

For purposes of this study, the project evaluated seven alternative technologies for performing the ''making holes conductive'' (MHC) function during the manufacture of PWBs. The non-conveyorized electroless copper process was considered the baseline process against which alternative technologies and equipment configurations were compared. With this notice, EPA is announcing the availability of the final document entitled ''Printed Wiring Board Cleaner Technologies Substitutes Assessment: Making Holes Conductive.''

This document marks the culmination of research by the DfE PWB Project and the University of Tennessee Center for Clean Products and Clean Technologies. The data gathered on the comparative risk, performance, cost, and natural resource requirements of the alternatives and baseline technologies are presented in this document.

Dated: January 21, 1999.

**William H. Sanders III,**

*Director, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances.*

[FR Doc. 99–2204 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–F

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Special Meeting

### Sunshine Act Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 2, 1999, from 9:00 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

**Open Session**

A. Approval of Minutes
—January 14, 1999 (Open and Closed)
B. New Business
—Regulation
—Releasing Information [12 CFR Part 602] (Proposed)

***Closed Session**

C. Reports
1. OSMO Report
2. ABA/IBAA Appeal

Dated: January 27, 1999.

**Floyd Fithian,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 99–2301 Filed 1–27–99; 8:45 am]

BILLING CODE 6705–01–P

*Session closed-exempt pursuant to 5 U.S.C. 552b(c) (8), (9), and (10).

## FEDERAL COMMUNICATIONS COMMISSION

### Sixth Meeting of the Advisory Committee for the 2000 World Radiocommunication Conference (WRC–2000 Advisory Committee)

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–2000 Advisory Committee will be held on February 19, 1999, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2000 World Radiocommunication Conference. The Advisory Committee will consider any consensus views or proposals introduced by the Advisory Committee's Informal Working Groups.

**DATES:** February 19, 1999; 10:00 am–12:00 noon.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, Room TW–C305, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Damon C. Ladson, FCC International Bureau, Planning and Negotiations Division, at (202) 418–0420.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission (FCC) established the WRC–2000 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2000 World Radiocommunication Conference (WRC–2000). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the sixth meeting of the WRC–2000 Advisory Committee. The WRC–2000 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the sixth meeting is as follows:

**Agenda**

*Sixth Meeting of the WRC–2000 Advisory Committee, Federal Communications Commission, 445 12th Street, SW, Room TW–C305, Washington, DC 20554*

February 19, 1999; 10:00 am–12:00 noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Fifth Meeting
4. IWG Reports
5. Consideration of Consensus Views and Issue Papers
6. Development of Draft Proposals
7. Future Meetings
8. Other Business

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 99–2161 Filed 1–28–99; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission.

**FEDERAL REGISTER NUMBER:** *99–2129.*

**PREVIOUSLY ANNOUNCED DATE AND TIME:** *Wednesday, February 3, 2:00 p.m.*—Meeting open to the public.

The starting time has been changed to 10:00 a.m.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Ron Harris, Press Officer; Telephone: (202) 694–1220.

**Marjorie W. Emmons,**

*Secretary of the Commission.*

[FR Doc. 99–2268 Filed 1–29–99; 10:32 am]

BILLING CODE 6715–01–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–3134–EM]**

### Illinois; Emergency and Related Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of Illinois (FEMA–3134–EM), dated January 8, 1999, and related determinations.

**EFFECTIVE DATE:** January 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated January 8, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the impact in certain areas of the State of Illinois, resulting from the record/near record snow on January 1, 1999, and continuing, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288 as amended, (''the Stafford Act''). I, therefore, declare that such an emergency exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

You are authorized to provide emergency protective measures under the Public Assistance program to save lives, protect public health and safety, and property. Other forms of assistance under Title V of the Stafford Act may be added at a later date, as you deem appropriate. You are further authorized to provide this emergency assistance in the affected areas for a period of 48 hours. You may extend the period of assistance, as warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Lawrence L. Bailey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this emergency.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this emergency:

The counties of Adams, Brown, Cass, Champaign, Cook, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Iroquois, Kane, Kankakee, Kendall, Knox, Lake, Livingston, Logan, Marshall, Mason, McDonough, McLean, Menard, Peoria, Piatt, Pike, Schuyler, Stark, Tazewell, Warren, Will, and Woodford for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**James L. Witt,**

*Director.*

[FR Doc. 99–2169 Filed 1–28–99; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–3134–EM]**

### Illinois; Amendment to Notice of an Emergency

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency for the State of Illinois, (FEMA–3134–EM), dated January 8, 1999, and related determinations.

**EFFECTIVE DATE:** January 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency for the State of Illinois, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 8, 1999:

The counties of Bureau, Calhoun, Greene, Henry, La Salle, Mercer, Morgan, Putnam, Sangamon, Scott, and Vermilion for reimbursement for emergency protective measures, Category B, under the Public Assistance program for a period of 48 hours.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

**Lacy E. Suiter,**

*Executive Associate Director, Response and Recovery Directorate.*

[FR Doc. 99–2170 Filed 1–28–99; 8:45 am]

BILLING CODE 6718–02–P

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**TIME AND DATE:** 2:00 p.m., Wednesday, February 3, 1999.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Proposal relating to Federal Reserve System benefits.
2. Any items carried forward from a previously announced meeting.

* * * * *

* The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for employees of the Federal Reserve System.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement of this meeting. (The Web site also includes procedural and other information about the meeting.)

Dated: January 27, 1999.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 99–2263 Filed 1–27–99; 10:27 am]

BILLING CODE 6210–01–P

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### Sunshine Act Meeting

**TIME AND DATE:** 10:00 a.m. (EST) February 8, 1999.

**PLACE:** 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of the minutes of the January 11, 1999, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG Peat Marwick report:

''Pension and Welfare Benefits Administration Review of Thrift Savings Plan C and F Fund Investment Management Operations at Barclays Global Investors, N.A.''

4. Review of investment policy.

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 26, 1999.

**John J. O'Meara,**

*Secretary to the Board, Federal Retirement Thrift Investment Board.*

[FR Doc. 99–2242 Filed 1–26–99; 5:03 pm]

BILLING CODE 6760–01–M

## FEDERAL TRADE COMMISSION

### Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act information collection requirements associated with five rules issued and enforced by the Commission. OMB had provisionally extended the expiration for these clearances from September 30, 1998 to March 31, 1999. The FTC proposes that OMB extend its approval for the clearances an additional three years from the prior expiration date of September 30, 1998.

**DATES:** Comments must be submitted on or before March 1, 1999.

**ADDRESSES:** Send written comments to Gary M. Greenfield, Attorney, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580. All comments should be identified as responding to this notice.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information

should be addressed to Gary M. Greenfield, Attorney, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202–326–2753.

**SUPPLEMENTARY INFORMATION:** The FTC has submitted a request to OMB to extend the existing clearance to collect information associated with the five rules described below. A **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 16, 1998 (63 FR 63731). No comments were received.

The relevant information collection requirements are as follows: 1. The Funeral Rule, 16 C.F.R. Part 453 (OMB Control Number: 3084–0025), ensures that consumers who are purchasing funeral goods and services have accurate information about the terms and conditions (especially prices) for such goods and services. The Rule requires that funeral providers disclose this information to consumers and maintain records to facilitate enforcement of the Rule.

*Estimated annual hours burden:* The estimated burden associated with the collection of information required by the Rule is 22,300 hours for recordkeeping and 57,900 hours for disclosures, for a total of 80,200 hours. This estimate is based on the number of funeral providers (approximately 22,300), the number of funerals annually (approximately 2.3 million), and the time needed to fulfill the information collection tasks required by the Rule.

*Recordkeeping:* The Rule requires that funeral providers retain copies of price lists and statements of funeral goods and services selected by consumers. Based on an average burden of one hour per provider per year for this task, the total burden for the 22,300 providers is 22,300 hours. This estimate is unchanged from 1995.

*Disclosure:* The Rule requires that funeral providers (1) maintain current price lists for funeral goods and services, (2) provide written documentation of the funeral goods and services selected by consumers making funeral arrangements, and (3) provide information about funeral prices in response to telephone inquiries.

Maintaining current price lists requires that funeral providers revise their price lists from time to time through the year to reflect price changes. Based on an average burden of two hours per provider per year for this task, the total burden for 22,300 providers is 44,600 hours. This estimate is unchanged from the FTC's previous estimate in 1995.

The original rulemaking record indicated that 87 percent of funeral providers provided written documentation of funeral arrangements, even in the absence of the Rule's requirements.[1] Accordingly, the Rule imposes a disclosure burden on 2,899 providers (13 percent of 22,300 providers). These providers are typically the smallest funeral homes. The disclosure requirement can be satisfied through the use of a standard form (an example of which is available to the industry in the Compliance Guide to the Funeral Rule). Based on an estimation that these smaller homes arrange, on average, approximately 20 funerals per year, and that it would take each of them about 3 minutes to record prices for each consumer on the standard form, FTC staff estimates that the total burden associated with this disclosure requirement is one hour per provider not already in compliance, for a total of 2,899 hours.

The Funeral Rule also requires funeral providers to answer telephone inquiries about the provider's offerings or prices. Industry data indicate that only about nine percent of funeral purchasers make telephone inquiries, with each call lasting an estimated three minutes. Only about half of that additional time is attributable to disclosures required solely by the Rule, since many providers would provide the requested information even without the Rule. Thus, assuming that the average purchaser makes two calls per funeral to compare prices, the estimated burden is 10,350 hours [(½ × 3 minute call × 2 calls/funeral) × 207,000 funerals (nine percent of 2,300,000 funerals/year)]. This burden likely will decline over time as consumers increasingly rely on the Internet for funeral price information.

In sum, the disclosure total is 57,849 hours (44,600 + 2,899 + 10,350), rounded to 57,900 hours. The total estimated hours burden associated with the Rule for both recordkeeping and disclosure requirements is 80,200 (Recordkeeping: 22,300 hours + Disclosure: 57,900 hours).

*Estimated annual cost burden:* $3,900,000, rounded ($3,560,000 in labor costs and $340,300 in non-labor costs).

*Labor costs:* Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used below are averages.

Clerical personnel, at an hourly rate of $10, can perform the recordkeeping tasks required under the Rule. Based on the estimated hour burden of 22,300 hours, the estimated cost burden for recordkeeping is $223,000 ($10 × 22,300 hours).

The two hours required of each provider, on average, to update price lists should consist of approximately 1.5 hours of managerial or professional time, at $75 per hour, and .5 hours of clerical time, at $10 per hour, for a total of $117.50 per provider. Thus, the estimated total cost burden for maintaining price lists is $2,620,250 ($117.50 × 22,300 providers) (rounded to $2,620,000). The cost of providing written documentation of the goods and services selected by the consumer is 2,899 hours of managerial or professional time at approximately $75 per hour, or $217,425 (rounded to $217,000). The cost of responding to telephone inquiries about offerings or prices is 10,350 hours of managerial or professional time at $75, or $776,250 (rounded to $776,000).

The total labor cost of the three disclosure requirements imposed by the Funeral Rule is $3,613,000 ($2,620,000 + $217,000 + $776,000). The total labor cost for recordkeeping and disclosures is $3,836,000 ($223,000 for recordkeeping + $3,613,000 for disclosures).

*Capital or other non-labor costs:* The Rule imposes minimal capital costs and no current start-up costs. Most funeral homes already have access, for other business purposes, to the ordinary office equipment needed for compliance.

Compliance with the Rule however, does entail some expense to funeral providers for printing and duplication of price lists. Based on a rough estimate of 300 pages per year per provider for copies of the various price lists, at 5 cents per page, and 22,300 providers, the total cost burden associated with printing and copying is $334,500. In addition, the estimated 2,899 providers not already providing written documentation of funeral arrangements apart from the Rule will incur additional printing and copying costs. Assuming that those providers use the standard two-page form shown in the Compliance Guide, at 5 cents per page, at an average of 20 funerals per year, the added cost burden would be $5,798, rounded to $5,800. Thus, estimated non-labor costs are $340,300.

[1] The original version of the Funeral Rule required that funeral providers retain a copy of and give each customer a separate ''Statement of Funeral Goods and Services Selected.'' The 1994 amendments to the Rule eliminated that requirement, allowing instead for such disclosures to be incorporated into a written contract, bill of sale, or other record of a transaction that providers use to memorialize sales agreements with customers.

The cost of training associated with Rule compliance is generally included in continuing education requirements for licensing and voluntary certification programs. Moreover, the FTC has provided its Compliance Guide to all funeral providers at no cost, and additional copies are available on the FTC web site or by mail. Accordingly, the Rule imposes no additional training costs.

2. The Used Car Rule, 16 CFR Part 455 (OMB Control Number: 3084–0108), facilitates informed purchasing decisions by consumers by requiring used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of used cars they offer for sale.

*Estimated annual hours burden:* The FTC is requesting approval for an estimated burden of 1,925,000 hours relating solely to disclosure requirements.[2] This estimate is based on the number of used car dealers (approximately 80,000, according to industry sources [3]), the number of used cars sold by dealers annually (approximately 30,000,000, according to industry data), and the time needed to fulfill the information collection tasks required by the Rule.[4] The current estimated annual burden reflects a decrease from the prior estimate, attributable to a more accurate estimate of the number of used cars sold by dealers, and recent industry input to more accurately reflect the time it takes used car dealers to enter data on Buyers Guides.

The Rule requires that used car dealers display a one-page, double-sided Buyers Guide in the window of each used car they offer for sale.The component tasks associated with this requirement include (1) ordering and stocking Buyers Guide forms, (2) entering applicable data on Buyers Guides, (3) posting the Buyers Guides on vehicles, and (4) making any necessary revisions in Buyers Guides.

Dealers should need no more than an average of one hour per year to obtain Buyers Guide forms, which are readily available from many commercial printers or could be produced by an office word-processing or desk-top publishing system. Based on a universe of 80,000 dealers, the annual hours burden for producing or obtaining and stocking Buyers Guides is 80,000 hours.

For used cars sold ''as is,'' copying vehicle-specific data from dealer inventories to the Buyers Guide forms and checking off the ''no warranty'' box may take up to two minutes per vehicle if done by hand, and only seconds for those dealers who have automated the process. Staff conservatively assumes that this task, on average, will require 1.5 minutes. For used cars sold under warranty, checking off the warranty box and adding warranty information may take an additional one minute, i.e., 2.5 minutes, Based on input from industry sources, staff estimates that approximately 60% of used cars sold by dealers are sold ''as is,'' with the remainder sold under warranty. Thus, staff estimates the time required to enter data for used cars sold without warranty is 450,000 hours (30,000,000 × 60% × 1.5 minutes ÷ 60 minutes/hour) and 500,000 hours for used cars sold under warranty (30,000,000 × 40% × 2.5 minutes ÷60 minutes/hour), for an overall total of 950,000 hours.

Although there will be substantial variance in the time required to post the Buyers Guides on each used car, FTC staff estimates that, on average, dealers will spend 1.75 minutes per vehicle to match the correct Buyers Guide to the vehicle and place it in or on the vehicle. For the 30,000,000 vehicles sold, the burden associated with this task is 875,000 hours. To the extent dealers are able to integrate this process into other activities performed in their ordinary course of business, this estimate likely overstates the actual burden.

If negotiations between buyer and seller over warranty coverage produce a sale on terms other than those originally entered on the Buyers Guide, the dealer must revise the Guide to reflect the actual terms of sale. According to the rulemaking record, bargaining over warranty coverage rarely occurs. Allowing for revision in 2% of sales, at two minutes per revision, staff estimates that dealers will spend 20,000 hours annually revising Buyers Guides.

*Estimated annual cost burden:* $28,250,000, consisting of $19,250,000 in labor costs and $9,000,000 in non-labor costs.

*Labor costs:* Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. Staff has determined that all of the tasks associated with ordering forms, entering data on Buyers Guides, posting Buyers Guides on vehicles, and revising them as needed are typically done by clerical or low-level administrative personnel. Using a clerical cost rate of $10 per hour and an estimate of 1,925,000 burden hours for disclosure requirements, the total labor cost burden would be approximately $19,250,000.

*Capital or other non-labor costs:* The cost of the Buyers Guide form itself is estimated to be 30 cents per form, so that forms for 30 million vehicles would cost dealers $9,000,000. In making this estimate, staff conservatively assumes that all dealers will purchase preprinted forms instead of producing them internally, although dealers may produce them at minimal expense using currently office automation technology. Capital and start-up costs associated with the Rule are de minimis.

3. The Consumer Product Warranty Rule, 16 CFR Part 701 (OMB Control Number: 3084–0111), prevents deception by providing consumers with information to assess written warranty terms. The Rule requires that written warranties disclose certain material facts regarding their terms and conditions.

*Estimated annual hours burden:* In 1995, FTC staff estimated that the required disclosures imposed an average annual burden of 8 hours on each of approximately 4,241 warrantors of products. Because there have been no changes to the Rule's requirements, staff has no reason to believe that this estimate requires revision. Based on this assumption, the total compliance burden relating to disclosures is approximately 34,000 hours (rounded from 33,928).[5] Nonetheless, this estimate likely overstates substantially the actual burden because most warrantors would disclose the terms and conditions of their warranties even in the absence of the Rule.

*Estimated annual cost burden:* $340,000, consisting solely of labor costs.

*Labor costs:* The work required to comply with the Rule is predominantly clerical. Based on an average hourly rate of $10 for clerical employees and the total hours burden of 34,000 hours, the annual labor cost is approximately $340,000.

*Capital or other non-labor costs:* The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already modified their warranties to include the information required by the Rule. Rule compliance does not require the use of any capital goods other than ordinary

[2] The Used Car Rule does not impose any recordkeeping requirement.

[3] Source: 1997 Used Car Market Report (''ADT Market Report''), published by ADT Automotive, 435 Metroplex Drive, Nashville, Tennessee 37211.

[4] A relatively small number of dealers opt to contract with outside companies to perform the various tasks associated with complying with the Rule. Staff assumes that outside contractors would require about the same amount of time and incur similar cost as dealers to perform these tasks. Accordingly, the hours and cost burden totals shown, while referring to ''dealers,'' incorporate the time and cost borne by outside companies in performing the tasks associated with the Rule.

[5] The Consumer Product Warranty Rule imposes no recordkeeping requirement.

office equipment, which providers would already have available for general business use.

4. The Pre-Sale Availability Rule, 16 C.F.R. Part 702 (OMB Control Number: 3084–0112), ensures that consumers can make informed purchasing decisions by requiring that the terms of written warranties for consumer products be made available to consumers prior to purchase. The Rule requires retailers to make warranty information available to consumers and requires warrantors (i.e., manufacturers) to provide retailers with the materials necessary to do so. The Rule also requires catalog and door-to-door sellers to make warranty information available.

*Estimated annual hours burden:* The FTC is seeking approval for an estimated disclosure burden of 2,760,000 hours.[6] This estimate is based on the number of large and small retailers and manufacturers, according to census data, and the estimated scope of the compliance burden for businesses by type. FTC staff first calculated burden estimates by type of business in the early 1980s. Staff believes that estimates remain valid for manufacturers, and that subsequent amendments to the Rule to allow more flexibility have reduced the burden on retailers by approximately 50 percent.[7] Approximately 6,552 large retailers and 422,100 small retailers spend an annual average of 26 hours and 6 hours, respectively, to comply with the Rule, for a cumulative combined total of 2,702,952 hours for retailers. Approximately 146 large manufacturers and 4,095 small manufacturers spend an annual average of 52 hours and 12 hours, respectively, for a cumulative total of 56,732 hours for manufacturers. Thus, the combined cumulative total for retailers and manufacturers is 2,759,684 hours, rounded to 2,760,000 hours.

*Estimated annual cost burden:* $27,600,000, consisting sole of labor costs.

*Labor costs:* Most of Rule 702's disclosure requirements involve simple clerical functions such as maintaining copies of the warranties at the retail level and, at the manufacturer level, ensuring that copies of warranties are provided to retailers. Assuming a clerical labor cost rate of $10/hour and an estimate of 2,760,000 burden hours for disclosures, the total annual labor cost burden is approximately $27,600,000.

*Capital or other non-labor costs:* The capital or start-up costs imposed by the Rule are de minimis. The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails simply filing warranties in binders and posting an inexpensive sign indicating warranty availability.[8] Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

5. The Informal Dispute Settlement Procedure Rule, 16 C.F.R. Part 703 (OMB Control Number: 3084–0113), helps to ensure that consumers are fully informed regarding informal dispute settlement procedures in product warranties. The Rule imposes certain requirements when a warrantor requires, as part of a written warranty, that consumers first use an informal dispute settlement mechanism (IDSM) to seek resolution of a warranty dispute before pursuing remedies in court. The Rule requires that affected warrantors disclose certain information to consumers. It also requires that warrantors, through IDSMs, retain (1) individual records for each dispute, (2) indexes that categorize disputes by product model and show the extent to which the warrantor has abided by decisions of the resolution process, and (3) statistical summaries that classify disputes according to various status and final disposition categories. Affected entities must conduct an annual audit of their dispute resolution procedures and report to the FTC.

*Estimated annual hours burden:* The FTC is requesting approval for an estimated burden of 4,333 recordkeeping hours and 1,625 disclosure hours, for a total burden estimate of approximately 6,000 hours. This estimate is based on the number of warranty disputes handled by IDSMs and the average time needed to fulfill the information collection tasks required by the Rule.

*Recordkeeping:* Since maintenance of individual case records is necessary in the ordinary course of business, the Rule imposes little additional recordkeeping burden. FTC staff estimates that retaining additional information that would not otherwise be kept adds a burden of 30 minutes per case. Staff also estimates that IDSMs require an additional 10 minutes per case for compilation of the indexes, statistical summaries, and the annual audit required by the Rule, resulting in a total recordkeeping requirement of 40 minutes per case. Finally, staff estimates that the two IDSMs affected by the Rule handle, combined, about 6,500 covered disputes annually. Thus, the total recordkeeping burden associated with the Rule is approximately 4,333 hours.

*Disclosure:* The Rule requires that affected warrantors disclose information about the dispute settlement mechanism in the written warranty, and that IDSMs disclose certain information upon request. The incremental cost of a warrantor's required disclosure is negligible. IDSMs must provide certain information, such as their annual audits, to anyone who requests it. In addition, on request, IDSMs must also provide consumers who have a dispute before them with a copy of records relating to their disputes. FTC staff estimates that the average hour burden of copying and producing this information is approximately 15 minutes for each dispute handled by an IDSM. Based on an estimate of 6,500 disputes annually, the hour burden associated with copying and providing these disclosures is 1,625 hours.

*Estimateed annul cost burden:* $281,000, consisting of $81,000 in labor costs and $200,000 in non-labor costs.

*Labor costs:* Assuming that IDSMs would use skilled clerical personnel or technical support staff, at an hourly rate of $15, to compile and maintain the records required by the Rule the labor cost of the 4,333 recordkeeping burden hours is approximately $64,995. Assuming that IDSMs would use less-skilled labor, at an hourly rate of $10, to reproduce records, the labor costs of the 1,625 hours disclosure burden hours is approximately $16,250. The combined total labor cost for recordkeeping and disclosures is $81,245, rounded to $81,000.

*Capital or other non-labor costs:* The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already developed systems to retain the records and provide the disclosures required by the Rule. Rule compliance does not require the use of any capital goods other than ordinary office equipment, to which providers would already have access.

The only additional cost imposed on IDSMs operating under the Rule that would not be incurred for other IDSMs is the annual audit requirement. One of the two IDSMs currently operating

[6] The Pre-Sale Availability Rule does not impose any recordkeeping requirement.

[7] To comply with Rule 702, sellers need only maintain specimen copies of the warranties provided to them by manufacturers. The Rule allows sellers substantial flexibility in how to maintain those copies, since the Rule states only that the warranty must be made readily available upon request. If the warrantor prints the warranty on the product's package, for example, the retailer has no further obligation since consumers can readily review the warranty by looking at the package.

[8] Although some retailers may choose to display a more elaborate or expensive sign, that is not required by the Rule.

under the Rule estimates the total annual costs of this requirement to be less than $100,000. Since there are two IDSMs operating under the Rule, the total cost imposed by them is an estimated $200,000.[9] This total includes copying costs of roughly $20,000, which is based on estimated copying costs of 5 cents per page and several conservative assumptions or estimates. Staff estimates that the ''average'' dispute-related file is about 25 pages long and that a typical annual audit file is about 200 pages in length. For purposes of estimating copying costs, staff conservatively assumes that every consumer complainant requests a copy of the file relating to his or her dispute. Staff also assumes that, for 1,000 of the estimated 6,500 disputes each year, consumers request copies of warrantors' annual audit reports (although, based on requests for audit reports made directly to the FTC, the indications are that considerably less requests are actually made). Thus, the estimated total annual copying costs for average-sized files would be approximately $8,125 (25 pages/file × .05 × 6,500 requests) and $10,000 for copies of annual audits (200 pages/audit report × .05 × 1,000 requests), rounded to a total of $20,000.

Combined with estimated annual labor cost of $81,000, total estimated annual cost burden is $281,000 ($200,000+$81,000).

**John D. Graubert,**

*Acting General Counsel.*

[FR Doc. 99–2174 Filed 1–28–99; 8:45 am]

BILLING CODE 6750–01–M

[9] The commenter did not break down this estimate by cost item. Staff conservatively included the entire $100,000 in its estimate of capital and other non-labor costs, even though some of this burden is likely already accounted for as labor costs.

## FEDERAL TRADE COMMISSION

**[File No. 981–0345]**

## The British Petroleum Co. p.l.c., et al.; Analysis to Aid Public Comment and Commissioner Statements

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement: Publication of Commissioner Statements.

**SUMMARY:** The consent in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations. This document also contains the Statement of Chairman Pitofsky, Commissioner Anthony, and Commissioner Thompson; and the Statement of Commissioner Swindle, Concurring in Part and dissenting in Part.

**DATES:** Comments must be received on or before March 8, 1999.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** William Baer or Richard Liebeskind, FTC/H–374, 600 Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326–2932 or 326–2441.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721 15 U.S.C. 46, and § 2.34 of the Commission Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for public comment, until March 8, 1999. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. This document also contains (1) the Statement of Chairman Pitofsky, Commissioner Anthony, and Commissioner Thompson; and (2) the Statement of Commissioner Swindle, Concurring in Part and Dissenting in Part.[1] An electronic copy of the full text of the consent agreement package, including the Commissioner Statements, can be obtained from the FTC Home Page (for December 30, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission Rules of Practice (16 CFR 4.9(b)(6)(ii)).

[1] The Analysis alone was published in the **Federal Register** on January 6, 1999—before the Statements were made public—and the public comment period began at that point. *See* 64 Fed. Reg. 880 (January 6, 1999).

### Analysis of the Proposed Consent Order and Draft Complaint To Aid Public Comment

*I. Introduction*

The Federal Trade Commission (''Commission'') has accepted for public comment from The British Petroleum Company p.l.c. (''BP'') and Amoco Corporation (''Amoco'') (collectively ''the proposed Respondents'') an Agreement Containing Consent Order (''the proposed consent order''). The proposed Respondents have also reviewed a draft complaint contemplated by the Commission. The proposed consent order is designed to remedy likely anticompetitive effects arising from the merger of BP and Amoco.

*II. Description of the Parties and the Proposed Acquisition*

BP, headquartered in London, England, is a diversified energy products company engaged in oil and gas exploration; the development, production and transportation of crude oil and natural gas; the refining, marketing, transportation, terminaling and sale of gasoline, diesel fuel, jet fuel and other petroleum products; and the production, marketing and sale of petrochemicals. BP is a major producer of gasoline and other petroleum products in the United States. BP distributes and markets its gasoline under the BP brand name through terminals and retail service stations in a variety of areas, including areas in the southeastern and midwestern United States.

Amoco, headquartered in Chicago, Illinois, is an integrated petroleum and chemical products company engaged in the exploration, development, and production of crude oil, natural gas, and natural gas liquids; the marketing of natural gas and natural gas liquids; the refining, marketing, and transportation of petroleum products, including crude oil, gasoline, jet fuel, diesel fuel, heating oil, asphalt, motor oil, lubricants, natural gas liquids, and petrochemical feedstocks; the terminaling and sale of gasoline, diesel fuel, and other petroleum products; and the manufacture and sale of various petroleum-based chemical products. Like BP, Amoco is a major producer of gasoline and other petroleum products in the United States. Amoco distributes and markets gasoline under the Amoco brand name through terminals and retail service stations in many of the same areas as does BP.

Pursuant to an agreement and plan of merger dated August 11, 1998, BP intends to acquire all of the outstanding

common stock of Amoco in exchange for stock of BP valued at the time of the agreement at approximately $48 billion. The new combined entity is to be renamed BP Amoco p.l.c. As a result of the merger, BP's shareholders will hold approximately 60%, and Amoco's shareholders will hold approximately 40%, of the new combined entity.

The Commission has carefully examined all of the areas in which BP and Amoco's operations might overlap in or affecting the United States. The Commission found that BP's and Amoco's operations do not overlap in many areas. However, the transaction raises competitive concerns in a number of local markets, and the Commission proposes to take action to remedy the potential anticompetitive effects of this merger in these markets.

The Commission considered this transaction in the context of what appears to be a significant trend toward consolidation in the petroleum industry. In recent months, there have been consolidations in this industry involving the refining and marketing operations of Texaco and Shell, Marathon and Ashland, and Tosco and Unocal. Other proposed combinations may occur, including Exxon's announced proposed merger with Mobil and Phillips' proposed combination of its refining and marketing operations with those of Ultramar Diamond Shamrock. The Commission will continue to examine the effect of proposed consolidations through careful analysis of each specific transaction in the context of the trend toward concentration.

*III. The Draft Complaint*

The draft complaint alleges that the merger of Amoco and BP would lessen competition in two relevant lines of commerce: (1) the terminaling of gasoline and other light petroleum products in nine specified geographic markets, and (2) the wholesale sale of gasoline in thirty cities or metropolitan areas in the eastern United States.

A. Terminaling

The draft complaint alleges that one line of commerce (i.e., product market) in which to analyze the merger is the terminaling of gasoline and other light petroleum products, such as diesel fuel and jet fuel.

Petroleum terminals are facilities that provide temporary storage of gasoline and other petroleum products received from a pipeline or marine vessel, and the redelivery of such products from the terminal's storage tanks into trucks or transport trailers for ultimate delivery to retail gasoline stations or other buyers. Terminals provide an important link in the distribution chain for gasoline between refineries and retail service stations. According to the complaint, there are no substitutes for petroleum terminals for providing terminaling services.

The complaint identifies nine metropolitan areas that are relevant sections of the country (i.e., geographic markets) in which to analyze the effects of the acquisition on terminaling. These metropolitan areas are: Cleveland, Ohio; Chattanooga and Knoxville, Tennessee; Jacksonville, Florida; Meridian, Mississippi; Mobile and Montgomery, Alabama; and North Augusta and Spartanburg, South Carolina. Amoco and BP both operate terminals that supply each of these nine metropolitan areas with gasoline and other light petroleum products.

The complaint charges that the terminaling of gasoline and other light petroleum products in each of these nine metropolitan areas is either moderately concentrated or highly concentrated, and would become significantly more concentrated as a result of the merger. Premerger concentration in these nine markets, as measured by the Herfindahl-Hirschman Index,[1] ranges from more than 1,300 to more than 2,500. As a result of the merger, concentration would increase in each terminal market by more than 100 points to levels ranging from more than 1,500 to more than 3,600.

According to the draft complaint, entry into the terminaling of gasoline and other light petroleum products in each of these nine metropolitan areas is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects that may result from the merger.[2]

[1] The Herfindahl-Hirschman Index, or ''HHI,'' is a measurement of market concentration calculated by summing the squares of the individual market shares of all participants in the market. Under Section 1.51 of the Horizontal Merger Guidelines issued April 2, 1992, by the Federal Trade Commission and the Department of Justice, the Commission considers concentration levels exceeding 1,800 as ''highly concentrated'' and concentration levels between 1,000 and 1,800 to be ''moderately concentrated.''

[2] The Commission has found reason to believe that terminal mergers would be anticompetitive on prior occasions. E.g., Shell Oil Co., C–3803 (1997) (combination of refining and marketing businesses of Shell and Texaco); Texaco Inc., 104 F.T.C. 241 (1984) (Texaco's acquisition of Getty Oil Company); Chevron Corp., 104 F.T.C. 597 (1984) (Chevron's acquisition of Gulf Corporation). Indeed, several of the markets involved in this proceeding are markets in which BP acquired terminals that were divested by Chevron in 1984 pursuant to the Commission's order in Chevron.

B. Wholesale Gasoline

The draft complaint alleges that a second line of commerce in which to analyze the competitive effects of the merger is the wholesale sale of gasoline. Gasoline is a motor fuel used in automobiles and other vehicles. It is manufactured from crude oil at refineries in the United States and throughout the world. There are no substitutes for gasoline as a fuel for automobiles and other vehicles that use gasoline.

According to the draft complaint, there are thirty cities or metropolitan areas in which to evaluate the effects of this merger on the wholesale sale of gasoline: Albany, Georgia; Athens, Georgia; Birmingham, Alabama; Charleston, South Carolina; Charlotte, North Carolina; Charlottesville, Virginia; Clarksville, Tennessee; Cleveland, Ohio; Columbia, South Carolina; Columbus, Georgia; Cumberland, Maryland; Dothan, Alabama; Fayetteville, North Carolina; Florence, Alabama; Goldsboro, North Carolina; Hattiesburg, Mississippi; Hickory, North Carolina; Jackson, Tennessee; Memphis, Tennessee; Meridian, Mississippi; Mobile, Alabama; Myrtle Beach, South Carolina; Pittsburgh, Pennsylvania; Raleigh, North Carolina; Rocky Mount, North Carolina; Savannah, Georgia; Sumter, South Carolina; Tallahassee, Florida; Toledo, Ohio; and Youngstown, Ohio (hereinafter collectively referred to as the ''gasoline markets'').

The wholesale sale of gasoline, as alleged in the complaint, is the business of selling branded gasoline to retail dealers. Both BP and Amoco sell branded gasoline at wholesale in the markets alleged in the complaint. In some cases BP or Amoco, or both, sell gasoline on a wholesale basis to retail gasoline stations owned by BP or Amoco, and operated either by employees of BP or Amoco (''company operated'' or ''owned and operated'' stations) or by persons who lease the station from BP or Amoco (''lessee dealers''). In other cases, BP and Amoco sell gasoline to independently owned stations (''open dealers'') or to intermediaries (''jobbers'') who deliver gasoline to individual gas stations owned by the jobber or by other persons.

Irrespective of the identity of the wholesale customer, wholesale sellers (BP and Amoco, and their branded and unbranded competitors) set the wholesale price of gasoline paid by retail dealers, and that wholesale price affects the price of gasoline charged to motorists. In the gasoline markets alleged in the complaint, the wholesale

sale of gasoline would become significantly more concentrated as a result of the merger, and the relatively small number of remaining wholesalers could tacitly or expressly coordinate price increases. Postmerger concentration, as measured by the Herfindahl-Hirschman Index, would increase by more than 100 points, to levels above 1,400 in five markets and to levels above 1,800 in the remaining markets. In each of the gasoline markets alleged in the complaint, BP and Amoco, and three other firms, would have at least 70% of the wholesale gasoline market.

According to the complaint, entry into the wholesale sale of gasoline in each of these markets is difficult and would not be timely, likely or sufficient to prevent anticompetitive effects that may result from this merger.

*IV. Terms of the Agreement Containing Consent Order (''the Proposed Consent Order'')*

The proposed consent order will remedy the Commission's competitive concerns about the proposed acquisition. Under Paragraph II of the proposed consent order, the proposed Respondents must divest the Amoco terminal serving each of the nine relevant terminal markets to Williams Energy Ventures, Inc., a subsidiary of the Williams Companies (''Williams''), or to another acquirer approved by the Commission. Williams is a major energy company with substantial experience in operating terminals.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer must not itself present competitive problems. The Commission believes that Williams is well qualified to operate the divested terminals and that divestiture to Williams will not be anticompetitive in these markets.

The proposed consent order requires that the divestitures occur no later than ten days after the BP/Amoco merger is consummated, or thirty days after the consent agreement is signed, whichever is later. The proposed consent agreement also requires respondents to rescind the transaction with Williams if the Commission, after the comment period, decides to reject Williams as the buyer. If the Williams agreement is rescinded, then respondents are required to divest the terminals within six months from the date the order becomes final, at no minimum price, to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. If respondents have not divested the terminals pursuant to Paragraph II of the order, then the Commission may appoint a trustee to divest the assets.

The proposed consent order obtains relief with respect to the wholesale sale of gasoline in two ways. First, in eight markets where either Amoco or BP (or both) own retail gasoline stations (Charleston, South Carolina; Charlotte, North Carolina; Columbia, South Carolina; Jackson, Tennessee; Memphis, Tennessee; Pittsburgh, Pennsylvania; Savannah, Georgia; and Tallahassee, Florida), Paragraph III of the proposed order requires respondents to divest gasoline stations belonging to either Amoco or BP (as specified in the proposed order) to an acquirer approved by the Commission. These divestitures must be completed within six months of the date on which the parties signed the agreement containing consent order (December 29, 1998).

Second, in all 30 markets, including markets in which neither Amoco nor BP owns retail gasoline stations, Paragraph IV of the order requires Amoco and BP to give their wholesale customers (both jobbers and open dealers) the option of canceling their franchise and supply agreements with Amoco and BP, freeing them to switch their retail gasoline stations to other brands. In order to provide an incentive for these persons to switch to other brands, the order provides that wholesale customers who take advantage of this provision will be released from all debts, loans, obligations and other responsibilities under their agreements with Amoco and BP (other than for fuels actually delivered and other specific debts scheduled by the respondents), if they agree to stop selling Amoco and BP gasoline in the market and not sell any other brand that has more than 20% of the market. The proposed order requires that BP and Amoco provide notice to their wholesale customers upon the Commission's final acceptance of the proposed order (should the Commission do so after the public comment period), and allows these customers thirty days to exercise this option. Should a wholesale customer choose to terminate its relationship with BP or Amoco under the terms of the proposed order, BP and Amoco will not solicit that customer as a reseller of branded gasoline for two years thereafter.

In addition, Paragraph V of the order requires that unless retail gasoline sellers representing a specified volume of sales in Toledo and Youngstown, Ohio agree to switch to other brands, then respondents must divest retail gasoline stations with an equivalent volume of sales to an acquirer acceptable to the Commission.

For a period of ten years from the date the proposed consent order becomes final, the proposed Respondents are required to provide notice to the Commission prior to acquiring terminal assets or gasoline stations located in the markets at issue.

The proposed Respondents are required to provide to the Commission a report of compliance with the proposed consent order within thirty days following the date on which the order becomes final, every thirty days thereafter until the divestitures are completed, and annually for a period of ten years.

*V. Opportunity for Public Comment*

The proposed consent order has been placed on the public record for sixty days for receipt of comments by interested persons, until March 8, 1999. Comments received during this period will become part of the public record. After that date, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, including the proposed sale of terminal assets to Williams, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order, nor is it intended to modify the terms of the proposed consent order in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

**Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony and Mozelle W. Thompson**

On December 30, 1998, the Commission published a proposed complaint alleging that this merger would violate Clayton Act § 7, 15 U.S.C. § 18, and FTC Act § 5, 15 U.S.C. § 45, in 30 wholesale gasoline markets and nine light petroleum products terminating markets in the United States, and accepted a proposed consent order resolving those allegations. Our colleague, Commissioner Swindle, dissents from that portion of the

proposed complaint and consent order that alleges violations and mandates relief in 27 of the wholesale gasoline markets.[1] We write to clarify our view.

British Petroleum Company p.l.c. (''BP'') and Amoco Corporation (''Amoco'') are integrated producers, refiners and marketers of petroleum products, including gasoline, in the United States. Although BP's and Amoco's operations do not overlap in many areas,[2] both are wholesale marketers of gasoline in the southeastern and midwestern United States, i.e., both BP and Amoco sell gasoline to retail gas stations that they may or may not own. In these markets, BP is the only firm that can sell ''BP''-branded gasoline to retail dealers, and Amoco is the only firm that can sell ''Amoco''-branded gasoline to dealers. Therefore, measuring concentration of retail sales by brand is an adequate proxy for measuring concentration in gasoline wholesaling.[3]

In 25 metropolitan area markets, the combination of BP and Amoco would result in a highly concentrated wholesale gasoline market, and an increase in concentration in an amount that the Department of Justice-FTC Merger Guidelines presume likely to create or enhance market power or facilitate its exercise. Merger Guidelines § 1.51(c).[4] In each of these markets, the top four firms will together have at least 70% of wholesale sales; in 15 markets, the top four firms will have more than 80%.[5]

Market shares and concentration levels of this magnitude raise antitrust concern because they suggest that a small number of firms might, after this merger, be able to raise price without losing significant sales to what could well be an insignificant fringe[6] See, e.g., *United States* v. *Rockford Memorial Corp.*, 898 F.2d 1278, 1283–84 (7th Cir. 1990). Concerns about collusion or coordination, and consequent price increases to consumers, are more pronounced in markets—such as gasoline markets—where (among other factors) the product is homogeneous and prices are generally observable, making it relatively easier for a small number of firms to coordinate and to detect deviation.

Of course, high market concentration is less of a threat to consumers if retailers in the market are likely to switch to new sources of supply in the event of a wholesale price increase. But, we required persuasive evidence that entry would be timely, likely and sufficient to defeat a coordinated price increase. Merger Guidelines § 3. Our colleague concludes that such entry could occur, and is likely to occur, ''if there are enough branded retail gasoline stations that could switch and become customers of the new wholesale entrant.''[7] We do not disagree with this analysis, but we are unpersuaded by the investigative record here that there is a sufficient likelihood that switching would occur to allay our concerns. The history of switching in these markets appears to be more among incumbents than to new entrants, and switching among incumbents (particularly among incumbents with substantial market shares) will not defeat a wholesale price increase by those incumbents. Dealers also would be less likely to switch to fringe suppliers or to new entrants if there are significant reasons for dealers to prefer major brands (particularly major brands that are well-established in a given area), such as the benefit of local marketing or of brand credit card programs. Moreover, dealers might not have an incentive to switch to new entrants to defeat a price increase by their suppliers in which they also may profit.

Instead, we believe that the proposed consent order will make jobbers and open dealers able to switch, and by relieving them of financial penalties that might deter switching to new entrants, make it more likely that they will in fact switch, preventing an increase in concentration that otherwise could well give rise to a substantial risk of higher prices for gasoline in the markets alleged in the proposed complaint. As we noted, our disagreement with our colleague is narrow: whether, in the absence of the proposed relief, jobbers and open dealers are sufficiently likely to switch in substantial numbers to protect the ultimate consumers from the risk that otherwise would be associated with highly concentrated gasoline markets. In this case, we believe the investigative record regarding dealer switching is insufficiently compelling to demand that ultimate consumers bear the substantial risk of higher prices for gasoline that may result from these highly concentrated markets.

**Statement of Commissioner Orson Swindle Concurring in Part and Dissenting in Part**

The Commission's proposed complaint alleges that the merger of Amoco Corporation (''Amoco'') and British Petroleum Company p.l.c. (''BP'') is likely to substantially lessen competition or tend to create a monopoly in certain terminaling markets and in certain markets for the wholesale sale of gasoline. I agree that the merger is likely to have anticompetitive effects in terminaling markets and that the divestitures that would be required adequately remedy these antitrust violations. However, because the merger is unlikely to have anticompetitive effects in southeastern United States markets for the wholesale

[1] Commissioner Swindle concurs in the proposed complaint and consent order to the extent it alleges that the merger of BP and Amoco would violate the antitrust laws in the nine terminal markets and in wholesale gasoline markets in Pittsburgh, Pennsylvania, and Cleveland, Toledo and Youngstown, Ohio.

[2] For example, to a large extent, Amoco and BP produce and market different petrochemical products in the United States. BP produces acetic acid and acrylonitrile in the U.S., but Amoco does not. Similarly, Amoco produces ethylene, propylene, polypropylene, and styrene in the U.S., but BP does not. In the few petrochemical areas where the parties overlap in the U.S., concentration would not change significantly as a result of the merger.

[3] Indeed, brand concentration may understate concentration in the wholesale market, because some branded wholesale sellers also supply unbranded gasoline to unbranded retail stations. The brand concentration statistics used here would not attribute these unbranded sales by branded wholesalers to the branded wholesaler.

[4] The Merger Guidelines presume anticompetitive effects when the post-merger Herfindahl-Hirschman Index (''HHI'') is over 1800 and there is an increase of more than 100 points. HHI is a statistical index that measures the degree of concentration in a relevant antitrust market. Those metropolitan areas and the changes in HHI are: Albany, Georgia (post-merger HHI 3674, increase of 542); Charleston, South Carolina (1865/362); Charlotte, North Carolina (1909/610); Charlottesville, Virginia (2214/278); Clarkesville, Tennessee (1863/492); Cleveland, Ohio (1859/124); Columbia, South Carolina (2257/378); Columbus, Georgia (2194/351); Cumberland, Maryland (2592/161); Dothan, Alabama (2259/235); Fayetteville, North Carolina (2635/795); Florence, Alabama (1959/269); Goldsboro, North Carolina (2133/310); Hattiesburg, Mississippi (2214/281); Jackson, Tennessee (2051/508); Memphis, Tennessee (1948/468); Myrtle Beach, South Carolina (2138/353); Pittsburgh, Pennsylvania (2129/663); Raleigh, North Carolina (2032/535); Rocky Mount, North Carolina (2003/302); Savannah, Georgia (2668/515); Sumter, South Carolina (1920/528); Tallahassee, Florida (2366/794); Toledo, Ohio (2022/351); and Youngstown, Ohio (2540/1043).

[5] In addition, in five areas the HHI will increase substantially (by more than 100 HHI points): Birmingham, Alabama (post-merger HHI 1778, increasing by 273); Mobile, Alabama (1600/160); Athens, Georgia (1654/251); Meridian, Mississippi (1705/359); and Hickory, North Carolina (1782/354). In each of these ''moderately concentrated'' markets, the top four firms will together have at least 70% of wholesale sales, and independent unbranded sellers have less than 20%.

[6] In this case, the Commission examined the gasoline markets in which BP and Amoco competed and alleged antitrust violations in markets with a small number of fringe players, and not in markets where fringe competitors collectively appear to have significant market presence.

[7] We all agree that our concerns about concentration among wholesale sellers of gasoline are not obviated by the asserted fact that retailers can set their own prices for retail gasoline sold at their outlets. The wholesale price of gasoline is plainly the most substantial portion of the dealer's cost, and increases in wholesale prices will likely result in increases in retail prices.

sale of gasoline,[1] I dissent from the allegations and relief related to those markets.

Refined gasoline is transported by pipeline from the refinery to gasoline terminals. Wholesalers sell refined gasoline from terminals to retail gasoline stations. Retail gasoline stations may be either unbranded or branded. Unbranded retail gasoline stations do not display the brand of a wholesaler and do not sell branded gasoline. In contrast, branded retail gasoline stations display the brand of the wholesaler, such as ''Amoco'' or ''Texaco,'' and sell the wholesaler's brand of gasoline, which is refined gasoline plus proprietary additives.

Among branded retail gasoline stations, there are various types of ownership and operation arrangements. The wholesaler may itself own and operate the retail gasoline station (a ''company station''). The wholesaler may own the retail gasoline station but lease the station pursuant to an agreement that requires the operator (a ''lessee/dealer'') to purchase branded gasoline from the wholesaler. The wholesaler may have franchisees (''open dealers'') who sell branded gasoline pursuant to a franchise agreement. Finally, the wholesaler may sell branded gasoline to independent firms known as ''jobbers'' that distribute the branded gasoline to retail gasoline stations (which are sometimes owned by the jobber).

The proposed complaint alleges, among other things, that the merger of Amoco and BP, both wholesalers of branded gasoline, would have an anticompetitive effect in certain southeastern United States markets for the wholesale sale of gasoline. Each of these markets would be moderately concentrated or highly concentrated after the merger, which would significantly increase the levels of concentration in these markets. The theory is that because these markets would be concentrated following the merger, wholesalers could coordinate the wholesale price of gasoline, which, in turn, would harm consumers by causing higher gasoline prices at the pump.[2]

Any effort by wholesalers to pass on a collusive price increase would be defeated if enough branded retail gasoline stations switched to other wholesalers rather than pay the higher price. Entry by new wholesalers offering lower prices could defeat a collusive price increase, and such entry is likely if there were enough branded retail gasoline stations that could switch and become customers of the new wholesale entrant.[3] Cheating by an existing wholesaler on a collusive price also is likely if enough branded retail gasoline stations would switch to make cheating worthwhile.

Is such switching likely to occur? I certainly think so. An evaluation of the southeastern markets reveals that switching is already the reality, not mere speculation or prediction. Unlike company stations and lessee/dealer stations, open dealers and jobbers have the option of responding to their wholesaler's collusive price increase by switching to another wholesaler. Open dealers and jobbers currently (and with some frequency), switch relatively easily and quickly[4] in response to changes in market conditions, including trying to combat price increases. Open dealers and jobbers have stated that they would in fact switch in response to a price increase attributable to the merger, and they have explained that they would not anticipate significant problems in switching.

Would enough branded retail gasoline stations in the southeastern markets be willing to switch to make possible new wholesale entry or cheating by an existing wholesaler? Again, I certainly think so. In most of these markets, open dealers and jobbers purchase from about 60 percent to about 80 percent of the gasoline that is sold at retail.[5] Given that open dealers and jobbers account for such a large proportion of retail gasoline sales and that they are likely to switch, enough switching could occur to induce entry or cheating sufficient to defeat a collusive price increase by wholesalers.

The majority of the Commission emphasizes that the concentration levels in these markets create a presumption of anticompetitive effects and that history demonstrates that switching to new wholesale entrants is unlikely to prevent these effects. Specifically, the majority believes that open dealers and jobbers will switch primarily to incumbent wholesalers. The majority reasons that switching will be limited primarily to incumbent wholesalers because many of them offer benefits (such as local marketing or brand credit card programs) that would not be offered by a new wholesale entrant.

The investigative record is to the contrary. While there has been significant switching by open dealers and jobbers among incumbent wholesalers, there also has been significant switching away from incumbent wholesalers to new branded wholesalers and new unbranded wholesalers.[6] Moreover, open dealers and jobbers have stated that they would switch in response to a collusive price increase, but have not stated that their switching would be limited to moving from one incumbent wholesaler to another. Detailed economic analysis has shown that whatever non-price benefits incumbent wholesalers may be able to offer to open dealers and jobbers, they are unlikely to induce open dealers and jobbers to ignore promising opportunities offered by new wholesale entrants.[7]

Because switching is likely to defeat any collusive price increase, the merger of Amoco and BP would not have anticompetitive effects in the southeastern United States markets for the wholesale sale of gasoline. The Commission nevertheless has extracted from the merging parties a variety of costly concessions designed to facilitate switching and improve the marketplace. As explained above, because market forces are likely to cause sufficient switching without government intervention, these measures are simply

[1] The ''southeastern United States markets for the wholesale sale of gasoline'' include all of the ''gasoline markets'' described in Paragraph 15 of the proposed complaint except those located in Ohio and Pittsburgh, Pennsylvania. I support the Commission's action in the Ohio and Pittsburgh wholesaling markets.

[2] There is no evidence that wholesalers in these markets have already attempted to collude.

[3] Because the Commission's proposed order should help ensure that gasoline terminaling markets in the southeastern United States remain competitive, a new wholesale entrant would be able to purchase gasoline at terminals to sell to jobbers.

[4] Switching can occur relatively quickly because, although any individual open dealer or jobber may have to wait for its contract to expire before it can switch, the short-term nature of contracts between Amoco and open dealers and jobbers means that some of those contracts are expiring at any given time. Station switching also can occur relatively inexpensively, especially because new wholesalers often reimburse open dealers and jobbers for the costs incurred in switching.

[5] By contrast, in other investigations the Commission has determined that sufficient switching would not occur in markets that are dominated by company stations and lessee/dealer stations.

[6] For example, by offering lower prices to induce switching, Citgo has been able to enter Florida and Coastal has expanded in South Carolina. Similarly, by offering lower prices to induce switching, unbranded wholesalers (such as Kwic Trip, Racetrac, Speedway, Smile, Wilco, and Hess) also have been able to enter many of these markets.

[7] The majority also posits that instead of switching, open dealers and jobbers may decide to accept a collusive price increase, pass it on consumers at the pump, and share in the profit from the price increase. For an open dealer or jobber to share in the profit from a collusive increase, it would have to be confident that increased prices at the pump would not be undercut by other retailers. Given that wholesalers do not control the pricing at most retail gasoline stations in these markets, open dealers and jobbers would have good reason to worry that any collusive price that they sought to impose would be undercut, especially to the extent that there are unbranded retail gasoline stations in these markets.

unnecessary. Rather than imposing excessive requirements that will force substantial costs on the parties, the Commission should have allowed the merger of Amoco and BP to proceed with antitrust relief limited to terminaling as well as the Ohio and the Pittsburgh, Pennsylvania wholesaling situation.

I therefore dissent from the aspects of this matter dealing with gasoline wholesaling in the southeastern United States markets identified in Paragraph 15 of the proposed complaint.

[FR Doc. 99–2073 Filed 1–28–99; 8:45 am]

BILLING CODE 6750–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

*Ms. Nellie Briggs-Brown, Rush-Presbyterian-St. Luke's Medical Center:* Based on the report of an investigation conducted by Rush-Presbyterian-St. Luke's Medical Center dated December 3, 1997, ORI finds that Ms. Briggs Brown, former employee, Department of Neurology, engaged in scientific misconduct in clinical research supported by two National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH) grants.

Specifically, Ms. Briggs-Brown (1) falsified seven monthly screening logs for a NINDS funded study involving stroke victims (Randomized Trial of Org 10172 in Acute Ischemic Stroke Treatment) and submitted the same logs with altered dates on multiple occasions to the University of Iowa Coordinating Center; and (2) falsified several Human Investigation Committee research approval forms.

None of the questioned data has been included in publications.

ORI has implemented the following administrative actions for the three (3) year period beginning January 25, 1999:

(1) Ms. Briggs-Brown is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) Any institution that submits an application for PHS support for a research project on which Ms. Briggs-Brown's participation is proposed or which uses her in any capacity on PHS supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of her duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Ms. Briggs-Brown's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

**FOR FURTHER INFORMATION CONTACT:** Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

**Chris B. Pascal,**

*Acting Director, Office of Research Integrity.*

[FR Doc. 99–2158 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–17–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

*Robert J. Thackeray, R.N., M.P.H., University of Pittsburgh:* Based on an investigation report prepared by the University of Pittsburgh, dated June 24, 1998, and information obtained by ORI during its oversight review, ORI found that Mr. Thackeray, former program coordinator, Multi center AIDS Cohort Study (MACS), Department of Infectious Diseases and Microbiology, Graduate School of Public Health, University of Pittsburgh, engaged in scientific misconduct in research supported by the National Institutes of Health (NIH). The Pitt Men's Study is a component of the MACS funded by a cooperative agreement with the National Institute of Allergy and Infectious Diseases (NIAID), NIH.

Specifically, Mr. Thackeray falsified and/or fabricated research data that he recorded from various tests that he was responsible for conducting on subjects enrolled in the MACS.

Mr. Thackeray falsified and/or fabricated data for five subjects and reported that data on the ''Neurological Assessment Form 10'' and on the ''Instrumental Activities of Daily Living Scale'' questionnaire.

The fabricated and/or falsified research data were not compiled elsewhere and were not included in any publications.

Mr. Thackeray has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning January 19, 1999:

(1) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which his participation is proposed or which uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in which he is involved, must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Mr. Thackeray's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

**FOR FURTHER INFORMATION CONTACT:** Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

**Chris B. Pascal,**

*Acting Director, Office of Research Integrity.*

[FR Doc. 99–2157 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–17–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Health Care Policy and Research

### Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2) announcement is made of the following subcommittees scheduled to meet during the month of February 1999:

*Name:* Health Care Quality and Effectiveness Research.

*Date and Time:* February 9, 1999, 8:00 a.m.

*Place:* Bethesda Hyatt, 1 Bethesda Metro Center, Bethesda, Maryland 20814.

Open February 9, 8:30 a.m. to 8:45 a.m. Closed for remainder of meeting.

*Purpose:* To review and evaluate grant applications.

*Name:* Health Systems Research.

*Date and Time:* February 18, 1999, 9:30 a.m.

*Place:* Holiday Inn Bethesda, 8120 Wisconsin Avenue, Versailles IV Room, Bethesda, Maryland 20814.

Open February 18, 9:30 a.m. to 9:45 a.m. Closed for remainder of meeting.

*Purpose:* To review and evaluate grant applications.

*Agenda:* The open session of the meetings will be devoted to business covering administrative matters and reports. During the closed sessions, the Subcommittees will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, Agency for Health Care Policy and Research, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meetings, or other relevant information should contact Ms. Jenny Griffith, Committee Management Officer, Office of Research Review, Education and Policy, Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: January 21, 1999.

**John M. Eisenberg,**

*Administrator.*

[FR Doc. 99–2106 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–90–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Change in Dates for Availability of Application Kits and Deadline for Receipt of Applications Under the Office of Community Services' Urban and Rural Community Economic Development Program for Fiscal Year 1999

**AGENCY:** Office of Community Services, ACF, DHHS.

**ACTION:** Notice.

**SUMMARY:** The Office of Community Services (OCS) published a **Federal Register** Notice on December 28, 1998 indicating that the application kit for the Urban and Rural Community Economic Development Program for FY 1999 would be available on January 22, 1999. This notice also indicated that the deadline for receipt of applications would be on April 23, 1999. These dates are no longer valid. When new dates are established, a follow-up notice will be published in the **Federal Register**. The deadline date will be adjusted accordingly. This application kit will be posted on the OCS Website after it becomes available. The OCS Website address is: http://www.acf.dhhs.gov/programs/ocs

**FOR FURTHER INFORMATION CONTACT:** Thelma Johnson (202) 401–5523.

Dated: January 22, 1999.

**Donald Sykes,**

*Director, Office of Community Services.*

[FR Doc. 99–2180 Filed 1–28–99; 8:45 am]

BILLING CODE 01–4184–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 96N–0446]**

### Agency Information Collection Activities; Submission for OMB Review; Postmarketing Reporting of Adverse Drug Experiences

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by March 1, 1999.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Postmarketing Reporting of Adverse Drug Experiences—21 CFR 310.305 and 314.80 (OMB Control Number 0910–0230—Reinstatement)**

Section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) requires applicants to submit data showing whether a drug is safe and effective. FDA is authorized to issue regulations requiring the recordkeeping and reporting necessary to enable it to evaluate the safety or effectiveness of a drug product, including whether the product is misbranded or adulterated under sections 501 and 502 of the act (21 U.S.C. 351 and 352). Under §§ 310.305 and 314.80 (21 CFR 310.305 and 314.80), FDA set forth reporting and recordkeeping requirements regarding adverse drug experiences.

All applicants who have received marketing approval of drug products are required to file Alert Reports with FDA regarding serious, unexpected adverse drug experiences, as well as followup reports on the adverse drug experiences when the applicant receives new information or as requested by FDA (§ 314.80(c)(1)). The Alert Reports include reports of all foreign or domestic adverse experiences, as well as reports obtained in scientific literature (§ 314.80(d)), and if there is a reasonable possibility that the drug caused the adverse experience, reports from postmarketing studies (§ 314.80(e)). Under § 314.80(c)(2), applicants must provide periodic reports of adverse drug experiences. Under § 314.80(i), applicants must keep for 10 years records of all adverse drug experience reports known to the applicant.

For marketed prescription drug products without approved new drug applications or abbreviated new drug applications, manufacturers, packers, and distributors are required to report to FDA serious, unexpected adverse drug experiences, as well as followup reports on the adverse drug experiences when the applicant receives new information or as requested by FDA (§ 310.305(c)(1) and (c)(2)). Under § 310.305(f), each manufacturer, packer, and distributor shall maintain for 10 years records of all adverse drug experiences required to be reported.

The primary purpose of FDA's adverse drug experience reporting system is to provide a signal for potentially serious safety problems with marketed drugs. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the marketed drug provide, for the first time, the opportunity to collect

information on rare, latent, and long-term effects. Signals are obtained from a variety of sources, including reports from patients, treating physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse drug experience reporting system contributes directly to increased public health protection because the information enables FDA to make important changes to the product's labeling (such as adding a new warning) and, when necessary, to initiate removal of a drug from the market.

Respondents to this collection of information are manufacturers, packers, distributors, and applicants.

In the **Federal Register** of December 30, 1997 (62 FR 67874), the agency requested comments on the proposed collection of information. FDA received one comment. The comment questioned the accuracy of several of the information collection burden estimates, and suggested higher estimates for annual frequency per response and hours per response. In light of this comment, the agency reevaluated its estimates and is revising its previous estimate of the number of periodic reports prepared per respondent, from the 1.5 originally reported to 18. On review, FDA determined that this number reflects the average number of periodic reports it receives. A periodic report includes a narrative summary, individual case safety reports, and history of actions taken. In addition, the agency is revising the hours per response for preparing a periodic report under § 314.80(c)(2) from 5 to 28 hours. The comment suggested, and FDA agrees, that 28 hours more accurately reflects the amount of time required to prepare a response.

The comment also suggested ways to enhance the quality, utility, and clarity of the information to be collected and ways to minimize the burden of the collection of information on respondents.

FDA is in the process of revising its safety reporting and recordkeeping regulations and will consider these comments in developing its rulemaking. The respondent has had and will have an opportunity for comment on these rulemaking initiatives. In the **Federal Register** of October 27, 1994 (59 FR 54046), FDA published a proposed rule to amend its postmarketing expedited and periodic safety reporting requirements, as well as others, to implement international standards and to facilitate the reporting of adverse drug experiences. In the **Federal Register** of October 7, 1997 (62 FR 52237), FDA published a final rule amending its expedited safety reporting regulations to implement certain recommendations in the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) E2A guidance on definitions and standards for expedited reporting (58 FR 37408, July 9, 1993). At this time, the agency is further considering recommendations in the ICH E2A guidance for additional amendments to its postmarketing expedited safety reporting regulations. With respect to the proposed amendments to the periodic adverse drug experience reporting requirements in the proposal of October 27, 1994, FDA has decided to repropose these amendments based on recommendations in the ICH E2C guidance on periodic safety update reports (62 FR 27470, May 19, 1997). In developing the reproposal, FDA will also consider comments submitted in response to the proposed rule of October 27, 1994, regarding periodic adverse experience reports. FDA is also considering rulemaking concerning the electronic submission of postmarketing expedited and periodic safety reports using standardized medical terminology, data elements, and electronic transmission standards recommended by the ICH.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 310.305(c)(5) | 1 | 1 | 1 | 1 | 1 |
| 314.80(c)(1)(iii) | 5 | 1 | 5 | 1 | 5 |
| 314.80(c)(2) | 683 | 18 | 12,300 | 28 | 344,400 |
| Total | | | | | 344,406 |

[1] The reporting burden for §§ 310.305(c)(1), (c)(2), (c)(3), and 314.80(c)(1)(i) and (c)(1)(ii) was reported under OMB control number 0910–0291. There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| 21 CFR Section | No. of Recordkeepers | Annual Frequency per Recordkeeping | Total Annual Records | Hours per Recordkeeper | Total Hours |
|---|---|---|---|---|---|
| 310.305(f) | 25 | 1 | 2 | 1 | 25 |
| 314.80(i) | 683 | 1 | 683 | 1 | 683 |
| Total | | | | | 708 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The numbers in Tables 1 and 2 of this document are accurate as of the time of publication. FDA is in the process of revising its safety reporting and recordkeeping regulations. These numbers may change when the revisions to those regulations are finalized.

Dated: January 22, 1999.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 99–2160 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–01–F

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98N–1234]**

### New Monographs, Revisions of Certain Food Chemicals Codex Monographs, New General Analytical Procedures, and Revisions of General Analytical Procedures; Opportunity for Public Comment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on pending changes to certain Food Chemicals Codex specification monographs in the fourth edition and on proposed new specification monographs and proposed new and revised general analytical procedures. New specification monographs for certain substances used as food ingredients; additions, revisions, and corrections to current monographs; and new and revised general analytical procedures are being prepared by the National Academy of Sciences/Institute of Medicine (NAS/IOM) Committee on Food Chemicals Codex (the committee). This material is expected to be presented in the next publication of the Food Chemicals Codex (the second supplement to the fourth edition) at a date yet to be determined.

**DATES:** Written comments by March 15, 1999. (The committee advises that comments received after this date may not be considered for the second supplement to the fourth edition. Comments received too late for consideration for the second supplement will be considered for later supplements or for a new edition of the Food Chemicals Codex.)

**ADDRESSES:** Submit written comments and supporting data and documentation to the NAS/IOM Committee on Food Chemicals Codex/FO–3042, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418. Copies of the new monographs, the proposed revisions to current monographs, and the proposed new and revised general analytical procedures may be obtained upon written request from NAS (address above) or from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Requests for copies should specify by name the monographs or analytical procedures desired. Copies may also be obtained through the Internet at ''http://www2.nas.edu/codex''.

**FOR FURTHER INFORMATION CONTACT:**

Fatima N. Johnson/FO–3042, Committee on Food Chemicals Codex, Food and Nutrition Board, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418, 202–334–2580; or

Paul M. Kuznesof, Division of Product Manufacture and Use, Office of Premarket Approval, Center for Food Safety and Applied Nutrition (HFS–246), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3009.

**SUPPLEMENTARY INFORMATION:** By contract with NAS/IOM, FDA supports the preparation of the Food Chemicals Codex, a compendium of specification monographs for substances used as food ingredients. Before any specifications are included in a Food Chemicals Codex publication, public announcement is made in the **Federal Register**. All interested parties are invited to comment and to make suggestions for consideration. Suggestions should be accompanied by supporting data or other documentation to facilitate and expedite review by the committee.

In the **Federal Register** of December 3, 1996 (61 FR 64098), and March 28, 1997 (62 FR 14911), FDA announced that the committee was considering additional new monographs and a number of monograph revisions for inclusion in the first supplement to the fourth edition of the Food Chemicals Codex. The first supplement to the fourth edition of the Food Chemicals Codex was released by the National Academy Press (NAP) in September 1997. It is now available for sale from NAP (1–800–624–6242; 202–334–3313; FAX 202–334–2451; Internet ''http://www.nap.edu'') 2101 Constitution Ave. NW., Lockbox 285, Washington, DC 20055.

FDA now gives notice that the committee is soliciting comments and information on additional proposed new monographs, proposed changes to certain current monographs, and proposed new and revised general analytical procedures. These new monographs and analytical procedures and changes are expected to be published in the second supplement to the fourth edition of the Food Chemicals Codex. Copies of the proposed new monographs and analytical procedures and revisions to current monographs and analytical procedures may be obtained upon written request from NAS at the address listed above or through the Internet at ''http://www2.nas.edu/codex''.

FDA emphasizes, however, that it will not consider adopting and incorporating any of the committee's new monographs and general analytical procedures, or revisions to monographs or analytical procedures into FDA regulations without ample opportunity for public comment. If FDA decides to propose the adoption of new monographs or analytical procedures or changes that have received final approval of the committee, it will announce its intention and provide an opportunity for public comment in the **Federal Register**.

The committee invites comments and suggestions by all interested parties on specifications or analytical procedures to be included in the proposed new monographs (4), revisions of current monographs (30), and new and revised general analytical procedures (3) listed below:

### I. Proposed New Monographs

Erythritol
Maltitol
Menhaden Oil, Hydrogenated
Menhaden Oil, Refined

### II. Current Monographs to which the Committee Proposes to Make Revisions

L–Aspartic Acid (correct identification test)
Butadiene-Styrene 50/50 Rubber (delete arsenic specification)
Butadiene-Styrene 25/75 Rubber (delete arsenic specification)
Calcium Phosphate, Monobasic (correct limits for loss on drying and loss on ignition)
Carbon, Activated (reinstate arsenic specification)
Carmine (correct assay calculation; revise assay limit, description, and ash determination)
Dimethylpolysiloxane (modify identification test)
Disodium Inosinate (delete barium specification)

Fructose (delete arsenic specification)
Glucose Syrup (delete arsenic specification)
Glucose Syrup, Dried (delete arsenic specification)
Grape Skin Extract (delete arsenic specification)
Invert Sugar (delete arsenic specification)
Lemon Oil, Coldpressed (delete foreign oils specification)
Malic Acid (correct CAS number)
Maltitol Syrup (modify synonym and description, delete heavy metals specification, add nickel specification)
Methyl Ester of Rosin, Partially Hydrogenated (delete arsenic specification)
Pentaerythritol Ester of Partially Hydrogenated Wood Rosin (delete arsenic specification)
Pentaerythritol Ester of Wood Rosin (delete arsenic specification)
Polydextrose (modify description, add nickel specification, modify pH of a 10% solution specification)
Polyisobutylene (delete arsenic specification)
Potassium Phosphate, Tribasic (correct loss on ignition limit for the anhydrous material)
Potassium Polymetaphosphate (correct CAS number)
Sodium Acid Pyrophosphate (correct fluoride limit test to method III)
Sodium Polyphosphates, Glassy (correct fluoride limit test to method III)
Sorbitol (delete arsenic specification)
Terpene Resin, Natural (delete arsenic specification)
Terpene Resin, Synthetic (delete arsenic specification)
DL-α-Tocopherol (correct CAS number)
Xylitol (delete arsenic specification, add nickel specification, lower limits for other polyols and for residue on ignition)

### III. Proposed New and Revised General Analytical Procedures

Fatty Acid Composition (Revised)
Nickel Limit Test (New)
Peroxide Value Test (New)

Interested persons may, on or before March 15, 1999, submit to NAS written comments regarding the monographs and general analytical procedures listed in this notice. Timely submission will ensure that comments are considered for the second supplement to the fourth edition of the Food Chemicals Codex. Comments received after this date may not be considered for the second supplement, but will be considered for subsequent supplements or for a new edition of the Food Chemicals Codex. Those wishing to make comments are encouraged to submit supporting data and documentation with their comments. Two copies of any comments regarding the monographs or analytical procedures listed in this notice are to be submitted to NAS (address above). Comments and supporting data or documentation are to be identified with the docket number found in brackets in the heading of this document and each submission should include the statement that it is in response to this **Federal Register** notice. NAS will forward a copy of each comment to the Dockets Management Branch (address above). Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 14, 1999.

**L. Robert Lake,**

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

[FR Doc. 99–2159 Filed 1–28–99; 8:45 am]

BILLING CODE 4160–01–F

---

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4442–N–02]**

## Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: March 30, 1999.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Robert Leonard, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8140, Washington, DC 20410; telephone (202) 708–3700, extension 4027 (this is not a toll-free number). Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Mr. Leonard.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Interim Assessment of the HOPE VI Program: Survey Development, Data Collection and Case Studies.

*Description of the need for the information and proposed use:* The HOPE VI program, formerly known as the Urban Revitalization Demonstration Program, was created for the purpose of comprehensively addressing the need of severely distressed or obsolete public housing developments and the residents of those developments. Since 1993, Congress has appropriated nearly $3 billion for the HOPE VI program.

In 1994, HUD initiated a ten-year evaluation of the HOPE VI program in order to identify its impact on public housing developments, public housing residents, and the neighborhoods surrounding targeted developments. Under contract to HUD, Abt Associates Inc. undertook the first phase of this study, the Historical and Baseline Assessment of the HOPE VI Program, between 1994 and 1996. The study was designed to collect data on conditions and characteristics prior to revitalization at 15 of the 25 HOPE VI sites that received awards over the first two program years. As part of the Baseline Assessment, a survey of residents who were living in the developments prior to revitalization was undertaken. The survey captured information about the characteristics of those residents, as well as their attitudes

toward their housing, experiences with crime, safety concerns, and use of supportive services.

The data collection effort that is now proposed is for an interim evaluation that will build on the original study by comparing conditions before and after revitalization and examining the impacts of the program to date at the original 15 study sites. At each site, Abt Associates will conduct in-person surveys with 150 randomly selected residents who have recently moved to the revitalized HOPE VI developments, as well as 150 randomly selected individuals who reside in the surrounding neighborhood. The proposed survey will collect information on the attitudes of HOPE VI residents toward their new homes and the development. Both HOPE VI residents and residents from the surrounding neighborhood will be surveyed regarding neighborhood satisfaction (including perceptions of crime, adequacy of public services and other facilities, community involvement, and level of social cohesion), potential changes in the neighborhood since the HOPE VI redevelopment started, and the use of supportive services provided through the program.

The large-scale investment in public housing through this program and its unique programmatic elements necessitate the continuation of the study of HOPE VI to determine the program's effects. The results will provide valuable lessons for policy makers, developers, researchers, and those directly involved in public housing management and administration concerning the impact of these comprehensive efforts on public housing residents, their neighborhoods, and the larger communities of their cities.

*Members of affected public:* At each of 15 HOPE VI developments, the survey will involve a random sample of 150 households living in the development shortly after it is reoccupied and 150 households in the neighborhood that immediately surrounds the development. One individual, aged 18 years or older, will be interviewed in each household.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response.*

The survey will involve 4,500 respondents, half of whom will be living in HOPE VI developments and half of whom will be residents in the neighborhoods surrounding the developments. Information will be collected by a one time personal interview that will take approximately 15 minutes to complete. A total of 1,125 hours of respondents' time (15 minutes times 4,500 respondents divided by 60 minutes) will be consumed by the survey process.

*Status of the proposed information collection:* New.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 22, 1999.

**Lawrence L. Thompson,**

*General Deputy Assistant Secretary for Policy Development and Research.*

[FR Doc. 99–2181 Filed 1–28–99; 8:45 am]

BILLING CODE 4210–62–M

---

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket Nos. FR–4085–FA–03; FR–4207–FA–04; FR–4359–FA–02; FR–4360–FA–02; and FR–4358–FA–02]**

## Announcement of Funding Awards for Fiscal Year 1998 for the Rental Voucher and Rental Certificate Programs

**AGENCY:** Office of Public and Indian Housing, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 1998 to housing agencies (HAs) under the Section 8 rental voucher and rental certificate programs. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide rental assistance to very low-income families.

**FOR FURTHER INFORMATION CONTACT:** Joan DeWitt, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4216, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone (202) 708–1872. Hearing- or speech-impaired individuals may call HUD's TTY number (202) 708–4594. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The regulations governing the rental certificate and rental voucher programs are published at 24 CFR part 982. The regulations for allocating housing assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The purpose of the rental voucher and rental certificate programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 98 awards announced in this notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the **Federal Register** on October 30, 1996 (61 FR 56090), April 10, 1997 (62 FR 17672), April 17, 1997 (62 FR 18777), April 30, 1998 (63 FR 23050), June 1, 1998, (63 FR 29866), and June 1, 1998 (63 FR 29860).

The October 30 NOFA made available rental certificates and rental vouchers for persons with disabilities in support of designated housing allocation plans. This NOFA did not have a deadline date.

The April 10 NOFA made available rental certificates and rental vouchers for persons with disabilities in support of designated housing allocation plans and establishment of preferences for certain Section 8 developments. This NOFA did not have a deadline date.

The April 17 NOFA is a correction to the April 10 NOFA. This NOFA limits the number of units for which an HA may apply for persons with disabilities in support of preferences for certain Section 8 developments.

The April 30 NOFA made available rental certificates and rental vouchers for persons with disabilities under the Mainstream Housing Program. This NOFA also made available rental certificates and rental vouchers for non-elderly persons with disabilities in support of designated housing allocation plans; and for non-elderly disabled families in connection with certain Section 8 project-based development where the owner has established a preference for the admission of elderly households. The June 1, NOFA made available rental certificates for the Family Unification Program to assist families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

The June 1 NOFA made available Section 8 Family Self-Sufficiency (FSS) Coordinator funds to hire FSS program coordinators.

A total of $424,249,176 in budget authority for rental vouchers and rental certificates (52,784 units) was awarded to recipients under all of the above mentioned categories, and other categories not provided in connection

with a NOFA, but provided on an as-needed basis.

The Catalog of Federal Domestic Assistance numbers for this program are 14.855 and 14.857.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: January 21, 1999.

**Harold Lucas,**

*Assistant Secretary for Public and Indian Housing.*

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998

| Housing agency | Address | Units | Award |
|---|---|---|---|
| **Designated Housing (Certificates)** | | | |
| COLORADO DEPT OF HUMAN SERVICES | 4131 S. JULIAN WAY, DENVER, CO 80236 | 100 | $387,732 |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 200 | 1,375,512 |
| MILLVILLE HA | PO BOX 803, 122 E MAIN ST, MILLVILLE, NJ 08332 | 30 | 184,074 |
| PATERSON HA | CITY HALL, 155 MARKET ST, PATERSON, NJ 07505. | 75 | 753,101 |
| METROPOLITAN DEV'T & HSG AGENCY | 701 SIXTH ST, NASHVILLE-DAVIDSON, TN 37206 | 200 | 988,104 |
| BURLINGTON HSG AUTH | 230 ST PAUL ST, BURLINGTON, VT 05401 | 200 | 851,376 |
| Totals for Designated Housing (Certificates) | | 805 | $4,539,899 |
| **Designated Housing (Vouchers)** | | | |
| COLORADO DEPT OF HUMAN SERVICES | 4131 S. JULIAN WAY, DENVER, CO 80236 | 100 | $387,732 |
| WICHITA HSG AUTH | 455 N MAIN CITY HALL 11TH FLO, WICHITA, KS 67202. | 15 | 38,201 |
| MONTGOMERY CO HSG AUTH | 10400 DETRICK AVE, KENSINGTON, MD 20895 | 200 | 1,296,024 |
| COMM DEV PROG COMM OF MA.,E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 200 | 1,366,512 |
| HA COUNTY OF KING | 15455 65TH AVE SO, TUKWILA, WA 98188 | 200 | 1,019,784 |
| HSG AUTH OF LONGVIEW | 1207 COMMERCE AVE, LONGVIEW, WA 98632 | 100 | 297,228 |
| Totals for Designated Housing (Vouchers) | | 815 | $4,405,481 |
| **Existing Amendments (Certificates)** | | | |
| HA SAMSON | PO BOX 307, SAMSON, AL 36477 | 0 | $14,117 |
| WALNUT RIDGE HSG AGENCY | PO BOX 225, WALNUT RIDGE, AR 72476 | 0 | 50,799 |
| CITY OF FRESNO HSG AUTH | PO BOX 11985, FRESNO, CA 93776 | 0 | 10,528,800 |
| CITY OF LAWNDALE HSG AUTH | 14717 BURIN AVE, LAWNDALE,, CA 90260 | 0 | 171,276 |
| HSG AUTH OF THE CITY AND CO OF DENVER | PO BOX 40305-MILE HI STN, DENVER, CO 80204 | 0 | 2,823,509 |
| LONGMONT HSG AUTH | 900 COFFMAN, STE C, LONGMONT, CO 80501 | 0 | 22,709 |
| HA COCOA | PO BOX 338, MERRITT ISLAND, FL 32952 | 0 | 24,286 |
| ST. PETERSBURG H/A | PO BOX 12849, ST. PETERSBURG, FL 33733 | 0 | 701,848 |
| GEORGIA RESIDENTIAL FINANCE AUTH | 60 EXECUTIVE PKWY SOUTH, STE 250, ATLANTA, GA 30329. | 0 | 14,386,845 |
| DENHAM SPRINGS HSG AUTH | PO BOX 910, DENHAM SPRINGS, LA 70727 | 0 | 29,000 |
| MINDEN HSG AUTH | 1211 FULTON ST, MINDEN, LA 71055 | 0 | 144,514 |
| OUACHITA PARISH POLICE JURY, SEC.8 | PO BOX 3007, MONROE, LA 71210 | 0 | 5,397 |
| TERREBONNE PARISH COUNCIL | PO BOX 6097, HOUMA, LA 70361 | 0 | 116,024 |
| GLOUCESTER HSG AUTH | PO BOX 1599, GLOUCESTER, MA 01931 | 0 | 116,127 |
| HINGHAM HSG AUTH | 30 THAXTER ST, HINGHAM, MA 02043 | 0 | 4,804 |
| WORCESTER HSG AUTH | 40 BELMONT ST, WORCESTER, MA 01605 | 0 | 726,079 |
| TOWNER COUNTY HSG AUTH | 808 E. 6TH ST, CANDO, ND 58324 | 0 | 15,660 |
| DOUGLAS COUNTY HSG AUTH | 5404 NORTH 107TH PLAZA, OMAHA, NE 68134 | 0 | 354,281 |
| FREEHOLD HA | 107 THROCKMORTON ST, FREEHOLD, NJ 07728 | 0 | 64,763 |
| HA OF MADISON | PO BOX 495, MADISON, NJ 07940 | 0 | 114,777 |
| LAKEWOOD HA | PO BOX 1543, LAKEWOOD, NJ 08701 | 0 | 841,342 |
| PERTH AMBOY HA | 881 AMBOY AVE PO BOX 390, PERTH AMBOY, NJ 08862. | 0 | 136,364 |
| SECAUCUS HA | 777 FIFTH ST, SECAUCUS, NJ 07094 | 0 | 81,596 |
| SOUTH AMBOY HA | BAYSHORE DR, SOUTH AMBOY, NJ 08879 | 0 | 195,689 |
| TOWNSHIP OF CHERRY HILL | PO BOX 5002, CHERRY HILL, NJ 08034 | 0 | 185,843 |
| TOWNSHIP OF HAMILTON | 2090 GREENWOOD AVE, PO 150, HAMILTON, NJ 08650. | 0 | 71,457 |
| TOWNSHIP OF MONTCLAIR HA | 205 CLAREMONT AVE, MONTCLAIR, NJ 07042 | 0 | 171,732 |
| SAN MIGUEL COUNTY HA | COUNTY CTHOUSE ANNEX, BUILDING, LAS VEGAS, NM 87701. | 0 | 63,406 |
| TOWN OF BABYLON | 281 PHELPS LANE, ROOM 9, NORTH BABYLON, NY 11703. | 0 | 292,374 |
| FT. GIBSON HSG AUTH | PO BOX 426, FORT GIBSON, OK 74434 | 0 | 67,743 |
| MUSKOGEE HSG AUTH | 200 N 40TH, MUSKOGEE, OK 74401 | 0 | 11,262 |
| NORTHWEST OREGON HSG ASSOC | 1508 EXCHANGE, ASTORIA, OR 97103 | 0 | 21,497 |
| LACKAWANNA COUNTY HSG AUTH | 2019 WEST PINE ST, DUNMORE, PA 18512 | 0 | 2,386 |
| MUNICIPALITY OF LAS MARIAS | BOX 91, LAS MARIAS, PR 00670 | 0 | 263,676 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| HA LAKE CITY | PO BOX 1017, LAKE CITY, SC 29560 | 0 | 12,707 |
| HSG AUTH OF NACOGDOCHES | 715 SUMMIT ST, NACOGDOCHES, TX 75961 | 0 | 110,190 |
| ROMA HSG AUTH | P.O. BOX 1002, ROMA, TX 78584 | 0 | 5,850 |
| TROUP HSG AUTH | P.O. BOX 206, 1009 S. JACKSON ST., TROUP, TX 75789. | 0 | 40,000 |
| WISE COUNTY REDEV & H/A | P.O. DRAWER W, COEBURN, VA 24230 | 0 | 21,320 |
| BOONE COUNTY HSG AUTH | BLACK DIAMOND ARBORS, LICK CREEK RD, DANVILLE, WV 25053. | 0 | 70,000 |
| Totals for Existing Amendments (Certificates) | | | $33,082,049 |
| **Mod. Rehab. Amendments (Certificates)** | | | |
| CITY OF ANAHEIM HSG AUTH | 201 S. ANAHEIM BLVD., 2ND FL, ANAHEIM, CA 92805. | 0 | 600,675 |
| CITY OF FRESNO HSG AUTH | PO BOX 11985, FRESNO, CA 93776 | 0 | 23,099 |
| CITY OF HAWTHORNE | 4455 W 126TH ST, HAWTHORNE, CA 90250 | 0 | 259,599 |
| COUNTY OF FRESNO HSG AUTH | PO BOX 11985, FRESNO, CA 93776 | 0 | 118,289 |
| COUNTY OF LOS ANGELES HSG AUTH | 2 CORAL CIR, MONTEREY PARK, CA 91754 | 0 | 1,506,116 |
| COUNTY OF MONTEREY HSG AUTH | 123 RICO ST, SALINAS, CA 93907 | 0 | 333,540 |
| SAN DIEGO HSG COMM | 1625 NEWTON AVE, SAN DIEGO, CA 92113 | 0 | 6,884 |
| SANTA CLARA COUNTY HSG AUTH | 505 WEST JULIAN ST, SAN JOSE, CA 95110 | 0 | 2,920 |
| SANTA CRUZ COUNTY HSG AUTH | 2160-41ST AVE, CAPITOLA, CA 95010 | 0 | 1,635,929 |
| TULARE COUNTY HSG AUTH | PO BOX 791, VISALIA, CA 93279 | 0 | 55,354 |
| COLORADO HSG FINANCE AUTH | 1981 BLAKE ST, DENVER, CO 80202 | 0 | 165,694 |
| ENFIELD HSG AUTH | 17 ENFIELD TERRACE, ENFIELD TOWN, CT 06082 | 0 | 72,610 |
| NORWALK HSG AUTH | 24 ½ MONROE ST, SOUTH NORWALK, CT 06854 | 0 | 74,821 |
| WATERBURY HSG AUTH | 2 LAKEWOOD RD, WATERBURY, CT 06704 | 0 | 60,446 |
| NEW CASTLE COUNTY | 87 READ'S WAY, NEW CASTLE, DE 19720 | 0 | 581,136 |
| CITY OF JACKSONVILLE | 1300 BROAD ST, JACKSONVILLE, FL 32202 | 0 | 572,274 |
| HA DELRAY BEACH | 770 S W 12TH TERRACE, DELRAY BEACH, FL 33444. | 0 | 1,216,783 |
| HA FORT LAUDERDALE CITY | 437 S W 4TH AVE, FORT LAUDERDALE, FL 33315 | 0 | 18,235 |
| JEFFERSON CO SEC 8 HSG | C O CAPITAL CITY BANK OF MONTICELLO, MONTICELLO, FL 32344. | 0 | 32,938 |
| KEY WEST H/A | PO BOX 2476, 1400 KENNEDY DR, KEY WEST, FL 33040. | 0 | 444,493 |
| MIAMI DADE HSG AUTH | 1401 N.W. 7TH ST, MIAMI, FL 33125 | 0 | 100,453 |
| HA MACON | PO BOX 4928, MACON, GA 31208 | 0 | 152,434 |
| AURORA HSG AUTH | 1630 WEST PLUM ST, AURORA, IL 60506 | 0 | 225,022 |
| CHICAGO HSG AUTH | 626 WEST JACKSON BLVD, CHICAGO, IL 60661 | 0 | 1,599,762 |
| CITY OF NORTH CHICAGO | 1850 LEWIS AVE, NORTH CHICAGO, IL 60064 | 0 | 118,246 |
| LAKE COUNTY HA | 33928 N ROUTE 45, GRAYSLAKE, IL 60030 | 0 | 148,172 |
| ANDERSON HA | 528 WEST 11TH ST, ANDERSON, IN 46016 | 0 | 402,729 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O. BOX 7083, INDIANAPOLIS, IN 46207. | 0 | 782,682 |
| CUMBERLAND VALLEY REG'L HA | PO BOX 806, BARBOURVILLE, KY 40906 | 0 | 6,866 |
| MONROE HSG AUTH | 300 HARRISON ST., MONROE, LA 71201 | 0 | 66,278 |
| RUSTON (CITY) SEC. 8 HSG AGENCY | PO BOX 280, RUSTON, LA 71273 | 0 | 34,367 |
| SHREVEPORT HSG AUTH | 623 JORDAN, SHREVEPORT, LA 71101 | 0 | 24,497 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 0 | 416,515 |
| BROCKTON HSG AUTH | 45 GODDARD RD, PO BOX 340, BROCKTON, MA 02303. | 0 | 228,531 |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 0 | 116,887 |
| WORCESTER HSG AUTH | 40 BELMONT ST, WORCESTER, MA 01605 | 0 | 82,891 |
| BALTIMORE CO. HSG OFFICE | ONE INVESTMENT PL, STE P3, TOWSON, MD 21204. | 0 | 2,808,908 |
| HSG AUTH PRINCE GEORGES CO | 9400 PEPPERCORN PL, LANDOVER, MD 20785 | 0 | 21,103 |
| MONTGOMERY CO HSG AUTH | 10400 DETRICK AVE, KENSINGTON, MD 20895 | 0 | 25,000 |
| MAINE STATE HSG AUTH | 353 WATER ST, AUGUSTA, ME 04330 | 0 | 574,690 |
| CITY OF GRAND RAPIDS | 1420 FULLER AVE SE, GRAND RAPIDS, MI 49507 | 0 | 271,310 |
| KIRKSVILLE HSG AUTH | PO BOX 730, KIRKSVILLE, MO 63501 | 0 | 3,257 |
| ST. LOUIS COUNTY HSG AUTH | 8865 NATURAL BRIDGE, ST. LOUIS, MO 63121 | 0 | 39,231 |
| MT DEPT OF COMMERCE | POB 200545, 836 FRONT ST, HELENA, MT 59620 | 0 | 718 |
| TWIN RIVERS OPPORTUNITIES INC | PO BOX 1482, NEW BERN, NC 28563 | 0 | 69,212 |
| NORTH DAKOTA HSG FINANCE AGENCY | PO BOX 1535, BISMARCK, ND 58502 | 0 | 14,266 |
| DOVER HSG AUTH | 62 WHITTIER ST, DOVER, NH 03820 | 0 | 6,795 |
| NEW HAMPSHIRE HSG FINANCE AUTH | PO BOX 5087, MANCHESTER, NH 03108 | 0 | 38,266 |
| ASBURY PARK HA | 1004 COMSTOCK ST, ASBURY PARK, NJ 07712 | 0 | 111,000 |
| ELIZABETH HA | 688 MAPLE AVE, ELIZABETH, NJ 07202 | 0 | 26,563 |
| HA OF GLOUCESTER COUNTY | 223 S EVERGREEN AVE, WOODBURY, NJ 08096 | 0 | 292,595 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| LAKEWOOD HA | PO BOX 1543, LAKEWOOD, NJ 08701 | 0 | 51,726 |
| N.J. HSG & MORTGAGE FINANCE AGCY | 3625 QUAKERBRIDGE RD, CN 18550, TRENTON, NJ 08650. | 0 | 2,947,899 |
| PLAINFIELD HA | 510 EAST FRONT ST, PLAINFIELD, NJ 07060 | 0 | 234,491 |
| STATE OF NJ DEPT. OF COMM. AFFAIRS | 101 S. BROAD ST CN800, TRENTON, NJ 08625 | 0 | 354,834 |
| WARREN COUNTY HA | WAYNE DUMONT JR ADMIN BLDG, BELVIDERE, NJ 07823. | 0 | 224,512 |
| COUNTY OF DONA ANA | 2407 W. PICACHO, STE A–2, LAS CRUCES, NM 88005. | 0 | 60,656 |
| CITY OF RENO HSG AUTH | 1525 EAST NINTH ST, RENO, NV 89512 | 0 | 98,769 |
| COUNTY OF CLARK HSG AUTH | 5390 EAST FLAMINGO RD, LAS VEGAS, NV 89122 | 0 | 307,676 |
| NORTH LAS VEGAS HSG AUTH | 1632 YALE ST, NORTH LAS VEGAS, NV 89030 | 0 | 10,424 |
| FORT PLAIN HSG AGENCY | 3 MAIN ST, FORT PLAIN, NY 13339 | 0 | 13,304 |
| HA OF AMSTERDAM | 52 DIVISION ST, AMSTERDAM, NY 12010 | 0 | 227,000 |
| KINGSTON COMMUNITY DEV'T AGENCY | 97 BROADWAY, KINGSTON, NY 12401 | 0 | 89,450 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 0 | 166,321 |
| TOWN OF BABYLON | 281 PHELPS LANE, ROOM 9, NORTH BABYLON, NY 11703. | 0 | 32,616 |
| TOWN OF STILLWATER | PO BOX 700, STILLWATER, NY 12170 | 0 | 30,398 |
| VILLAGE OF BALLLSTON SPA | 66 FRONT ST, BALLSTON, NY 12020 | 0 | 185,308 |
| VILLAGE OF CORINTH | 242 UNION ST, SCHENECTADY, NY 12305 | 0 | 7,135 |
| VILLAGE OF ELLENVILLE HSG AUTH | 10 EASTWOOD AVE, ELLENVILLE, NY 12428 | 0 | 6,000 |
| CHESTER HSG AUTH | 1010 MADISON ST, CHESTER, PA 19016 | 0 | 58,222 |
| MONTGOMERY COUNTY HSG AUTH | 1875 NEW HOPE ST, NORRISTOWN, PA 19401 | 0 | 468,552 |
| PHILADELPHIA HSG AUTH | 2012–18 CHESTNUT ST, PHILADELPHIA, PA 19103 | 0 | 2,830,654 |
| CENTRAL FALLS H A | 30 WASHINGTON ST, CENTRAL FALLS, RI 02863 | 0 | 31,432 |
| PROVIDENCE H A | 100 BROAD ST, PROVIDENCE, RI 02903 | 0 | 4,670 |
| MUNICIPALITY OF MAYAGUEZ | BOX 447, MAYAGUEZ MUNICIPIO, RQ 00709 | 0 | 87,653 |
| HA COLUMBIA | 1917 HARDEN ST, COLUMBIA, SC 29204 | 0 | 28,101 |
| HA NORTH CHARLESTON | PO BOX 70987, NORTH CHARLESTON, SC 29415 | 0 | 315,140 |
| S C STATE HSG FINANCE & DEV | 919 BLUFF RD, COLUMBIA, SC 29201 | 0 | 160,440 |
| HA MEMPHIS | 700 ADAMS AVE, MEMPHIS, TN 38105 | 0 | 22,383 |
| KNOXVILLE COMMUNITY DEVEL CORP | PO BOX 3629, KNOXVILLE, TN 37937 | 0 | 107,420 |
| BROWNSVILLE HSG AUTH | PO BOX 4420, BROWNSVILLE, TX 78523 | 0 | 123,683 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 0 | 141,085 |
| HSG AUTH OF DALLAS | 3939 N. HAMPTON RD., DALLAS, TX 75212 | 0 | 1,040,218 |
| HSGG AUTH OF PARIS | PO BOX 688, 100 GEO. W. WRIGHT HOMES, PARIS, TX 75461. | 0 | 1,012,363 |
| LAREDO HSG AUTH | 2000 SAN FRANCISCO AVE, LAREDO, TX 78040 | 0 | 67,274 |
| PANHANDLE COMMUNITY SERVICES | PO BOX 32150, 1309 W. 8TH. ST., AMARILLO, TX 79120. | 0 | 45,263 |
| SAN ANTONIO HSG AUTH | PO DRAWER 1300, SAN ANTONIO, TX 78295 | 0 | 74,758 |
| HSG AUTH OF THE CITY OF OGDEN | 127 24TH ST STE 2, OGDEN, UT 84401 | 0 | 422,028 |
| NORFOLK REDEV & H/A | 201 GRANBY ST, NORFOLK, VA 23510 | 0 | 36,177 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23225 | 0 | 348,547 |
| Totals for Mod. Rehab. Amendments (Certificates). | | | $29,065,663 |
| **Family Unification (Certificates)** | | | |
| HA TUSCALOOSA | PO BOX 2281, TUSCALOOSA, AL 35403 | 28 | 119,380 |
| HOPE HSG AUTH | 720 TEXAS ST, HOPE, AR 71801 | 25 | 60,930 |
| PINE BLUFF HSG AUTH | PO BOX 8872, PINE BLUFF, AR 71611 | 50 | 220,158 |
| CITY OF OCEANSIDE | 300 N. COAST HWY, NEVADA ST ANNEX, OCEANSIDE, CA 92054. | 100 | 587,796 |
| CITY OF SAN LUIS OBISPO HSG AUTH | PO BOX 1289, 487 LEFF ST, SAN LUIS OBISPO, CA 93406. | 25 | 170,735 |
| COUNTY OF MERCED HSG AUTH | 405 U ST, MERCED, CA 95340 | 100 | 594,036 |
| COUNTY OF ORANGE HSG AUTH | 1770 N BROADWAY, SANTA ANA, CA 92706 | 50 | 369,408 |
| D.C HSG AUTH | 1133 NORTH CAPITOL ST NE, WASHINGTON, DC 20002. | 100 | 1,140,792 |
| ORLANDO H/A | 300 REEVES CT, ORLANDO, FL 32801 | 100 | 421,343 |
| GUAM HSG AND URBAN RENEWAL AUTH | 117 BIEN VENIDA AVE, SINAJANA, GU 96926 | 67 | 654,582 |
| CITY OF IOWA CITY | 410 E. WASHINGTON ST., IOWA CITY, IA 52240 | 100 | 642,912 |
| WICHITA HSG AUTH | 455 N MAIN CITY HALL 11TH FLO, WICHITA, KS 67202. | 100 | 586,032 |
| HSG AUTH OF JEFFERSON COUNTY | 801 VINE ST, LOUISVILLE, KY 40204 | 100 | 501,660 |
| IBERIA PH. GOVERNMENT, SEC. 8 PROG | 300 IBERIA ST, STE 400, NEW IBERIA, LA 70560 | 50 | 139,578 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 100 | 866,257 |
| CITY OF WESTMINSTER | 56 WEST MAIN ST, WESTMINSTER, MD 21158 | 15 | 91,944 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| HSG AUTH OF BALTIMORE CITY | 417 E FAYETTE ST, BALTIMORE, MD 21202 | 50 | 418,080 |
| MONTGOMERY CO HSG AUTH | 10400 DETRICK AVE, KENSINGTON, MD 20895 | 100 | 1,185,132 |
| ST MARY'S COUNTY COMMISSIONERS | P O BOX 653, GOVT CENTER, LEONARDTOWN, MD 20650. | 25 | 168,579 |
| ST PAUL PHA | 480 CEDAR ST, STE 600, ST. PAUL, MN 55101 | 50 | 307,539 |
| HSG AUTH OF KANSAS CITY, MO | 712 BROADWAY, KANSAS CITY, MO 64105 | 50 | 315,180 |
| LINCOLN COUNTY PUB HSG AGENCY | 16 NORTH CT, BOWLING GREEN, MO 63334 | 100 | 402,265 |
| HA OF THE TOWN OF LAURINBURG | P O BOX 1437, LAURINBURG, NC 28352 | 50 | 201,636 |
| HA THOMASVILLE | 201 JAMES AVE, THOMASVILLE, NC 27360 | 50 | 267,877 |
| MONMOUTH COUNTY HA | PO BOX 3000, FREEHOLD, NJ 07728 | 75 | 663,045 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 100 | 986,955 |
| TOWN OF AMHERST | 5583 MAIN ST., WILLIAMSVILLE, NY 14221 | 100 | 530,256 |
| CAMBRIDGE METROPOLITAN HSG AUTH | P O BOX 1388, CAMBRIDGE, OH 43725 | 50 | 156,005 |
| HAMILTON COUNTY | 138 EAST CT ST, ROOM 507, CINCINNATI, OH 45202. | 100 | 573,708 |
| OKLAHOMA CITY HSG AUTH | 1700 N E FOURTH ST, OKLAHOMA CITY, OK 73117. | 50 | 213,732 |
| H.A. OF YAMHILL COUNTY | 414 N EVANS, MCMINNVILLE, OR 97128 | 60 | 376,186 |
| ALLEGHENY COUNTY HSG AUTH | 341 FOURTH AVE FIDELITY BL, PITTSBURGH, PA 15222. | 100 | 654,948 |
| WESTMORELAND COUNTY HSG AUTH | R.D. #6, BOX 223, S. GREENGATE RD, GREENSBURG, PA 15601. | 30 | 150,227 |
| RHODE ISLAND HSG MORT FIN CORP | 44 WASHINGTON ST, PROVIDENCE, RI 02903 | 101 | 655,404 |
| MEADE COUNTY HSG & REDEV COMM | 1220 CEDAR ST #113, STURGIS, SD 57785 | 50 | 267,863 |
| FORT WORTH HSG AUTH | P O BOX 430, 1201 E. 13TH. ST., FORT WORTH, TX 76101. | 100 | 694,524 |
| SAN ANTONIO HSG AUTH | P O DRAWER 1300, SAN ANTONIO, TX 78295 | 100 | 547,464 |
| TEXOMA COUNCIL OF GOVERNMENTS | 3201 TEXOMA PKWY, STE 240, SHERMAN, TX 75090. | 25 | 115,197 |
| HSG AUTH OF SALT LAKE CITY | 1776 SW TEMPLE, SALT LAKE CITY, UT 84115 | 36 | 199,225 |
| BURLINGTON HSG AUTH | 230 ST PAUL ST, BURLINGTON, VT 05401 | 100 | 697,368 |
| HA COUNTY OF KING | 15455 65TH AVE SO, TUKWILA, WA 98188 | 100 | 779,292 |
| HA OF CITY OF SEATTLE | 120 SIXTH AVE NORTH, SEATTLE, WA 98109 | 25 | 208,204 |
| HUNTINGTON WV HSG AUTH | P.O. BOX 2183, HUNTINGTON, WV 25722 | 50 | 223,044 |
| Totals for Family Unification (Certificates) | | 2,937 | $19,126,478 |
| **FSS Coordinators (Certificates)** | | | |
| AK HSG FINANCE CORP | PO BOX 101020, ANCHORAGE, AK 99510 | 0 | 45,000 |
| DOTHAN H/A | P O BOX 1727, DOTHAN, AL 36302 | 0 | 14,878 |
| FLORENCE H/A | 303 NORTH PINE ST, FLORENCE, AL 35630 | 0 | 38,385 |
| H/A CITY OF MONTGOMERY | 1020 BELL ST, MONTGOMERY, AL 36104 | 0 | 32,400 |
| HA ALBERTVILLE | P O BOX 1126, ALBERTVILLE, AL 35950 | 0 | 33,585 |
| HA BESSEMER | 1100 5TH AVE NORTH, BESSEMER, AL 35020 | 0 | 31,402 |
| HA DECATUR | P O BOX 878, DECATUR, AL 35602 | 0 | 29,120 |
| HA HUNTSVILLE | P O BOX 486, HUNTSVILLE, AL 35804 | 0 | 27,882 |
| HA JACKSONVILLE | 895 GARDNER DR, JACKSONVILLE, AL 36265 | 0 | 28,114 |
| HA JEFFERSON COUNTY | 3700 INDUSTRIAL PKWY, BIRMINGHAM, AL 35217 | 0 | 30,517 |
| HA LEEDS | P O BOX 513, LEEDS, AL 35094 | 0 | 26,048 |
| HA OZARK | P O BOX 566, OZARK, AL 36361 | 0 | 32,357 |
| HA PRICHARD | P O BOX 10307, PRICHARD, AL 36610 | 0 | 35,305 |
| HA TUSCALOOSA | P O BOX 2281, TUSCALOOSA, AL 35403 | 0 | 39,273 |
| CONWAY HSG AUTH | 360 C H A, CONWAY, AR 72032 | 0 | 24,825 |
| FORT SMITH | 2100 NORTH 31ST ST, FORT SMITH, AR 72904 | 0 | 28,474 |
| HARRISON HSG AGENCY | P O BOX 1715, HARRISON, AR 72601 | 0 | 34,479 |
| HOPE HSG AUTH | 720 TEXAS ST, HOPE, AR 71801 | 0 | 16,458 |
| JONESBORO URBAN RENEWAL HA | 804 SOUTH GEE ST, JONESBORO, AR 72401 | 0 | 20,561 |
| LEE COUNTY HSG AUTH | 100 W. MAIN, MARIANNA, AR 72360 | 0 | 20,140 |
| LITTLE ROCK HSG AUTH | 1000 WOLFE ST, LITTLE ROCK, AR 72202 | 0 | 26,000 |
| MISSISSIPPI COUNTY PFB | 808 W KEISER, OSCEOLA, AR 72370 | 0 | 30,236 |
| NORTH LITTLE ROCK HSG AUTH | P O BOX 516, NORTH LITTLE ROCK, AR 72115 | 0 | 33,684 |
| NW REGIONAL HSG AUTH | P O BOX 699, HARRISON, AR 72602 | 0 | 34,479 |
| PINE BLUFF HSG AUTH | P O BOX 8872, PINE BLUFF, AR 71611 | 0 | 22,955 |
| PULASKI COUNTY HSG AGENCY | 201 S BROADWAY STE 440, LITTLE ROCK, AR 72201. | 0 | 18,540 |
| SILOAM SPRINGS HSG AUTH | P O BOX 280, SILOAM SPRINGS, AR 72761 | 0 | 29,673 |
| ST FRANCIS COUNTY HSG AUTH | P O BOX 310, FORREST CITY, AR 72335 | 0 | 18,000 |
| WHITE RIVER REGIONAL HSG AUTH | P O BOX 650, MELBOURNE, AR 72556 | 0 | 44,954 |
| CITY OF BULLHEAD CITY | 1255 MARINA BLVD, BULLHEAD CITY, AZ 86442 | 0 | 30,955 |
| CITY OF CHANDLER | 99 N. DELAWARE ST, CHANDLER, AZ 85225 | 0 | 38,137 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| CITY OF SCOTTSDALE | 7522 E FIRST ST, SCOTTSDALE, AZ 85251 | 0 | 45,000 |
| CITY OF YUMA HSG AUTH | 1350 W. COLORADO ST, YUMA, AZ 85364 | 0 | 38,185 |
| CALIFORNIA DEPT OF HSG & COMM DEV | P O BOX 952050, SACRAMENTO, CA 94252 | 0 | 43,992 |
| CITY OF ALAMEDA HSG AUTH | 701 ATLANTIC AVE, ALAMEDA, CA 94501 | 0 | 22,500 |
| CITY OF BENICIA HSG AUTH | 28 RIVERHILL DR, P O BOX 549, BENICIA, CA 94510. | 0 | 45,000 |
| CITY OF CARLSBAD HSG & REDEV | 2965 ROOSEVELT ST STE B, CARLSBAD, CA 92008. | 0 | 45,000 |
| CITY OF FAIRFIELD | 823–B JEFFERSON ST, FAIRFIELD, CA 94533 | 0 | 45,000 |
| CITY OF GLENDALE HSG AUTH | 141 NORTH GLENDALE AVE #202, GLENDALE, CA 91206. | 0 | 43,876 |
| CITY OF LAKEWOOD | 5050 N. CLARK AVE, LAKEWOOD, CA 90712 | 0 | 45,000 |
| CITY OF OCEANSIDE | 300 N. COAST HWY, NEVADA ST ANNEX, OCEANSIDE, CA 92054. | 0 | 45,000 |
| CITY OF OXNARD HSG AUTH | 1470 COLONIA RD, OXNARD, CA 93030 | 0 | 45,000 |
| CITY OF REDDING HSG AUTH | P O BOX 496071, REDDING, CA 96049 | 0 | 45,000 |
| CITY OF ROSEVILLE | 405 VERNON ST, ROSEVILLE, CA 95678 | 0 | 43,166 |
| CITY OF SAN BUENAVENTURA HSG AUTH | P O BOX 1648, 995 RIVERSIDE ST, VENTURA, CA 93002. | 0 | 41,290 |
| CITY OF SANTA BARBARA H/A | 808 LAGUNA ST, SANTA BARBARA, CA 93101 | 0 | 45,000 |
| CITY OF SANTA MONICA | 2121 CLOVERFIELD BLVD STE131, SANTA MONICA, CA 90404. | 0 | 45,000 |
| CITY OF VACAVILLE | 40 ELDRIDGE AVE, STES 1–5, VACAVILLE, CA 95687. | 0 | 45,000 |
| COMM SERVICE DEPT EL DORADO COUNTY | 937 SPRING ST, PLRVILLE, CA 95667 | 0 | 45,000 |
| COUNTY OF BUTTE HSG AUTH | 580 VALLOMBROSA AVE, CHICO, CA 95926 | 0 | 37,705 |
| COUNTY OF MERCED HSG AUTH | 405 U ST, MERCED, CA 95340 | 0 | 36,195 |
| COUNTY OF SHASTA HSG AUTH | 1670 MARKET ST STE 300, REDDING, CA 96001 | 0 | 37,486 |
| COUNTY OF SOLANO HSG AUTH | 601 WEST TEXAS ST, FAIRFIELD, CA 94533 | 0 | 43,858 |
| CULVER CITY PUBLIC HSG AGENCY | 9770 CULVER BLVD, P O BOX 507, CULVER CITY, CA 90232. | 0 | 25,600 |
| H/A OF THE CITY OF SANTA PAULA | P O BOX 404, 15500 W. TELEGRAPH RD B–11, SANTA PAULA, CA 93060. | 0 | 42,385 |
| HSG AUTH CITY OF NAPA | P O BOX 660, NAPA, CA 94559 | 0 | 45,000 |
| KINGS COUNTY HSG AUTH | P O BOX 355, HANFORD, CA 93232 | 0 | 40,491 |
| NEVADA COUNTY HSG AUTH | 10433 WILLOW VALLEY RD., NEVADA, CA 95959 | 0 | 30,856 |
| NORWALK HSG AUTH | 12035 FIRESTONE BLVD, NORWALK, CA 90650 | 0 | 45,000 |
| YOLO COUNTY HSG AUTH | P O BOX 1867, WOODLAND, CA 95695 | 0 | 30,584 |
| YUBA COUNTY HSG AUTH | 938 14TH ST, MARYSVILLE, CA 95901 | 0 | 42,543 |
| ADAMS COUNTY HSG AUTH | 7190 COLORADO BLVD, 6TH FL, COMMERCE CITY, CO 80022. | 0 | 40,120 |
| ARVADA HSG AUTH | 8101 RALSTON RD, ARVADA, CO 80002 | 0 | 34,373 |
| AURORA HSG AUTH | 10745 E KENTUCKY AVE, AURORA, CO 80012 | 0 | 34,560 |
| BOULDER COUNTY HSG AUTH | 2040 14TH ST, PO BOX 471, BOULDER, CO 80306 | 0 | 39,542 |
| COLORADO DIVISION OF HSG | 1313 SHERMAN ST R00M 323, DENVER, CO 80203 | 0 | 45,000 |
| COLORADO SPRINGS HSG AUTH | P O BOX 1575, COLORADO SPRINGS, CO 80903 | 0 | 39,200 |
| FORT COLLINS HSG AUTH | 1715 W. MOUNTAIN AVE., FORT COLLINS, CO 80521. | 0 | 34,612 |
| GRAND JUNCTION HSG AUTH | 805 MAIN ST, GRAND JUNCTION, CO 81501 | 0 | 27,648 |
| HSG AUTH OF PUEBLO | 1414 NO. SANTA FE AVE, PUEBLO, CO 81003 | 0 | 30,000 |
| HSG AUTH OF THE CITY OF LAKEWOOD | 445 S. ALLISON PKWY, LAKEWOOD, CO 80226 | 0 | 34,373 |
| JEFFERSON COUNTY HSG AUTH | 6025 WEST 38TH AVE, WHEATRIDGE, CO 80033 | 0 | 34,373 |
| LOVELAND HSG AUTH | 2105 MAPLE DR, LOVELAND, CO 80538 | 0 | 23,135 |
| MONTROSE COUNTY HSG AUTH | 222 HAP CT, OKATHE, CO 81425 | 0 | 30,565 |
| ANSONIA HSG AUTH | 36 MAIN ST, ANSONIA, CT 06401 | 0 | 43,481 |
| HARTFORD HSG AUTH | 475 FLATBUSH AVE, HARTFORD, CT 06106 | 0 | 42,985 |
| MERIDEN HSG AUTH | 22 CHURCH ST, MERIDEN, CT 06450 | 0 | 44,982 |
| NORWALK HSG AUTH | 24 1/2 MONROE ST, SOUTH NORWALK, CT 06854 | 0 | 34,940 |
| DELAWARE STATE HSG AUTH | 820 SILVER LAKE BLVD, DOVER, DE 19904 | 0 | 40,000 |
| DOVER HSG AUTH | 1266–76 WHITE OAK RD, DOVER, DE 19901 | 0 | 31,001 |
| WILMINGTON HSG AUTH | 400 WALNUT ST, WILMINGTON, DE 19801 | 0 | 43,193 |
| CITY OF FORT MYERS | P. O. DRAWER 2217, FORT MYERS, FL 33902 | 0 | 45,000 |
| COLLIER COUNTY HA | 1800 FARM WORKER WAY, IMMOKALEE, FL 33934. | 0 | 37,575 |
| HA BOCA RATON | 201 WEST PALMETTO PARK RD, BOCA RATON, FL 33432. | 0 | 27,804 |
| HA DELAND | 300 SUNFLOWER CIR, DE LAND, FL 32724 | 0 | 41,169 |
| HA HOLLYWOOD | 7300 NORTH DAVIE RD EXTENSIO, HOLLYWOOD, FL 33024. | 0 | 12,854 |
| HA PASCO COUNTY | 522 AUTUMN DR, DADE CITY, FL 33525 | 0 | 37,025 |
| HA RIVIERA BEACH | 2014 WEST 17TH CT, RIVIERA BEACH, FL 33404 | 0 | 38,991 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| WALTON CO BD OF CO COMM | P O BOX 1258, DE FUNIAK SPRINGS, FL 32433 | 0 | 35,956 |
| CITY OF MARIETTA | SECTION 8 HSG PROGRAM, P O BOX 609, MARIETTA, GA 30061. | 0 | 44,000 |
| HA BRUNSWICK | P O BOX 1118, BRUNSWICK, GA 31521 | 0 | 29,264 |
| HA JONESBORO | P O BOX 458, JONESBORO, GA 30237 | 0 | 31,000 |
| GUAM HSG & URBAN RENEWAL AUTH | 117 BIEN VENIDA AVE, SINAJANA, GU 96926 | 0 | 35,511 |
| COUNTY OF KAUAI | 4193 HARDY ST, LIHUE, HI 96766 | 0 | 44,993 |
| CENTRAL IOWA REG'L HSG AUTH | 1111 NINTH ST, STE 390, DES MOINES, IA 50314 | 0 | 45,000 |
| CITY OF CEDAR RAPIDS | CITY HALL, CEDAR RAPIDS, IA 52401 | 0 | 45,000 |
| CITY OF IOWA CITY | 410 E. WASHINGTON ST., IOWA CITY, IA 52240 | 0 | 42,326 |
| DUBUQUE DEPT OF HUMAN RIGHTS | CITY HALL, DUBUQUE, IA 52001 | 0 | 29,759 |
| EASTERN IOWA REG'L HSG AUTH | 330 NESLER CENTRE, P O BOX 1140, DUBUQUE, IA 52001. | 0 | 41,672 |
| FORT DODGE HSG AGENCY | 700 SOUTH 17TH ST, FORT DODGE, IA 50501 | 0 | 45,000 |
| IOWA NORTHLAND R'L HSG AUTH | 2530 UNIVERSITY AVE., STE #5, WATERLOO, IA 50701. | 0 | 37,132 |
| MUNICIPAL HSG AGENCY | 119 SOUTH MAIN ST, STE #200, COUNCIL BLUFFS, IA 51503. | 0 | 31,759 |
| NORTH IOWA REG'L HSG AUTH | 121 THIRD ST NW, MASON CITY, IA 50401 | 0 | 45,000 |
| NORTHEAST NEBRASKA JOINT HSG AUTH | P O BOX 447, SIOUX CITY, IA 51102 | 0 | 28,825 |
| NORTHWEST IOWA REG'L HSG AUTH | P O BOX 6207, SPENCER, IA 51301 | 0 | 34,469 |
| OTTUMWA HSG AUTH | 102 WEST FINLEY AVE, OTTUMWA, IA 52501 | 0 | 33,821 |
| REGIONAL HSG AUTH—VOUCHER XII | 108 WEST 6TH ST, P O BOX 663, CARROLL, IA 51401. | 0 | 44,802 |
| SIOUX CITY HSG SERVICES DIVISION | BOX 447, 520 ORPHEUM BUILDING, SIOUX CITY, IA 51102. | 0 | 45,000 |
| SOUTHERN IOWA REG'L HSG AUTH | 219 N PINE, CRESTON, IA 50801 | 0 | 31,842 |
| UPPER EXPLORERLAND REG'L HSG AUTH | 134 W. GREENE ST., POSTVILLE, IA 52162 | 0 | 38,511 |
| WATERLOO HSG AUTH | CARNEGIE ANNEX, STE 102, 620 MULBERRY ST, WATERLOO, IA 50703. | 0 | 27,626 |
| BOISE CITY HA | 680 CUNNINGHAM PL, BOISE, ID 83702 | 0 | 41,278 |
| IDAHO HSG AND FINANCE ASSOC | 565 W MYRTLE ST, POB 7899, BOISE, ID 83707 | 0 | 44,379 |
| SW IDAHO COOPERATIVE HSG AUTH | 1108 WEST FINCH DR, NAMPA, ID 83651 | 0 | 28,110 |
| CHAMPAIGN HA | 102 EAST UNIVERSITY AVE., CHAMPAIGN, IL 61820. | 0 | 28,220 |
| DECATUR HA | 1808 EAST LOCUST ST, DECATUR, IL 62521 | 0 | 33,333 |
| EAST ST LOUIS HA | 700 N. 20TH. ST, EAST ST LOUIS, IL 62205 | 0 | 27,829 |
| GREATER MET. HA ROCK IS | 325 SECOND ST, SILVIS, IL 61282 | 0 | 37,800 |
| HA BLOOMINGTON | 104 EAST WOOD, BLOOMINGTON, IL 61701 | 0 | 38,634 |
| HA ROCKFORD | 223 SOUTH WINNEBAGO ST, ROCKFORD, IL 61102. | 0 | 43,740 |
| HA WAUKEGAN | 215 SOUTH UTICA ST, WAUKEGAN, IL 60085 | 0 | 42,400 |
| KENDALL COUNTY HSG AUTH | 500 A—COUNTRYSIDE CENTER, YORKVILLE, IL 60560. | 0 | 8,996 |
| MADISON HA | 1609 OLIVE ST, COLLINSVILLE, IL 62234 | 0 | 35,979 |
| MCHENRY COUNTY HSG AUTH | 1108 NORTH SEMINARY, WOODSTOCK, IL 60098 | 0 | 37,583 |
| PEORIA HA | 100 S. SHERIDAN RD, PEORIA, IL 61605 | 0 | 30,824 |
| SPRINGFIELD HSG AUTH | 200 N. ELEVENTH ST, SPRINGFIELD, IL 62705 | 0 | 41,400 |
| WILLIAMSON CO. HSG AUTH | 300 HICKORY P O BOX 45, CARTERVILLE, IL 62918. | 0 | 32,722 |
| BLOOMINGTON HSG AUTH | 1007 N SUMMIT, P O BOX 1815, BLOOMINGTON, IN 47402. | 0 | 31,400 |
| GARY HA | 578 BROADWAY, GARY, IN 46402 | 0 | 30,521 |
| HA CITY OF EVANSVILLE | P O BOX 3605, 500 CT ST, EVANSVILLE, IN 47735 | 0 | 35,000 |
| HA COLUMBUS | 799 MCCLURE RD, COLUMBUS, IN 47201 | 0 | 38,357 |
| HA KOKOMO | P.O. BOX 1207, KOKOMO, IN 46901 | 0 | 28,028 |
| HA PERU | 701 E MAIN ST, PERU, IN 46970 | 0 | 26,869 |
| HAMMOND HA | 7329 COLUMBIA CIR WEST, HAMMOND, IN 46324 | 0 | 34,790 |
| HSG AUTH CITY OF ELKHART | 1396 BENHAM AVE, ELKHART, IN 46516 | 0 | 32,500 |
| HSG AUTH OF THE CITY OF TERRE HAUTE | P O BOX 3086, TERRE HAUTE, IN 47803 | 0 | 44,800 |
| HSG AUTH OF THE CITY OF MARION | 601 SOUTH ADAMS ST, MARION, IN 46953 | 0 | 30,771 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O. BOX 7083, INDIANAPOLIS, IN 46207. | 0 | 45,000 |
| LOGANSPORT HSG AUTH | CITY BUILDING RM 207, LOGANSPORT, IN 46947 | 0 | 23,700 |
| MUNCIE HA | 402 E. SECOND ST., MUNCIE, IN 47302 | 0 | 23,920 |
| SOUTH BEND HA | PO BOX 11057, SOUTH BEND, IN 46010 | 0 | 32,000 |
| THE HSG AUTH OF THE CITY OF GOSHEN | 302 S 5TH ST, GOSHEN, IN 46526 | 0 | 37,446 |
| ECKAN | P O BOX 100, OTTAWA, KS 66067 | 0 | 28,175 |
| FORD COUNTY HSG AUTH | C/O SWKAAA, INC., P O BOX 1636, DODGE CITY, KS 67801. | 0 | 29,281 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| FORT SCOTT HSG AUTH | 315 SCOTT AVE P O BOX 269, FORT SCOTT, KS 66701. | 0 | 11,882 |
| LAWRENCE HSG AUTH | 1600 HASKELL AVE, LAWRENCE, KS 66044 | 0 | 29,325 |
| MANHATTAN HSG AUTH | P O BOX 1024 300 N 5TH, MANHATTAN, KS 66502 | 0 | 31,774 |
| APPALACHIAN FOOTHILLS HSG AGENCY | 1448 DIEDERICH BLVD, RUSSELL, KY 41169 | 0 | 42,433 |
| BOONE CT FISCAL CT AHD | P O BOX 577, FLORENCE, KY 41005 | 0 | 33,065 |
| CITY OF BOWLING GREEN | P O BOX 430, BOWLING GREEN, KY 42102 | 0 | 37,694 |
| CITY OF PADUCAH | P O BOX 2267, PADUCAH, KY 42002 | 0 | 31,661 |
| CUMBERLAND VALLEY REG'L HA | P O BOX 806, BARBOURVILLE, KY 40906 | 0 | 47,149 |
| H A SOMERSET | P O BOX 449, SOMERSET, KY 42501 | 0 | 31,509 |
| HA CYNTHIANA | P O BOX 351, CYNTHIANA, KY 41031 | 0 | 28,619 |
| HA FLOYD COUNTY | P O BOX 687, PRESTONSBURG, KY 41653 | 0 | 26,128 |
| HA NEWPORT | P O BOX 459, NEWPORT, KY 41072 | 0 | 27,900 |
| HENDERSON HSG AUTH | 901 DIXON ST, HENDERSON, KY 42420 | 0 | 29,900 |
| HSG AUTH OF LOUISVILLE | 420 S. 8TH ST., LOUISVILLE, KY 40203 | 0 | 44,995 |
| KENTUCKY HSG CORPORATION | 1231 LOUISVILLE RD, FRANKFORT, KY 40601 | 0 | 35,800 |
| LEXINGTON-FAYETTE UR CO H/A | 635 BALLARD ST, LEXINGTON-FAYETTE U, KY 40508. | 0 | 39,937 |
| PIKE COUNTY HSG AUTH | P O BOX 1468, PIKEVILLE, KY 41501 | 0 | 43,749 |
| PINEVILLE/BELL CO UR & CD AGENCY | P O BOX 460, PINEVILLE, KY 40977 | 0 | 14,400 |
| CALCASIEU PH. POLICE JURY | P O DRAWER 3287, LAKE CHARLES, LA 70602 | 0 | 20,786 |
| LAKE CHARLES HSG AUTH | P O BOX 1206, LAKE CHARLES, LA 70602 | 0 | 13,978 |
| ACTON HSG AUTH | P O BOX 681, ACTON, MA 01720 | 0 | 31,302 |
| AMHERST HSG AUTH | 33 KELLOGG AVE, AMHERST, MA 01002 | 0 | 24,394 |
| ANDOVER HSG AUTH | 100 MORTON ST, ANDOVER, MA 01810 | 0 | 45,000 |
| ARLINGTON HSG AUTH | 4 WINSLOW ST, ARLINGTON, MA 02174 | 0 | 28,111 |
| AVON HSG AUTH | 1 FELLOWSHIP CIR, AVON, MA 02322 | 0 | 24,700 |
| BRAINTREE HSG AUTH | 25 ROOSEVELT ST, BRAINTREE, MA 02184 | 0 | 13,520 |
| BROCKTON HSG AUTH | 45 GODDARD RD, PO BOX 340, BROCKTON, MA 02303. | 0 | 43,800 |
| BROOKLINE HSG AUTH | 90 LONGWOOD AVE, BROOKLINE, MA 02146 | 0 | 40,992 |
| CHELMSFORD HSG AUTH | 10 WILSON ST, CHELMSFORD, MA 01824 | 0 | 20,280 |
| COMM DEV PROG COMM OF MA.,E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 0 | 45,000 |
| DANVERS HSG AUTH | 14 STONE ST, DANVERS, MA 01923 | 0 | 22,343 |
| DEDHAM HSG AUTH | 163 DEDHAM BLVD, DEDHAM, MA 02026 | 0 | 41,960 |
| DENNIS HSG AUTH | 167 CENTER ST, DENNIS TOWN, MA 02660 | 0 | 33,307 |
| EVERETT HSG AUTH | 90 CHELSEA ST, EVERETT, MA 02149 | 0 | 45,000 |
| FRAMINGHAM HSG AUTH | 1 JOHN J. BRADY DR, FRAMINGHAM, MA 01702 | 0 | 45,000 |
| GARDNER HSG AUTH | 116 CHURCH ST, GARDNER, MA 01440 | 0 | 41,641 |
| GLOUCESTER HSG AUTH | P O BOX 1599, GLOUCESTER, MA 01931 | 0 | 34,239 |
| GREENFIELD HSG AUTH | ONE ELM TERRACE, GREENFIELD TOWN, MA 01301. | 0 | 29,000 |
| HANSON HSG AUTH | MEETINGHOUSE LANE, HANSON, MA 02341 | 0 | 23,684 |
| HOLBROOK HSG AUTH | ONE HOLBROOK CT, HOLBROOK, MA 02243 | 0 | 28,507 |
| LEOMINSTER HSG AUTH | 100 MAIN ST, LEOMINSTER, MA 01453 | 0 | 40,425 |
| LOWELL HSG AUTH | 350 MOODY ST, LOWELL, MA 01854 | 0 | 45,000 |
| LYNN HSG AUTH | 174 SOUTH COMMON ST, LYNN, MA 01905 | 0 | 44,558 |
| MANSFIELD HSG AUTH | 22 BICENTENNIAL CT, MANSFIELD TOWN, MA 02048. | 0 | 24,122 |
| MEDFORD HSG AUTH | 121 RIVERSIDE AVE, MEDFORD, MA 02155 | 0 | 37,990 |
| MELROSE HSG AUTH | 910 MAIN ST, MELROSE, MA 02176 | 0 | 26,281 |
| MILFORD HSG AUTH | 45 BIRMINGHAM CT, MILFORD, MA 01757 | 0 | 13,240 |
| NORTH ANDOVER HSG AUTH | P O BOX 373, NORTH ANDOVER, MA 01845 | 0 | 24,700 |
| NORTH ATTLEBOROUGH HSG AUTH | P O BOX 668, NORTH ATTLEBOROUGH, MA 02761 | 0 | 29,054 |
| NORWOOD HSG AUTH | 40 WILLIAM SHYNE CIR, NORWOOD, MA 02062 | 0 | 39,570 |
| PEABODY HSG AUTH | 75—81 CENTRAL ST, PEABODY, MA 01960 | 0 | 34,720 |
| PLYMOUTH HSG AUTH | P O BOX 3537, PLYMOUTH, MA 02361 | 0 | 33,003 |
| QUINCY HSG AUTH | 80 CLAY ST, QUINCY, MA 02170 | 0 | 45,000 |
| READING HSG AUTH | 22 FRANK D TANNER DR, READING, MA 01867 | 0 | 26,496 |
| SALEM HSG AUTH | 27 CHARTER ST, SALEM, MA 01970 | 0 | 43,763 |
| SAUGUS HSG AUTH | 19 TALBOT ST, SAUGUS, MA 01906 | 0 | 33,590 |
| SHREWSBURY HSG AUTH | 36 NORTH QUINSIGAMOND AVE, SHREWSBURY, MA 01545. | 0 | 24,050 |
| SOMERVILLE HSG AUTH | 30 MEMORIAL RD, SOMERVILLE, MA 02145 | 0 | 42,000 |
| WAKEFIELD H A | 26 CRESCENT ST, WAKEFIELD, MA 01880 | 0 | 24,163 |
| WAYLAND HOUSING AUTH | 106 MAIN ST, WAYLAND, MA 01778 | 0 | 18,360 |
| WOBURN HSG AUTH | 59 CAMPBELL ST, WOBURN, MA 01801 | 0 | 45,000 |
| ANNE ARUNDEL COUNTY HSG AUTH | 7885 GORDON CT, P O BOX 817, GLEN BURNIE, MD 21060. | 0 | 32,063 |
| CARROLL COUNTY HSG & COMM DEV | 10 DISTILLERY DR, STE 101, WESTMINSTER, MD 21157. | 0 | 32,355 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| CECIL COUNTY HSG AGENCY | COUNTY OFFICE BUILDING, ROOM 122, ELKTON, MD 21921. | 0 | 41,419 |
| HAGERSTOWN HSG AUTH | P O BOX 2859, HAGERSTOWN, MD 21741 | 0 | 28,092 |
| HARFORD COUNTY HSG AGENCY | 15 SOUTH MAIN ST, STE 106, BEL AIR, MD 21014 | 0 | 41,496 |
| HSG AUTH OF THE CITY OF ROCKVILLE | 14 MOORE DR, ROCKVILLE, MD 20850 | 0 | 45,000 |
| ST MARY'S COUNTY COMMISSIONERS | P O BOX 653, GOVT CENTER, LEONARDTOWN, MD 20650. | 0 | 45,000 |
| WASHINGTON COUNTY HSG AUTH | 33 WEST WASHINGTON ST, HAGERSTOWN, MD 21740. | 0 | 22,853 |
| AUGUSTA HSG AUTH | 16 CONY ST, CITY CENTER PLAZA, AUGUSTA, ME 04330. | 0 | 23,795 |
| BANGOR HSG AUTH | 161 DAVIS RD, BANGOR, ME 04401 | 0 | 34,948 |
| CARIBOU HSG AUTH | 25 HIGH ST, CARIBOU, ME 04736 | 0 | 35,086 |
| MAINE STATE HSG AUTH | 353 WATER ST, AUGUSTA, ME 04330 | 0 | 45,000 |
| MOUNT DESERT HSG AUTH | 15 EAGLE LAKE RD, BAR HARBOR, ME 04609 | 0 | 33,933 |
| PORTLAND HSG AUTH | 14 BAXTER BLVD, PORTLAND, ME 04101 | 0 | 45,000 |
| WESTBROOK HSG AUTH | 30 LIZA HARMON DR, WESTBROOK, ME 04092 | 0 | 45,000 |
| CITY OF GRAND RAPIDS | 1420 FULLER AVE SE, GRAND RAPIDS, MI 49507 | 0 | 45,000 |
| CITY OF JACKSON | 301 STEWARD AVE, JACKSON, MI 49201 | 0 | 23,567 |
| CITY OF PLYMOUTH HSG COMM | 1160 SHERIDAN, PLYMOUTH, MI 48170 | 0 | 40,674 |
| CITY OF WYOMING | 2450 36TH ST, WYOMING, MI 49509 | 0 | 35,571 |
| COUNTY OF KENT | 741 EAST BELTLINE AVE, GRAND RAPIDS, MI 49505. | 0 | 40,961 |
| TOWNSHIP OF REDFORD | 12121 HEMINGWAY, REDFORD TWP, MI 48239 | 0 | 28,644 |
| TRAVERSE CITY HC | 150 PINE ST, TRAVERSE CITY, MI 49684 | 0 | 26,000 |
| BRAINERD HRA | 410 EAST RIVER RD, STE 2, BRAINERD, MN 56401. | 0 | 40,536 |
| DULUTH HRA | 222 EAST 2ND ST, P O BOX 16900, DULUTH, MN 55816. | 0 | 45,000 |
| HRA OF COLUMBIA HEIGHTS | 590 40TH AVE NORTHEAST, COLUMBIA HEIGHTS, MN 55421. | 0 | 36,371 |
| KANDIYOHI COUNTY HRA | HEARTLAND CAA, BOX 1359, WILLMAR, MN 56201 | 0 | 43,087 |
| NW MN MULTI-COUNTY HRA | P O BOX 128, MENTOR, MN 56736 | 0 | 31,827 |
| PLYMOUTH HRA | 3400 PLYMOUTH BLVD, PLYMOUTH, MN 55441 | 0 | 14,133 |
| RICE COUNTY HRA | 208 FIRST AVE NORTHWEST, FARIBAULT, MN 55021. | 0 | 32,365 |
| SCOTT COUNTY HRA | 16049 FRANKLIN TRAIL S.E., PRIOR LAKE, MN 55372. | 0 | 15,479 |
| SOUTH ST PAUL HRA | 125 SOUTH THIRD AVE, SOUTH ST. PAUL, MN 55075. | 0 | 38,913 |
| SOUTHEAST MN MULTI-COUNTY HRA | 134 EAST SECOND ST, WABASHA, MN 55981 | 0 | 29,525 |
| ST LOUIS PARK HRA | 5005 MINNETONKA BLVD., ST. LOUIS PARK, MN 55416. | 0 | 20,819 |
| VIRGINIA HRA | 442 PINE MILL CT, P O BOX 1146, VIRGINIA, MN 55792. | 0 | 45,000 |
| WASHINGTON COUNTY HRA | 321 BROADWAY AVE., ST. PAUL PARK, MN 55071 | 0 | 23,344 |
| WINONA HRA | 1756 KRAEMER DR, STE #100, WINONA, MN 55987. | 0 | 11,825 |
| FRANKLIN COUNTY PUBLIC HSG AGENCY | P O BOX 920, HILLSBORO, MO 63050 | 0 | 29,175 |
| INDEPENDENCE HSG AUTH | 2600 HUB DR NORTH, INDEPENDENCE, MO 64055 | 0 | 39,000 |
| JASPER COUNTY PUBLIC HSG AUTH | P O BOX 207, JOPLIN, MO 64802 | 0 | 22,837 |
| LIBERTY HSG AUTH | P O BOX 159, 101 E. KANSAS, LIBERTY, MO 64068. | 0 | 32,125 |
| LINCOLN COUNTY PUB HSG AGENCY | 16 NORTH CT, BOWLING GREEN, MO 63334 | 0 | 24,795 |
| MISSOURI HSG DEV'T COMMISSION | 3435 BROADWAY, KANSAS CITY, MO 64111 | 0 | 35,306 |
| PHA OF THE COUNTY OF RAY | 302 NORTH CAMDEN, RICHMOND, MO 64085 | 0 | 10,095 |
| PHELPS COUNTY PHA | 101 W. 10TH ST, ROLLA, MO 65401 | 0 | 22,871 |
| RIPLEY COUNTY PHA | 3019 FAIR ST, P O BOX 1183, POPLAR BLUFF, MO 63901. | 0 | 25,158 |
| SPRINGFIELD HSG AUTH | 421 WEST MADISON, SPRINGFIELD, MO 65806 | 0 | 23,585 |
| ST CHARLES HSG AUTH | 1014 OLIVE ST, ST CHARLES, MO 63301 | 0 | 29,892 |
| ST. CLAIR CO. HSG AUTH | P O BOX 125, APPLETON CITY, MO 64724 | 0 | 28,512 |
| ST. FRANCOIS COUNTY PH AGENCY | P O BOX N, FLAT RIVER, MO 63601 | 0 | 24,381 |
| HA MISSISSIPPI REG'L NO 5 | P O BOX 419, NEWTON, MS 39345 | 0 | 27,265 |
| HA MISSISSIPPI REG'L NO 7 | P O BOX 886, MC COMB, MS 39648 | 0 | 23,931 |
| HA TENNESSEE VALLEY | P O BOX 1338, CORINTH, MS 38834 | 0 | 23,478 |
| MISS REGIONAL H/A VIII | P O BOX 2347, GULFPORT, MS 39505 | 0 | 37,050 |
| GREAT FALLS HSG AUTH | 1500 SIXTH AVE. SOUTH, GREAT FALLS, MT 59405. | 0 | 31,549 |
| HELENA HSG AUTH | 812 ABBEY ST, HELENA, MT 59601 | 0 | 44,658 |
| HSG AUTH OF BILLINGS | 2415 1ST AVE NORTH, BILLINGS, MT 59101 | 0 | 37,524 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| BRUNSWICK COUNTY GEN FUND | P O BOX 9, BOLIVIA, NC 28422 | 0 | 27,918 |
| CHATHAM COUNTY HSG AUT | P O BOX 637, PITTSBORO, NC 27312 | 0 | 12,740 |
| CITY OF CONCORD | P O BOX 308, CONCORD, NC 28026 | 0 | 13,428 |
| ECONOMIC IMP COUNCIL | P O BOX 549, EDENTON, NC 27932 | 0 | 27,735 |
| H A GRAHAM | P O BOX 88, GRAHAM, NC 27253 | 0 | 21,218 |
| HA ASHEBORO | P O BOX 609, ASHEBORO, NC 27204 | 0 | 31,620 |
| HA DURHAM | P O BOX 1726, DURHAM, NC 27702 | 0 | 44,761 |
| HA GREENSBORO | P O BOX 21287, GREENSBORO, NC 27420 | 0 | 45,000 |
| HA HIGH POINT | P O BOX 1779, HIGH POINT, NC 27261 | 0 | 29,695 |
| HA MIDEAST REGIONAL | P O BOX 474, WASHINGTON, NC 27889 | 0 | 22,599 |
| HA NORTHWESTERN REG'L | P O BOX 2510, BOONE, NC 28607 | 0 | 33,150 |
| HA OF THE TOWN OF LAURINBURG | P O BOX 1437, LAURINBURG, NC 28352 | 0 | 38,774 |
| HA ROWAN COUNTY | 310 LONG MEADOW DR, SALISBURY, NC 28147 | 0 | 31,264 |
| HA SANFORD | P O BOX 636, SANFORD, NC 27331 | 0 | 31,558 |
| HA STATESVILLE | 110 W. ALLISON ST., STATESVILLE, NC 28677 | 0 | 40,213 |
| HSG AUTH OF THE CITY OF WILMINGTON | P O BOX 899, WILMINGTON, NC 28402 | 0 | 34,552 |
| MOUNTAIN PROJECTS, INC | RT. 1 BOX 732, WAYNESVILLE, NC 28786 | 0 | 28,203 |
| SANDHILLS COMM ACTION PROG INC | P O BOX 937, CARTHAGE, NC 28327 | 0 | 45,000 |
| TOWN OF EAST SPENCER | P O BOX 367, EAST SPENCER, NC 28039 | 0 | 35,926 |
| WESTERN CAROLINA COMM ACTION | P O BOX 685, HENDERSONVILLE, NC 28793 | 0 | 28,416 |
| FARGO HSG AUTH | PO BOX 430, 325 BROADWAY, FARGO, ND 58107 | 0 | 27,107 |
| MINOT HSG AUTH | 310 2ND ST SE, MINOT, ND 58701 | 0 | 20,085 |
| BELLEVUE HSG AUTH | 8214 ARMSTRONG CIR, OMAHA, NE 68147 | 0 | 26,539 |
| CENTRAL NEBRASKA JOINT HSG AUTH | P O BOX 509, LOUP CITY, NE 68853 | 0 | 24,681 |
| GOLDENROD JOINT HSG AUTH | P O BOX 280, WISNER, NE 68791 | 0 | 27,501 |
| KEARNEY HSG AUTH | 2715 AVE I, KEARNEY, NE 68847 | 0 | 28,127 |
| NORFOLK HSG AUTH | 111 S. FIRST ST, NORFOLK, NE 68701 | 0 | 31,827 |
| DOVER HSG AUTH | 62 WHITTIER ST, DOVER, NH 03820 | 0 | 12,133 |
| KEENE HSG AUTH | 105 CASTLE ST, KEENE, NH 03431 | 0 | 35,296 |
| LACONIA HSG & REDEV'T AUTH | 25 UNION AVE, LACONIA, NH 03246 | 0 | 36,400 |
| MANCHESTER HSG AUTH | 198 HANOVER ST, MANCHESTER, NH 03104 | 0 | 44,794 |
| NASHUA HSG AUTH | 101 MAJOR DR, NASHUA, NH 03060 | 0 | 33,538 |
| ASBURY PARK HA | 1004 COMSTOCK ST, ASBURY PARK, NJ 07712 | 0 | 44,000 |
| ATLANTIC CITY HA | 227 NO VERMONT AVE, ATLANTIC CITY, NJ 08404 | 0 | 35,000 |
| BERKELEY TOWNSHIP HSG AUTH | 44 FREDERICK DR., BAYVILLE, NJ 08721 | 0 | 38,235 |
| BOONTON HA | 125 CHESTNUT ST, BOONTON, NJ 07005 | 0 | 44,558 |
| BRICK HA | 165 CHAMBERS BRIDGE RD, BRICK, NJ 08723 | 0 | 44,758 |
| DOVER HA | 215 EAST BLACKWELL ST, DOVER, NJ 07801 | 0 | 44,082 |
| EAST ORANGE HA | 160 HALSTED ST, EAST ORANGE, NJ 07018 | 0 | 45,000 |
| FORT LEE HA | 1403 TERESA DR, FORT LEE, NJ 07024 | 0 | 44,133 |
| GLASSBORO HA | 737 LINCOLN BLVD P O BOX 563, GLASSBORO, NJ 08028. | 0 | 29,937 |
| HUNTERDON COUNTY HA | 8 GAUNTT PL. RT. 31, FLEMINGTON, NJ 08822 | 0 | 44,982 |
| LAKEWOOD HA | P O BOX 1543, LAKEWOOD, NJ 08701 | 0 | 45,000 |
| LAKEWOOD TOWNSHIP | 231 THIRD ST, LAKEWOOD, NJ 08701 | 0 | 45,000 |
| MILLVILLE HA | P O BOX 803 122 E MAIN ST, MILLVILLE, NJ 08332 | 0 | 38,372 |
| MONMOUTH COUNTY HA | PO BOX 3000, FREEHOLD, NJ 07728 | 0 | 45,000 |
| NEPTUNE HA | BOX 726, NEPTUNE, NJ 07753 | 0 | 36,071 |
| PASSAIC COUNTY HA | 317 PENNSYLVANIA AVE, PATERSON, NJ 07503 | 0 | 35,488 |
| PATERSON HA | 60 VAN HOUTEN ST, PATERSON, NJ 07509 | 0 | 33,000 |
| PATERSON HA | CITY HALL 155 MARKET ST, PATERSON, NJ 07505. | 0 | 28,000 |
| PERTH AMBOY HA | 881 AMBOY AVE PO BOX 390, PERTH AMBOY, NJ 08862. | 0 | 45,000 |
| PLAINFIELD HA | 510 EAST FRONT ST, PLAINFIELD, NJ 07060 | 0 | 42,967 |
| STATE OF NJ DEPT. OF COMM. AFFAIRS | 101 S. BROAD ST CN800, TRENTON, NJ 08625 | 0 | 44,072 |
| TOWNSHIP OF MONTCLAIR HA | 205 CLAREMONT AVE, MONTCLAIR, NJ 07042 | 0 | 44,982 |
| VINELAND HA | 191 CHESTNUT AVE, VINELAND, NJ 08360 | 0 | 41,000 |
| WARREN COUNTY HA | WAYNE DUMONT JR ADMIN BLDG, BELVIDERE, NJ 07823. | 0 | 45,000 |
| WEEHAWKEN HA | 525 GREGORY AVE, WEEHAWKEN, NJ 07087 | 0 | 44,471 |
| ALAMOGORDO (CITY OF) HA | P O BOX 336, ALAMOGORDO, NM 83311 | 0 | 45,000 |
| BERNALILLO COUNTY HSG DEPT | 620 LOMAS BLVD NW, ALBUQUERQUE, NM 87102 | 0 | 39,636 |
| CLOVIS HSG AUTH | P O BOX 1240, CLOVIS, NM 88101 | 0 | 29,599 |
| COUNTY OF DONA ANA | 2407 W. PICACHO, STE A–2, LAS CRUCES, NM 88005. | 0 | 34,953 |
| LAS CRUCES HSG AUTH | 926 S SAN PEDRO, LAS CRUCES, NM 88001 | 0 | 28,722 |
| REGION IV HSG AUTH | 418 N. MAIN ST, CLOVIS, NM 88101 | 0 | 31,827 |
| SANTA FE CIVIC HSG AUTH | PO BOX 4039, SANTA FE, NM 87502 | 0 | 38,000 |
| SANTA FE COUNTY HSG AUTH | 52 CAMINO DE JACOBO, SANTA FE, NM 87505 | 0 | 37,662 |
| TAOS COUNTY HSG AUTH BOX | 4239, TAOS, NM 87571 | 0 | 34,225 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| TRUTH OR CONSEQUENCES HSG AUTH | 108 SOUTH CEDAR ST, TRUTH OR CONSEQUENC, NM 87901. | 0 | 45,000 |
| NORTH LAS VEGAS HSG AUTH | 1632 YALE ST, NORTH LAS VEGAS, NV 89030 | 0 | 44,844 |
| ALBANY HSG AUTH | 4 LINCOLN SQUARE, ALBANY, NY 12202 | 0 | 27,095 |
| CITY OF FULTON | MUNICIPAL BUILDING, FULTON, NY 13069 | 0 | 27,849 |
| CITY OF UTICA | ONE KENNEDY PLAZA, UTICA, NY 13502 | 0 | 24,142 |
| HA OF AMSTERDAM | 52 DIVISION ST, AMSTERDAM, NY 12010 | 0 | 23,581 |
| HA OF COHOES | DR JAY MCDONALD TOWERS REMSEN, COHES, NY 12047. | 0 | 36,282 |
| HA OF GLOVERSVILLE | 181 WEST ST, GLOVERSVILLE, NY 12078 | 0 | 26,596 |
| HA OF HUNTINGTON | 5 LOWNDES AVE, HUNTINGTION STA, NY 11746 | 0 | 19,033 |
| HA OF ITHACA | 800 S PLAIN ST, ITHACA, NY 14850 | 0 | 45,000 |
| HA OF MONTICELLO | 76 EVERGREEN DR, MONTICELLO, NY 12701 | 0 | 44,982 |
| HA OF NEW ROCHELLE | 50 SICKLES AVE, NEW ROCHELLE, NY 10801 | 0 | 34,861 |
| HA OF PLATTSBURGH | 19 OAK ST, PLATTSBURGH, NY 12901 | 0 | 30,624 |
| HA OF SCHENECTADY | 375 BROADWAY, SCHENECTADY, NY 12305 | 0 | 30,694 |
| HSG AUTH OF NORTH SYRACUSE | 201 SOUTH MAIN ST, STE 205A, NORTH SYRACUSE, NY 13212. | 0 | 30,030 |
| HSG AUTH OF SPRING VALLEY | 200 NORTH MAIN ST, SPRING VALLEY, NY 10977 | 0 | 39,140 |
| TOWN OF BABYLON | 281 PHELPS LANE, ROOM 9, NORTH BABYLON, NY 11703. | 0 | 44,590 |
| TOWN OF COLONIE | MEMORIAL TOWN HALL, NEWTONVILLE, COLONIE, NY 12128. | 0 | 43,158 |
| TOWN OF GUILDERLAND | 242 UNION ST, SCHENECTADY, NY 12305 | 0 | 35,192 |
| TOWN OF SMITHTOWN | 99 WEST MAIN ST, P O BOX 5, SMITHTOWN, NY 11787. | 0 | 43,295 |
| TOWN OF UNION COMMUNITY DEV'T | 3111 EAST MAIN ST, ENDWELL, NY 13760 | 0 | 25,308 |
| TOWN OF YORKTOWN | P O BOX 703, 363 UNDERHILL AVE, YORKTOWN HEIGHTS, NY 10598. | 0 | 35,986 |
| VILLAGE OF KIRYAS JOEL HSG AUTH | 500 FOREST RD, STE 202, MONROE, NY 10950 | 0 | 45,000 |
| ALLEN MHA 160001003 A/C# | 600 SOUTH MAIN ST., 041201198, LIMA, OH 45804 | 0 | 28,753 |
| BUTLER MET.HA | 4110 HAMILTON-MIDDTOWN RD, P O BOX 357, HAMILTON, OH 45012. | 0 | 13,650 |
| CAMBRIDGE METROPOLITAN HSG AUTH | P O BOX 1388, CAMBRIDGE, OH 43725 | 0 | 26,132 |
| CHILLICOTHE MET HA | 178 WEST FOURTH ST, CHILLICOTHE, OH 45601 | 0 | 14,742 |
| CITY OF MARIETTA | 301 PUTNAM ST, MARIETTA, OH 45750 | 0 | 34,424 |
| CITY OF MIDDLETOWN | 128 CITY CENTRE PLAZA, MIDDLETOWN, OH 45042. | 0 | 21,515 |
| CLINTON METROPOLITAN HSG AUTH | 478 THORNE AVE, WILMINGTON, OH 45177 | 0 | 25,308 |
| DELAWARE METRO HSG AUTH | 27 1/2 N. UNION ST, PO BOX 1293, DELAWARE, OH 43015. | 0 | 38,192 |
| FAYETTE METRO HSG AUTH | 101 E. EAST ST, WASHINGTON C.H., OH 43160 | 0 | 26,018 |
| JEFFERSON MHA | 815 NORTH SIXTH AVE, STEUBENVILLE, OH 43952. | 0 | 42,815 |
| LOGAN COUNTY MHA | 116 NORTH EVERETT ST, BELLEFONTAINE, OH 43311. | 0 | 34,203 |
| MEDINA MHA | 850 WALTER RD, MEDINA, OH 44256 | 0 | 30,184 |
| MORROW METRO. HSG AUT | 298 EAST CENTER ST, MORROW, OH 43302 | 0 | 30,554 |
| PICKAWAY METROPOLITAN HSG AUTH | 176 RUSTIC DR, CIRVILLE, OH 43113 | 0 | 23,390 |
| PORTAGE MHA | 2832 STATE ROUTE 59, RAVENNA, OH 44266 | 0 | 37,110 |
| SPRINGFIELD MET.HA | 437 EAST JOHN ST, SPRINGFIELD, OH 45505 | 0 | 45,000 |
| TUSCARAWAS MHA | 134 2ND ST SW, NEW PHILADELPHIA, OH 44663 | 0 | 44,934 |
| WARREN MET.HA | 990 EAST RIDGE DR, PO BOX 308, LEBANON, OH 45036. | 0 | 27,754 |
| YOUNGSTOWN MHA | 131 WEST BOARDMAN ST, YOUNGSTOWN, OH 44503. | 0 | 32,400 |
| ZANESVILLE MET HA | 407 PERSHING RD, ZANESVILLE, OH 43701 | 0 | 42,000 |
| BROKEN BOW HSG AUTH | P O BOX 177, BROKEN BOW, OK 74728 | 0 | 17,284 |
| HUGO HSG AUTH | P O BOX 727, HUGO, OK 74743 | 0 | 26,891 |
| MUSKOGEE HSG AUTH | 200 N 40TH, MUSKOGEE, OK 74401 | 0 | 34,320 |
| NORMAN HSG AUTH | 700 NORTH BERRY RD, NORMAN, OK 73069 | 0 | 35,627 |
| OKLAHOMA HSG FINANCE AGENCY | P O BOX 26720, OKLAHOMA CITY, OK 73126 | 0 | 37,492 |
| SHAWNEE HSG AUTH | P O BOX 3427, SHAWNEE, OK 74802 | 0 | 38,169 |
| STILLWATER HSG AUTH | 807 S. LOWRY, STILLWATER, OK 74074 | 0 | 31,827 |
| CENTRAL ORE REG HA | 2445 SW CANAL BLVD, REDMOND, OR 97756 | 0 | 30,698 |
| CLACKAMAS COUNTY HA | 13930 S. GAIN ST, OREGON CITY, OR 97045 | 0 | 41,767 |
| H.A. OF LINCOLN COUNTY | 1039 NW NYE ST, NEWPORT, OR 97365 | 0 | 28,129 |
| H.A. OF MALHEUR CO. | 959 FORTNER ST, ONTARIO, OR 97914 | 0 | 20,559 |
| H.A. OF YAMHILL COUNTY | 414 N EVANS, MCMINNVILLE, OR 97128 | 0 | 33,971 |
| HSG AUTH OF DOUGLAS COUNTY | P O BOX 966, ROSEBURG, OR 97470 | 0 | 27,987 |
| HSG AUTH OF JACKSON COUNTY | 2231 TABLE ROCK RD, MEDFORD, OR 97501 | 0 | 28,965 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| LINN-BENTON HSG AUTH | 1250 SE QUEEN AVE, ALBANY, OR 97321 | 0 | 38,624 |
| MARION COUNTY HSG AUTH | 4660 PORTLAND RD. NE, SALEM, OR 97305 | 0 | 32,384 |
| MID COLUMBIA HSG AGENCY | 506 E 2ND, THE DALLES, OR 97058 | 0 | 28,652 |
| NE OREGON H.A. | 2602 MAY ST, LA GRANDE, OR 97850 | 0 | 28,099 |
| NORTHWEST OREGON HSG ASSOC | 1508 EXCHANGE, ASTORIA, OR 97103 | 0 | 26,629 |
| ADAMS COUNTY HSG AUTH | 139 CARLISLE ST, GETTYSBURG, PA 17325 | 0 | 36,389 |
| ALTOONA HSG AUTH | 2700 PLEASANT VALLEY BLVD, ALTOONA, PA 16601. | 0 | 45,000 |
| ARMSTRONG COUNTY HSG AUTH | 350 S. JEFFERSON ST, KITTANNING, PA 16201 | 0 | 18,596 |
| CENTRE COUNTY HSG AUTH | 602 E. HOWARD ST, BELLEFONTE, PA 16823 | 0 | 10,400 |
| CUMBERLAND COUNTY HSG AUTH | 114 NORTH HANOVER ST, CARLISLE, PA 17013 | 0 | 14,322 |
| DAUPHIN COUNTY HSG AUTH | 501 MOHN ST, P O BOX 7598, STEELTON, PA 17113. | 0 | 37,727 |
| HARRISBURG HSG AUTH | 351 CHESTNUT ST, P O BOX 3461, HARRISBURG, PA 17105. | 0 | 40,686 |
| HSG AUTH OF THE CO OF CHESTER | 222 NORTH CHURCH ST, WEST CHESTER, PA 19380. | 0 | 42,196 |
| HSG AUTH OF UNION COUNTY | 1610 INDUSTRIAL BLVD., STE 400, LEWISBURG, PA 17837. | 0 | 40,000 |
| INDIANA COUNTY HSG AUTH | 104 PHILADELPHIA ST, INDIANA, PA 15701 | 0 | 16,374 |
| LANCASTER HSG AUTH | 325 CHURCH ST, LANCASTER, PA 17602 | 0 | 42,578 |
| MONTOUR COUNTY HSG AUTH | ONE BEAVER PL, DANVILLE, PA 17821 | 0 | 45,000 |
| NORTHUMBERLAND COUNTY HSG AUTH | 50 MAHONING ST, MILTON, PA 17847 | 0 | 27,633 |
| SUNBURY HSG AUTH | 705 MARKET, ST P O BOX 458, SUNBURY, PA 17801. | 0 | 27,633 |
| WILKES BARRE HSG AUTH | 50 LINCOLN PLAZA, S. WILKES-BARRE BLVD., WILKES BARRE, PA 18702. | 0 | 43,410 |
| WILLIAMSPORT HSG AUTH | 505 CENTER ST, WILLIAMSPORT, PA 17701 | 0 | 33,828 |
| YORK CITY HSG AUTH | 31 S. BROAD ST, P O BOX 1, YORK, PA 17405 | 0 | 37,317 |
| MUNICIPALITY OF ADJUNTAS | PO BOX 1009, ADJUNTAS, PR 00601 | 0 | 17,700 |
| MUNICIPALITY OF CAROLINA | P O BOX 8, CAROLINA, PR 00985 | 0 | 23,311 |
| MUNICIPALITY OF ISABELA | P O BOX 507, ISABELA, PR 00662 | 0 | 12,962 |
| MUNICIPALITY OF PONCE | P O BOX 1709, PONCE, PR 00733 | 0 | 22,751 |
| MUNICIPALITY OF YABUCOA | P O BOX 97, YABUCOA, PR 00767 | 0 | 45,000 |
| CENTRAL FALLS H A | 30 WASHINGTON ST, CENTRAL FALLS, RI 02863 | 0 | 29,054 |
| CUMBERLAND HSG AUTH | ONE MENDON RD, CUMBERLAND, RI 02864 | 0 | 39,900 |
| EAST GREENWICH H A | 146 FIRST AVE, EAST GREENWICH, RI 02818 | 0 | 27,300 |
| EAST PROVIDENCE H A | 99 GOLDSMITH AVE, EAST PROVIDENCE, RI 02914. | 0 | 29,611 |
| NARRAGANSETT HSG AUTH | P.O. BOX 388, 25 FIFTH AVE, NARRAGANSETT, RI 02882. | 0 | 36,602 |
| NORTH PROVIDENCE HSG AUTH | 945 CHARLES ST, NORTH PROVIDENCE, RI 02904 | 0 | 34,479 |
| PAWTUCKET H A | 214 ROOSEVELT AVE, PO BOX 1303, PAWTUCKET, RI 02862. | 0 | 36,115 |
| WOONSOCKET H A | 679 SOCIAL ST, WOONSOCKET, RI 02895 | 0 | 10,000 |
| MUNICIPALITY OF AGUAS BUENAS | BOX 128, AGUAS BUENAS MUNICI, RQ 00607 | 0 | 17,486 |
| MUNICIPALITY OF BAYAMON | P O BOX 2988, BAYAMON MUNICIPIO, RQ 00620 | 0 | 17,330 |
| CHARLESTON COUNTY HSG REDEV AUTH | P O BOX 6188, CHARLESTON, SC 29405 | 0 | 29,601 |
| H/A OF CHARLESTON | 20 FRANKLIN ST, CHARLESTON, SC 29401 | 0 | 39,900 |
| HA ANDERSON | 1335 EAST RIVER ST, ANDERSON, SC 29624 | 0 | 30,882 |
| HA BEAUFORT | P O BOX 1104, BEAUFORT, SC 29901 | 0 | 20,592 |
| HA CONWAY | 2303 LEONARD AVE, CONWAY, SC 29527 | 0 | 24,873 |
| HA FLORENCE | P O DRAWER 969, FLORENCE, SC 29503 | 0 | 27,758 |
| HA GREENWOOD | P O BOX 973, GREENWOOD, SC 29648 | 0 | 31,827 |
| HA NORTH CHARLESTON | P O BOX 70987, NORTH CHARLESTON, SC 29415 | 0 | 45,000 |
| HSG AUTH OF MYRTLE BEACH | P O BOX 2468, MYRTLE BEACH, SC 29578 | 0 | 38,823 |
| S C STATE HSG FINANCE & DEV | 919 BLUFF RD, COLUMBIA, SC 29201 | 0 | 39,991 |
| BROOKINGS HSG & REDEV COMM | 1310 MAIN AVE. SOUTH, BROOKINGS, SD 57006 | 0 | 20,242 |
| MOBRIDGE HSG & REDEV COMM | 111 SECOND ST E, MOBRIDGE, SD 57601 | 0 | 31,097 |
| PENNINGTON COUNTY HSG & REDEV COMM | 1805 WEST FULTON ST, RAPID CITY, SD 57702 | 0 | 8,044 |
| EAST TN HUMAN RESOURCE AGENCY | 408 N CEDAR BLUFF RD, STE 400, KNOXVILLE, TN 37923. | 0 | 29,440 |
| HA CROSSVILLE | 202 IRWIN AVE, CROSSVILLE, TN 38555 | 0 | 34,821 |
| HA JACKSON | P O BOX 3188, JACKSON, TN 38303 | 0 | 37,800 |
| HA KINGSPORT | P O BOX 44, KINGSPORT, TN 37662 | 0 | 43,183 |
| HA OAK RIDGE | 10 VAN HICKS LANE, OAK RIDGE, TN 37830 | 0 | 29,500 |
| SE TN HUMAN RESOURCE AGENCY | P O BOX 805, DUNLAP, TN 37327 | 0 | 37,551 |
| BAYTOWN HSG AUTH | 805 NAZRO ST, BAYTOWN, TX 77520 | 0 | 35,404 |
| BRAZOS VALLEY DEV'T COUNCIL | P O DRAWER 4128, BRYAN, TX 77805 | 0 | 35,000 |
| BROWNSVILLE HSG AUTH | P O BOX 4420, BROWNSVILLE, TX 78523 | 0 | 21,674 |
| CAMERON COUNTY HSG AUTH | P O BOX 5806, BROWNSVILLE, TX 78520 | 0 | 36,378 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| CORPUS CHRISTI HSG AUTH | P O BOX 7019, CORPUS CHRISTI, TX 78467 | 0 | 28,686 |
| CORSICANA HSG AUTH | P O BOX 1090, 1360 NORTHWEST AVE., CORSICANA, TX 75151. | 0 | 40,397 |
| EDINBURG HSG AUTH | P O BOX 295, EDINBURG, TX 78540 | 0 | 33,948 |
| GALVESTON HSG AUTH | 920 53RD ST, GALVESTON, TX 77550 | 0 | 33,250 |
| GARLAND HSG AUTH | P O BOX 469002, 701 CLARK ST., GARLAND, TX 75046. | 0 | 35,086 |
| GRAND PRAIRIE HSNG & COMM DEV. | 201 NW. 2ND. ST, STE 150, GRAND PRAIRIE, TX 75053. | 0 | 39,588 |
| HARLINGEN HSG AUTH | P O BOX 1669, HARLINGEN, TX 78551 | 0 | 31,312 |
| HARRIS COUNTY HSG & COMM DEV. | 3100 TIMMONS LANE STE 200, HOUSTON, TX 77027. | 0 | 39,432 |
| HIDALGO COUNTY HSG AUTH | 1800 N. TEXAS BLVD., WESLACO, TX 78596 | 0 | 35,715 |
| HSG AUTH OF ANTHONY | P.O. DRAWER 1710, 1007 FRANKLIN, ANTHONY, TX 79821. | 0 | 24,285 |
| HSG AUTH OF BEAUMONT | P O BOX 1312, 4925 CONCORD RD., BEAUMONT, TX 77704. | 0 | 32,120 |
| HSG AUTH OF PLANO | 1111 AVE H, BLDG. A, PLANO, TX 75074 | 0 | 31,298 |
| HSG AUTH OF SAN ANGELO | P O BOX 1751, 115 W. FIRST ST., SAN ANGELO, TX 76902. | 0 | 29,923 |
| KINGSVILLE HSG AUTH | 1000 W CORRAL, KINGSVILLE, TX 78363 | 0 | 44,214 |
| LONGVIEW HSG AUTH | P O BOX 1952, 119 W. TYLER, STE 286, LONGVIEW, TX 75606. | 0 | 36,164 |
| MESQUITE HSG AUTH | P O BOX 850137, 720 N. EBRITE, MESQUITE, TX 75185. | 0 | 21,704 |
| MIDLAND COUNTY HSG AUTH | 600 N. BAIRD, STE B, MIDLAND, TX 79701 | 0 | 34,810 |
| MONTGOMERY COUNTY HA | 515 B NORTH MAIN, CONROE, TX 77301 | 0 | 27,185 |
| PHARR HSG AUTH | 211 W AUDREY, PHARR, TX 78577 | 0 | 39,995 |
| TARRANT COUNTY HSG ASSIST PROG | 1200 CIR DR., #100, FORT WORTH, TX 76119 | 0 | 40,475 |
| TEXOMA COUNCIL OF GOVERNMENTS | 3201 TEXOMA PKWY, STE 240, SHERMAN, TX 75090. | 0 | 32,039 |
| TRAVIS COUNTY HSG AUTH | P O BOX 1748, AUSTIN, TX 78767 | 0 | 33,418 |
| CEDAR CITY HSG AUTH | 2390 W. HWY 56, STE 7, CEDAR CITY, UT 84720 | 0 | 39,169 |
| DAVIS COUNTY HSG AUTH | P O BOX 328, FARMINGTON, UT 84025 | 0 | 35,002 |
| HSG AUTH OF SALT LAKE CITY | 1776 SW TEMPLE, SALT LAKE CITY, UT 84115 | 0 | 23,376 |
| HSG AUTH OF THE CITY OF PROVO | 650 WEST 100 NORTH, PROVO, UT 84601 | 0 | 37,422 |
| HSG AUTH OF THE COUNTY OF SALT LAKE | 3595 S. MAIN ST, SALT LAKE CITY, UT 84115 | 0 | 38,730 |
| HSG AUTH OF UTAH COUNTY | 240 EAST CENTER, PROVO, UT 84606 | 0 | 36,299 |
| WEST VALLEY CITY HSG AUTH | 3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT 84119. | 0 | 30,685 |
| CHESAPEAKE REDEV & H/A | P O BOX 1304, CHESAPEAKE, VA 23320 | 0 | 36,141 |
| CITY OF VIRGINIA BEACH | MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456 | 0 | 32,156 |
| COUNTY OF ALBEMARLE/DEPT.OF FINANCE | 401 MCINTIRE RD, CHARLOTTESVILLE, VA 22902 | 0 | 40,078 |
| CUMBERLAND PLATEAU REGIONAL H/A | P O BOX 1328, MEMORIAL DR, LEBANON, VA 24266. | 0 | 32,215 |
| HAMPTON REDEV'T & HSG AUTH | P O BOX 280, HAMPTON, VA 23669 | 0 | 32,588 |
| LEE COUNTY HSG AUTH | P O BOX 665, JONESVILLE, VA 24263 | 0 | 30,779 |
| PETERSBURG REDEV'T & H/A | 128 S. SYCAMORE ST, PETERSBURG, VA 23804 | 0 | 32,817 |
| PORTSMOUTH REDEV'T & H/A | 339 HIGH ST P O BOX 1098, PORTSMOUTH, VA 23705. | 0 | 35,546 |
| SUFFOLK REDEV & H/A | P O BOX 3079, SUFFOLK, VA 23434 | 0 | 33,240 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23220 | 0 | 45,000 |
| BARRE HSG AUTH | 4 HUMBERT ST, BARRE, VT 05641 | 0 | 23,390 |
| BURLINGTON HSG AUTH | 230 ST PAUL ST, BURLINGTON, VT 05401 | 0 | 34,005 |
| VERMONT STATE HSG AUTH | ONE PROSPECT ST, MONTPELIER, VT 05602 | 0 | 41,523 |
| BELLINGHAM HSG AUTH | 208 UNITY ST LOWER LEVEL, BELLINGHAM, WA 98225. | 0 | 35,638 |
| HA CITY OF KENNEWICK | P O BOX 6737, KENNEWICK, WA 99336 | 0 | 44,558 |
| HA CITY OF SPOKANE | W. 55TH MISSION, STE 104, SPOKANE, WA 99201 | 0 | 45,000 |
| HA CITY OF VANCOUVER | 500 OMAHA WAY, VANCOUVER, WA 98661 | 0 | 38,510 |
| HA COUNTY OF CLALLAM | 2603 SOUTH FRANCIS, PORT ANGELES, WA 98362. | 0 | 39,780 |
| HA OF GRANT COUNTY | 1139 LARSON BLVD, MOSES LAKE, WA 98837 | 0 | 40,034 |
| HSG AUTH CITY OF RICHLAND | 650 GEORGE WASHINGTON WAY, RICHLAND, WA 99352. | 0 | 41,321 |
| HSG AUTH OF JEFFERSON COUNTY | P O BOX 1540, PORT TOWNSEND, WA 98368 | 0 | 27,144 |
| HSG AUTH OF LONGVIEW | 1207 COMMERCE AVE, LONGVIEW, WA 98632 | 0 | 28,200 |
| KITSAP COUNTY CONSOLIDATED H. A. | 9265 BAYSHORE DR NW, SILVERDALE, WA 98383 | 0 | 42,592 |
| THURSTON COUNTY | 505 WEST FOURTH AVE, OLYMPIA, WA 98501 | 0 | 45,000 |
| WENATCHEE HSG AUTH | 1555 SOUTH METHOW, WENATCHEE, WA 98801 | 0 | 33,134 |
| DUNN COUNTY HSG AUTH | 1421 STOUT RD, STE 100, MENOMONIE, WI 54751 | 0 | 32,914 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| EAU CLAIRE COUNTY HA | 721 OXFORD AVE., ROOM 1590, EAU CLAIRE, WI 54703. | 0 | 33,281 |
| HSG AUTH OF THE CITY OF APPLETON | 525 NORTH ONEIDA ST, APPLETON, WI 54911 | 0 | 32,117 |
| HSG AUTHCITY OF SUPERIOR | 1219 N.8TH ST, SUPERIOR, WI 54880 | 0 | 36,400 |
| KENOSHA HSG AUTH | 625 52ND ST, KENOSHA, WI 53140 | 0 | 38,619 |
| MILWAUKEE CO HA | COURTHOUSE ANNEX RM 310, 907 N 10TH ST, MILWAUKEE, WI 53233. | 0 | 43,946 |
| RACINE COUNTY HA | 837 MAIN ST, RACINE, WI 53403 | 0 | 37,893 |
| WALWORTH COUNTY HSG AUTH | COURTHOUSE ANNEX, RM 204, W3929 CO. HWY NN, ELKHORN, WI 53121. | 0 | 32,411 |
| WAUKESHA COUNTY HA | 120 CORRINA BLVD, WAUKESHA, WI 53186 | 0 | 40,134 |
| WAUKESHA HSG AUTH | 120 CORRINA BLVD, WAUKESHA, WI 53186 | 0 | 45,000 |
| BENWOOD HSG AUTH | 13TH AND HIGH STS, BENWOOD, WV 26031 | 0 | 31,223 |
| HSG AUTH OF RALEIGH CO | P O BOX BD, BECKLEY, WV 25802 | 0 | 28,599 |
| HUNTINGTON WV HSG AUTH | P.O. BOS 2183, HUNTINGTON, WV 25722 | 0 | 30,065 |
| KANAWHA CO. HSG AUTH | P O BOX 3826, CHARLESTON, WV 25338 | 0 | 31,827 |
| THE CITY OF FAIRMONT HNG AUTH | 517 FAIRMONT AVE, FAIRMONT, WV 26554 | 0 | 22,000 |
| WEIRTON HSG AUTH | 525 COVE RD, WEIRTON, WV 26062 | 0 | 17,498 |
| HSG AUTH OF THE CITY OF CASPER | 1607 CY AVE, #301, CASPER, WY 82604 | 0 | 19,676 |
| HSG AUTH OF THE CITY OF CHEYENNE | 3304 SHERIDAN AVE, CHEYENNE, WY 82009 | 0 | 19,501 |
| Totals for FSS Coordinators (Certificates) | | | $17,348,754 |
| **FSS Coordinators (Vouchers)** | | | |
| HA UNIONTOWN | P O BOX 1160, UNIONTOWN, AL 36786 | 0 | 23,246 |
| HA ALBANY | P O BOX 485, ALBANY, GA 31702 | 0 | 27,014 |
| ATCHISON HSG AUTH | 103 SOUTH 7TH ST MALL TOW, ATCHISON, KS 66002. | 0 | 13,251 |
| NEK-CAP, INC | P O BOX 380, HIAWATHA, KS 66434 | 0 | 30,616 |
| WINN PARISH POLICE JURY | 301 WEST MAIN ST., WINNFIELD, LA 71483 | 0 | 27,138 |
| ATTLEBORO HSG AUTH | 37 CARLON ST, ATTLEBORO, MA 02703 | 0 | 24,384 |
| DEARBORN HEIGHTS HSG COMM | 26155 RICHARDSON ST., DEARBORN HEIGHTS, MI 48127. | 0 | 30,408 |
| MISSOULA HSG AUTH | 1319 E. BROADWAY, MISSOULA, MT 59802 | 0 | 29,731 |
| HA COUNTY OF WAKE | P O BOX 399, ZEBULON, NC 27597 | 0 | 27,401 |
| HA ROCKY MOUNT | P O BOX 4717, ROCKY MOUNT, NC 27803 | 0 | 30,242 |
| BLAIR HSG AUTH | 758 SOUTH 16TH ST, BLAIR, NE 68008 | 0 | 14,844 |
| BOWLING GREEN HA | 304 NORTH CHURCH ST, BOWLING GREEN, OH 43402. | 0 | 29,811 |
| HANCOCK MHA | 129 W. SANDUSKY ST, FINDLAY, OH 45840 | 0 | 18,928 |
| THE MEIGS MHA | 39350 UNION AVE, POMEROY, OH 45769 | 0 | 11,280 |
| VINTON METROPOLITAN H. A. | 103 SOUTH SUGAR ST, PO BOX 487, MCARTHUR, OH 45651. | 0 | 31,777 |
| WAYNESBORO REDEV'T & H/A | 1700 NEW HOPE RD, WAYNESBORO, VA 22980 | 0 | 29,071 |
| HA OF ISLAND COUNTY | 7 NORTHWEST 6TH ST, COUPEVILLE, WA 98239 | 0 | 42,000 |
| Totals for FSS Coordinators (Vouchers) | | | $441,142 |
| **Litigation (Certificates)** | | | |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 50 | $1,089,644 |
| ALLEGHENY COUNTY HSG AUTH | 341 FOURTH AVE FIDELITY BL, PITTSBURGH, PA 15222. | 459 | 5,771,282 |
| Totals for Litigation (Certificates) | | 509 | $6,860,926 |
| **Litigation (Vouchers)** | | | |
| HSG AUTH OF DALLAS | 3939 N. HAMPTON RD., DALLAS, TX 75212 | 320 | $5,363,432 |
| HSG AUTH OF PORT ARTHUR | P O BOX 2295, 920 DEQUEEN BLVD., PORT ARTHUR, TX 77643. | 200 | 1,704,816 |
| Totals for Litigation (Vouchers) | | 520 | $7,068,248 |
| **Mainstream Program (Certificates)** | | | |
| HA JEFFERSON COUNTY | 3700 INDUSTRIAL PKWY, BIRMINGHAM, AL 35217 | 18 | $499,296 |
| CITY OF GARDEN GROVE | 11400 STANFORD AVE, P O BOX 3070, GARDEN GROVE, CA 92842. | 50 | 337,008 |
| CITY OF LOS ANGELES HSG AUTH | 2600 WILSHIRE BLVD., LOS ANGELES, CA 90057 | 100 | 629,496 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| CITY OF OCEANSIDE | 300 N. COAST HWY, NEVADA ST ANNEX, OCEANSIDE, CA 92054. | 50 | 240,809 |
| CITY OF REDDING HSG AUTH | P O BOX 496071, REDDING, CA 96049 | 15 | 52,584 |
| COUNTY OF LOS ANGELES HSG AUTH | 2 CORAL CIR, MONTEREY PARK, CA 91754 | 100 | 839,016 |
| COUNTY OF SAN BERNARDINO HSG AUTH | 1053 NORTH D ST, SAN BERNARDINO, CA 92410 | 50 | 1,723,375 |
| OAKLAND HSG AUTH | 1619 HARRISON ST, OAKLAND, CA 94612 | 100 | 3,964,580 |
| COLORADO DEPT OF HUMAN SERVICES | 4131 S. JULIAN WAY, DENVER, CO 80236 | 100 | 474,791 |
| COLORADO DIVISION OF HSG | 1313 SHERMAN ST R00M 323, DENVER, CO 80203 | 150 | 619,746 |
| FORT COLLINS HSG AUTH | 1715 W. MOUNTAIN AVE., FORT COLLINS, CO 80521. | 50 | 263,244 |
| JEFFERSON COUNTY HSG AUTH | 6025 WEST 38TH AVE, WHEATRIDGE, CO 80033 | 50 | 246,066 |
| CONN DEPT OF SOCIAL SERVICES | 25 SIGOURNEY ST, 9TH FL, HARTFORD, CT 06105. | 100 | 571,563 |
| WINDSOR H A | 40 HENRY ST, WINDSOR TOWN, CT 06095 | 20 | 74,624 |
| D.C HSG AUTH | 1133 NORTH CAPITOL ST NE, WASHINGTON, DC 20002. | 100 | 671,771 |
| CITY OF PENSACOLA | 180 GOVERNMENTAL CENTER, PENSACOLA, FL 32501. | 50 | 217,519 |
| HA PUNTA GORDA | 420 MYRTLE ST, P O BOX 51–1146, PUNTA GORDA, FL 33951. | 12 | 78,937 |
| HA WEST PALM BEACH GENERAL FUND | 3801 GEORGIA AVE., WEST PALM BEACH, FL 33405. | 100 | 576,253 |
| HILLSBOROUGH COUNTY-BOCC | P O BOX 1110, TAMPA, FL 33601 | 50 | 221,364 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 100 | 638,172 |
| HSG AUTH OF THE CITY OF ROME, GA | 800 NORTH FIFTH AVE., ROME, GA 30162 | 100 | 293,819 |
| GUAM HSG AND URBAN RENEWAL AUTH | 117 BIEN VENIDA AVE, SINAJANA, GU 96926 | 100 | 875,148 |
| HAWAII HSG AND COMM DEV CORP | 677 QUEEN ST, STE 3000, HONOLULU, HI 96813 | 100 | 812,016 |
| LAKE COUNTY HA | 33928 N ROUTE 45, GRAYSLAKE, IL 60030 | 100 | 585,528 |
| HA CITY OF EVANSVILLE | P O BOX 3605, 500 CT ST, EVANSVILLE, IN 47735 | 36 | 96,372 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O. BOX 7083, INDIANAPOLIS, IN 46207. | 200 | 703,272 |
| JOHNSON COUNTY HSG AUTH | HUMAN SERVICES AND AGING, 9307 W. 74TH ST, MERRIAM, KS 66204. | 12 | 41,479 |
| GRAYSON-CARTER CO HSG AUTH | 1448 DIEDERICH BLVD, RUSSELL, KY 41169 | 10 | 39,250 |
| ACTON HSG AUTH | P O BOX 681, ACTON, MA 01720 | 15 | 100,431 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 80 | 574,086 |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 100 | 804,755 |
| DEDHAM HSG AUTH | 163 DEDHAM BLVD, DEDHAM, MA 02026 | 10 | 65,706 |
| PLYMOUTH HSG AUTH | P O BOX 3537, PLYMOUTH, MA 02361 | 20 | 154,452 |
| COUNTY COMMISSIONERS CHARLES CO. | STAR ROUTE 1, BOX 1144, PORT TOBACCO, MD 20677. | 100 | 753,468 |
| FREDERICK HSG AUTH | 209 MADISON ST, FREDERICK, MD 21701 | 50 | 323,569 |
| HSG AUTH OF BALTIMORE CITY | 417 E FAYETTE ST, BALTIMORE, MD 21202 | 100 | 674,040 |
| ST MARY'S COUNTY COMMISSIONERS | P O BOX 653, GOVT CENTER, LEONARDTOWN, MD 20650. | 75 | 395,577 |
| AUGUSTA HSG AUTH | 16 CONY ST, CITY CENTER PLAZA, AUGUSTA, ME 04330. | 100 | 402,540 |
| MAINE STATE HSG AUTH | 353 WATER ST, AUGUSTA, ME 04330 | 100 | 545,076 |
| CITY OF ANN ARBOR COMM DEV'T | 100 NORTH FIFTH AVE, ANN ARBOR, MI 48107 | 72 | 382,864 |
| CITY OF GRAND RAPIDS | 1420 FULLER AVE SE, GRAND RAPIDS, MI 49507 | 100 | 404,892 |
| INGHAM COUNTY HSG COMM | 3882 DODIE RD, OKEMOS, MI 48864 | 48 | 1,207,955 |
| PLYMOUTH HRA | 3400 PLYMOUTH BLVD, PLYMOUTH, MN 55441 | 15 | 62,337 |
| FRANKLIN COUNTY PUB HSG AGENCY | P O BOX 920, HILLSBORO, MO 63050 | 25 | 104,036 |
| RIPLEY COUNTY PHA | 3019 FAIR ST, P O BOX 1183, POPLAR BLUFF, MO 63901. | 20 | 55,915 |
| COASTAL COMMUNITY ACTION, INC. | PO BOX 90, BEAUFORT, NC 28516 | 50 | 168,216 |
| FRANKLIN VANCE WARREN OPP'TY INC | P O BOX 1453, HENDERSON, NC 27536 | 75 | 414,937 |
| TOWN OF EAST SPENCER | P O BOX 367, EAST SPENCER, NC 28039 | 50 | 294,900 |
| DOUGLAS COUNTY HSG AUTH | 5404 NORTH 107TH PLAZA, OMAHA, NE 68134 | 50 | 1,146,030 |
| BERGEN COUNTY HA | 21 MAIN ST, ROOM 307W, HACKENSACK, NJ 07601. | 60 | 432,343 |
| CARTERET HA | 96 ROOSEVELT AVE, CARTERET, NJ 07008 | 100 | 764,868 |
| COUNTY OF MIDDLESEX | ADMINISTRATION BUILDING, NEW BRUNSWICK, NJ 08901. | 50 | 316,236 |
| ELIZABETH HA | 688 MAPLE AVE, ELIZABETH, NJ 07202 | 50 | 343,614 |
| HUNTERDON COUNTY HA | 8 GAUNTT PL. RT. 31, FLEMINGTON, NJ 08822 | 50 | 1,813,420 |
| JERSEY CITY HA | 400 US HWY ι1, JERSEY CITY, NJ 07306 | 100 | 4,724,560 |
| MONMOUTH COUNTY HA | PO BOX 3000, FREEHOLD, NJ 07728 | 48 | 347,086 |
| CITY OF LAS VEGAS HSG AUTH | P O BOX 1897, LAS VEGAS, NV 89125 | 50 | 307,452 |
| COUNTY OF CLARK HSG AUTH | 5390 EAST FLAMINGO RD, LAS VEGAS, NV 89122 | 51 | 314,601 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| CITY OF NEW YORK | 100 GOLD ST ROOM 8Q3, NEW YORK, NY 10038 | 100 | 879,600 |
| CITY OF UTICA | SECTION 8 PROGRAM, ONE KENNEDY PLAZA, UTICA, NY 13502. | 40 | 167,738 |
| HA OF AMSTERDAM | 52 DIVISION ST, AMSTERDAM, NY 12010 | 25 | 780,620 |
| HA OF NORWICH | 13 BROWN ST, NORWICH, NY 13815 | 15 | 51,848 |
| HA OF SCHENECTADY | 375 BROADWAY, SCHENECTADY, NY 12305 | 100 | 413,904 |
| NEW YORK CITY HSG AUTH | 250 BROADWAY, NEW YORK, NY 10007 | 100 | 810,180 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 146 | 828,932 |
| PORT JERVIS | 20 FRONT ST, PORT JERVIS, NY 12771 | 15 | 100,317 |
| TOWN OF COEYMANS | 242 UNION ST, SCHENECTADY, NY 12305 | 10 | 52,350 |
| VILLAGE OF KIRYAS JOEL HSG AUTH | 500 FOREST RD STE 202, MONROE, NY 10950 | 25 | 306,996 |
| DAYTON METROPOLITAN HA | 400 WAYNE AVE, DAYTON, OH 45410 | 100 | 392,424 |
| MEDINA MHA | 850 WALTER RD, MEDINA, OH 44256 | 5 | 18,514 |
| MORROW METRO. HSG AUT | 298 EAST CENTER ST, MORROW, OH 43302 | 20 | 68,008 |
| STARK METROPOLITAN HSG AUTH | 400 EAST TUSCARAWAS ST, CANTON, OH 44702 | 100 | 290,226 |
| ZANESVILLE MET HA | 407 PERSHING RD, ZANESVILLE, OH 43701 | 10 | 27,224 |
| H.A. OF YAMHILL COUNTY | 414 N EVANS, MCMINNVILLE, OR 97128 | 100 | 542,281 |
| HSG AUTH OF DOUGLAS COUNTY | PO BOX 966, ROSEBURG, OR 97470 | 25 | 81,612 |
| BUTLER COUNTY HSG AUTH | 111 SOUTH CLIFF ST, BUTLER, PA 16003 | 50 | 200,179 |
| HSG AUTH OF UNION COUNTY | 1610 INDUSTRIAL BLVD., STE 400, LEWISBURG, PA 17837. | 25 | 85,695 |
| LEHIGH COUNTY HSG AUTH | 333 RIDGE ST, EMMAUS, PA 18049 | 50 | 242,232 |
| PHILADELPHIA HSG AUTH | 2012–18 CHESTNUT ST, PHILADELPHIA, PA 19103 | 100 | 738,876 |
| WARREN COUNTY HSG AUTH | 108 OAK ST, WARREN, PA 16365 | 25 | 94,788 |
| COVENTRY HSG AUTH | 14 MANCHESTER CIR, COVENTRY, RI 02816 | 50 | 265,913 |
| CUMBERLAND HSG AUTH | ONE MENDON RD, CUMBERLAND, RI 02864 | 52 | 310,889 |
| EAST PROVIDENCE H A | 99 GOLDSMITH AVE, EAST PROVIDENCE, RI 02914. | 10 | 62,579 |
| NEWPORT HSG AUTH | ONE YORK AVE, NEWPORT, RI 02840 | 100 | 565,668 |
| S C STATE HSG FINANCE & DEV | 919 BLUFF RD, COLUMBIA, SC 29201 | 200 | 1,011,216 |
| BUTTE COUNTY HSG & REDEV COMM | 1220 CEDAR ST, STURGIS, SD 57785 | 12 | 42,190 |
| HURON HSG AUTH | PO BOX 283, HURON, SD 57350 | 27 | 55,424 |
| SIOUX FALLS HSG & REDEV COMM | 804 S. MINNESOTA, SIOUX FALLS, SD 57104 | 50 | 212,532 |
| YANKTON HSG & REDEV COMM | PO BOX 176, YANKTON, SD 57078 | 38 | 98,163 |
| CORPUS CHRISTI HSG AUTH | PO BOX 7019, CORPUS CHRISTI, TX 78467 | 86 | 470,008 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 75 | 317,035 |
| HSG AUTH OF LUBBOCK | PO BOX 2568, 1301 BROADWAY, LUBBOCK, TX 79408. | 100 | 598,464 |
| MONTGOMERY COUNTY HA | 515 B NORTH MAIN, CONROE, TX 77301 | 75 | 439,337 |
| WALKER COUNTY HSG AUTH | PO BOX 1411, HUNTSVILLE, TX 77342 | 35 | 153,146 |
| CEDAR CITY HSG AUTH | 2390 W. HWY 56, STE 7, CEDAR CITY, UT 84720 | 15 | 55,157 |
| HSG AUTH OF SALT LAKE CITY | 1776 SW TEMPLE, SALT LAKE CITY, UT 84115 | 100 | 358,764 |
| HSG AUTH OF UTAH COUNTY | 240 EAST CENTER, PROVO, UT 84606 | 50 | 236,112 |
| WEST VALLEY CITY HSG AUTH | 3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT 84119. | 50 | 228,383 |
| FAIRFAX CO RED AND HNG AUTH | 3700 PENDER DR, FAIRFAX, VA 22030 | 100 | 672,755 |
| HARRISONBURG REDEV & H/A | PO BOX 1071, HARRISONBURG, VA 22801 | 70 | 222,770 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23220 | 66 | 487,952 |
| WINOOSKI HSG AUTH | 83 BARLOW ST, WINOOSKI, VT 05404 | 4 | 26,922 |
| KITSAP COUNTY CONSOLIDATED H. A. | 9265 BAYSHORE DR NW, SILVERDALE, WA 98383 | 25 | 116,025 |
| KENOSHA HSG AUTH | 625 52ND ST, KENOSHA, WI 53140 | 100 | 384,263 |
| HSG AUTH OF MINGO COUNTY | PO BOX 2239, WILLIAMSON, WV 25661 | 100 | 362,844 |
| HUNTINGTON WV HSG AUTH | PO BOX 2183, HUNTINGTON, WV 25722 | 30 | 89,619 |
| Totals for Mainstream Program (Certificates) | | 6,725 | 49,805,734 |
| **Mainstream Program (Vouchers)** | | | |
| HA WALKER COUNTY | PO BOX Q, DORA, AL 35062 | 34 | 118,985 |
| JONESBORO URBAN RENEWAL HA | 804 SOUTH GEE ST, JONESBORO, AR 72401 | 100 | 271,884 |
| WHITE RIVER REG'L HSG AUTH | PO BOX 650, MELBOURNE, AR 72556 | 100 | 243,732 |
| CITY OF ENCINITAS | 505 S. VULCAN AVE, ENCINITAS, CA 92024 | 50 | 244,265 |
| CITY OF GARDEN GROVE | 11400 STANFORD AVE, P O BOX 3070, GARDEN GROVE, CA 92842. | 50 | 333,936 |
| CITY OF OCEANSIDE | 300 N. COAST HWY, NEVADA ST ANNEX, OCEANSIDE, CA 92054. | 50 | 245,898 |
| CITY OF REDDING HSG AUTH | PO BOX 496071, REDDING, CA 96049 | 19 | 68,570 |
| CITY OF SANTA ANA HSG AUTH | 20 CIVIC CENTER PLAZA, P O BOX 1988 M–27, SANTA ANA, CA 92702. | 100 | 788,616 |
| COUNTY OF SAN BERNARDINO HSG AUTH | 1053 NORTH D ST, SAN BERNARDINO, CA 92410 | 50 | 1,766,175 |
| SANTA CLARA COUNTY HSG AUTH | 505 WEST JULIAN ST, SAN JOSE, CA 95110 | 100 | 834,217 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| BOULDER COUNTY HSG AUTH | 2040 14TH ST, PO BOX 471, BOULDER, CO 80306 | 35 | 195,220 |
| COLORADO DEPT OF HUMAN SERVICES | 4131 S. JULIAN WAY, DENVER, CO 80236 | 100 | 447,804 |
| FORT COLLINS HSG AUTH | 1715 W. MOUNTAIN AVE., FORT COLLINS, CO 80521. | 50 | 263,244 |
| GRAND JUNCTION HSG AUTH | 805 MAIN ST, GRAND JUNCTION, CO 81501 | 75 | 280,524 |
| JEFFERSON COUNTY HSG AUTH | 6025 WEST 38TH AVE, WHEATRIDGE, CO 80033 | 50 | 231,366 |
| WEST HAVEN HSG AUTH | 15 GLADE ST, WEST HAVEN, CT 06516 | 100 | 551,508 |
| HA PUNTA GORDA | 420 MYRTLE ST, PO BOX 51–1146, PUNTA GORDA, FL 33951. | 13 | 77,167 |
| HILLSBOROUGH COUNTY–BOCC | PO BOX 1110, TAMPA, FL 33601 | 50 | 221,064 |
| ORLANDO H/A | 300 REEVES CT, ORLANDO, FL 32801 | 100 | 421,343 |
| CITY AND COUNTY OF HONOLULU | 715 SOUTH KING ST, HONOLULU, HI 96813 | 100 | 4,304,695 |
| CITY OF CEDAR RAPIDS | CITY HALL, CEDAR RAPIDS, IA 52401 | 100 | 269,497 |
| CITY OF IOWA CITY | 410 E. WASHINGTON ST., IOWA CITY, IA 52240 | 100 | 399,252 |
| DUBUQUE DEPT OF HUMAN RIGHTS | CITY HALL, DUBUQUE, IA 52001 | 40 | 69,691 |
| NORTHWEST IOWA REG'L HSG AUTH | PO BOX 6207, SPENCER, IA 51301 | 35 | 83,838 |
| WATERLOO HSG AUTH | CARNEGIE ANNEX, STE 102, 620 MULBERRY ST, WATERLOO, IA 50703. | 50 | 134,797 |
| ADA COUNTY HA | 680 CUNNINGHAM PL, BOISE, ID 83702 | 100 | 458,101 |
| BOISE CITY HA | 680 CUNNINGHAM PL, BOISE, ID 83702 | 100 | 411,708 |
| IDAHO HSG AND FINANCE ASSOC | 565 W MYRTLE ST, POB 7899, BOISE, ID 83707 | 200 | 624,708 |
| SW IDAHO COOPERATIVE HSG AUTH | 1108 WEST FINCH DR, NAMPA, ID 83651 | 30 | 120,960 |
| PEORIA HA | 100 S. SHERIDAN RD, PEORIA, IL 61605 | 100 | 397,693 |
| HA CITY OF EVANSVILLE | PO BOX 3605, 500 CT ST, EVANSVILLE, IN 47735 | 64 | 152,005 |
| LOGANSPORT HSG AUTH | CITY BUILDING RM 207, LOGANSPORT, IN 46947 | 31 | 77,714 |
| PLYMOUTH HSG AUTH | 2124 WESTERN AVE, PLYMOUTH, IN 46563 | 100 | 276,757 |
| JOHNSON COUNTY HSG AUTH | 9307 W. 74TH ST, MERRIAM, KS 66204 | 13 | 45,587 |
| LAWRENCE HSG AUTH | 1600 HASKELL AVE, LAWRENCE, KS 66044 | 50 | 218,585 |
| WICHITA HSG AUTH | 455 N MAIN CITY HALL 11TH FLO, WICHITA, KS 67202. | 15 | 38,201 |
| CITY OF BOWLING GREEN | PO BOX 430, BOWLING GREEN, KY 42102 | 50 | 137,665 |
| CITY OF LOUISVILLE | 601 WEST JEFFERSON ST, LOUISVILLE, KY 40202 | 100 | 351,576 |
| HA FLOYD COUNTY | PO BOX 687, PRESTONSBURG, KY 41653 | 25 | 376,865 |
| HSG AUTH OF JEFFERSON COUNTY | 801 VINE ST, LOUISVILLE, KY 40204 | 100 | 351,540 |
| KENTUCKY HSG CORPORATION | 1231 LOUISVILLE RD, FRANKFORT, KY 40601 | 200 | 673,620 |
| PEARL RIVER (TOWN OF) HSG AUTH | PO BOX 1363, PEARL RIVER, LA 70452 | 25 | 105,948 |
| TERREBONNE PARISH COUNCIL | PO BOX 6097, HOUMA, LA 70361 | 75 | 259,368 |
| JEFFERSON PARISH HSG AUTH SEC. 8 PROG | 1718 BETTY ST, MARRERO, LA 70072 | 75 | 1,465,965 |
| LAWRENCE HSG AUTH | 353 ELM ST, LAWRENCE, MA 01842 | 25 | 717,825 |
| ATTLEBORO HSG AUTH | 37 CARLON ST, ATTLEBORO, MA 02703 | 35 | 212,558 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 20 | 136,292 |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 100 | 2,886,585 |
| DEDHAM HSG AUTH | 163 DEDHAM BLVD, DEDHAM, MA 02026 | 90 | 591,354 |
| METHUEN HSG AUTH | 24 MYSTIC ST, METHUEN, MA 01844 | 25 | 67,015 |
| PLYMOUTH HSG AUTH | P O BOX 3537, PLYMOUTH, MA 02361 | 20 | 154,452 |
| SOMERVILLE HSG AUTH | 30 MEMORIAL RD, SOMERVILLE, MA 02145 | 100 | 680,676 |
| TAUNTON HSG AUTH | 30 OLNEY ST, TAUNTON, MA 02780 | 100 | 649,500 |
| WAKEFIELD H A | 26 CRESCENT ST, WAKEFIELD, MA 01880 | 36 | 242,523 |
| WESTFIELD HSG AUTH | ALICE BURKE WAY, P O BOX 99, WESTFIELD, MA 01086. | 25 | 577,925 |
| BALTIMORE CO. HSG OFFICE | ONE INVESTMENT PL, STE P3, TOWSON, MD 21204. | 100 | 443,340 |
| HOWARD CO. HSG COMM | 6751 COLUMBIA GATEWAY DR, COLUMBIA, MD 21044. | 25 | 104,100 |
| HSG AUTH OF THE CITY OF ROCKVILLE | 14 MOORE DR, ROCKVILLE, MD 20850 | 50 | 2,231,775 |
| ST MARY'S COUNTY COMMISSIONERS | P O BOX 653, GOVT CENTER, LEONARDTOWN, MD 20650. | 25 | 229,059 |
| MAINE STATE HSG AUTH | 353 WATER ST, AUGUSTA, ME 04330 | 100 | 549,636 |
| CITY OF ANN ARBOR COMM DEV | 100 NORTH FIFTH AVE, ANN ARBOR, MI 48107 | 28 | 200,767 |
| CITY OF PLYMOUTH HSG COMM | 1160 SHERIDAN, PLYMOUTH, MI 48170 | 100 | 600,372 |
| CITY OF WYOMING | 2450 36TH ST, WYOMING, MI 49509 | 100 | 525,852 |
| DEARBORN HEIGHTS HSG COMM | 26155 RICHARDSON ST., DEARBORN HEIGHTS, MI 48127. | 100 | 627,876 |
| GREENVILLE HSG COMM | 320 EAST OAK ST, GREENVILLE, MI 48838 | 45 | 276,636 |
| INGHAM COUNTY HSG COMM | 3882 DODIE RD, OKEMOS, MI 48864 | 52 | 1,385,540 |
| MICHIGAN STATE HSG DEV'T | 401 S WASHINGTON SQUARE P.O.BO, LANSING, MI 48909. | 100 | 518,418 |
| MICHIGAN STATE HSG DEV'T | 401 S. WASHINGTON SQUARE, LANSING, MI 48909. | 100 | 594,036 |
| MONTCALM COUNTY HSG COMM | 120 MULBERRY ST, BOX 249, HOWARD CITY, MI 49329. | 50 | 156,492 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| TOWNSHIP OF REDFORD | 12121 HEMINGWAY, REDFORD TWP, MI 48239 | 50 | 332,790 |
| METROPOLITAN COUNCIL | MEARS PARK CENTRE, 230 E. FIFTH ST, ST. PAUL, MN 55101. | 200 | 674,424 |
| ST PAUL PHA | 480 CEDAR ST, STE 600, ST. PAUL, MN 55101 | 100 | 4,290,640 |
| FRANKLIN COUNTY PUBLIC HSG AGENCY | P O BOX 920, HILLSBORO, MO 63050 | 21 | 79,360 |
| LINCOLN COUNTY PUB HSG AGENCY | 16 NORTH CT, BOWLING GREEN, MO 63334 | 100 | 237,864 |
| RIPLEY COUNTY PHA | 3019 FAIR ST, P O BOX 1183, POPLAR BLUFF, MO 63901. | 30 | 70,336 |
| ST. LOUIS COUNTY HSG AUTH | 8865 NATURAL BRIDGE, ST. LOUIS, MO 63121 | 100 | 403,620 |
| FRANKLIN VANCE WARREN OPP'TY INC | P O BOX 1453, HENDERSON, NC 27536 | 75 | 369,451 |
| HA COUNTY OF WAKE | P O BOX 399, ZEBULON, NC 27597 | 100 | 591,060 |
| HA NORTHWESTERN REGIONAL | P O BOX 2510, BOONE, NC 28607 | 64 | 194,704 |
| HA WINSTON-SALEM | 901 CLEVELAND AVE, WINSTON-SALEM, NC 28101. | 100 | 408,732 |
| WESTERN CAROLINA COMM ACTION | P O BOX 685, HENDERSONVILLE, NC 28793 | 30 | 124,884 |
| BERGEN COUNTY HA | 21 MAIN ST, ROOM 307W, HACKENSACK, NJ 07601. | 40 | 270,569 |
| COUNTY OF MIDDLESEX | ADMINISTRATION BUILDING, NEW BRUNSWICK, NJ 08901. | 50 | 322,536 |
| MONMOUTH COUNTY HA | PO BOX 3000, FREEHOLD, NJ 07728 | 52 | 383,518 |
| LAS CRUCES HSG AUTH | 926 S SAN PEDRO, LAS CRUCES, NM 88001 | 100 | 233,785 |
| TRUTH OR CONSEQUENCES HSG AUTH | 108 SOUTH CEDAR ST, TRUTH OR CONSEQUENC, NM 87901. | 28 | 91,971 |
| CITY OF LAS VEGAS HSG AUTH | P O BOX 1897, LAS VEGAS, NV 89125 | 50 | 301,249 |
| COUNTY OF CLARK HSG AUTH | 5390 EAST FLAMINGO RD, LAS VEGAS, NV 89122 | 49 | 296,442 |
| CITY OF UTICA | SECTION 8 PROGRAM, ONE KENNEDY PLAZA, UTICA, NY 13502. | 60 | 179,698 |
| HA OF NORWICH | 13 BROWN ST, NORWICH, NY 13815 | 5 | 13,712 |
| HA OF SYRACUSE | 516 BURT ST, SYRACUSE, NY 13202 | 100 | 485,304 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 54 | 359,907 |
| TOWN OF AMHERST | 5583 MAIN ST., WILLIAMSVILLE, NY 14221 | 100 | 2,250,730 |
| TOWN OF BETHELEM | 230 UNION ST, SCHENECTADY, NY 12305 | 10 | 46,182 |
| TOWN OF COLONIE | MEMORIAL TOWN HALL, NEWTONVILLE, COLONIE, NY 12128. | 10 | 176,960 |
| TOWN OF GUILDERLAND | 242 UNION ST, SCHENECTADY, NY 12305 | 10 | 38,118 |
| TOWN OF NISKAYUNA | 230 UNION ST, SCHENECTADY, NY 12305 | 10 | 39,773 |
| TOWN OF ROTTERDAM | 242 UNION ST, SCHENECTADY, NY 12305 | 20 | 82,164 |
| TOWN OF STILLWATER | P O BOX 700, STILLWATER, NY 12170 | 10 | 46,255 |
| VILLAGE OF KIRYAS JOEL HSG AUTH | 500 FOREST RD STE 202, MONROE, NY 10950 | 25 | 306,996 |
| BOWLING GREEN HA | 304 NORTH CHURCH ST, BOWLING GREEN, OH 43402. | 20 | 68,559 |
| BUTLER MET. HA | 4110 HAMILTON-MIDDTOWN RD, PO BOX 357, HAMILTON, OH 45012. | 100 | 358,944 |
| CHILLICOTHE MET HA | 178 WEST FOURTH ST, CHILLICOTHE, OH 45601 | 50 | 136,002 |
| COLUMBUS METRO. HA | 960 EAST FIFTH AVE., COLUMBUS, OH 43201 | 100 | 403,908 |
| DELAWARE METRO HSG AUTH | 27½ N. UNION ST, PO BOX 1293, DELAWARE, OH 43015. | 70 | 273,344 |
| FAIRFIELD MHA | 1506 AMHERST PL, LANCASTER, OH 43130 | 20 | 91,005 |
| LICKING METRO HA | PO BOX 1029, MANSFIELD, OHIO, OH 44901 | 100 | 306,161 |
| MARION METRO HSG AUTH | P.O.BOX 1029, MANSFIELD, OH 44901 | 50 | 154,781 |
| MEDINA MHA | 850 WALTER RD, MEDINA, OH 44256 | 5 | 17,434 |
| TUSCARAWAS MHA | 134 2ND ST SW, NEW PHILADELPHIA, OH 44663 | 30 | 92,125 |
| ZANESVILLE MET HA | 407 PERSHING RD, ZANESVILLE, OH 43701 | 40 | 93,597 |
| OKLAHOMA CITY HSG AUTH | 1700 N E FOURTH ST, OKLAHOMA CITY, OK 73117. | 25 | 91,266 |
| TULSA HSG AUTH | P O BOX 6369, TULSA, OK 74148 | 100 | 445,728 |
| CENTRAL ORE REG HA | 2445 SW CANAL BLVD, REDMOND, OR 97756 | 50 | 132,972 |
| HA CITY OF SALEM | PO BOX 808, SALEM, OR 97308 | 100 | 364,260 |
| HSG AUTH OF JACKSON COUNTY | 2231 TABLE ROCK RD, MEDFORD, OR 97501 | 100 | 461,436 |
| HSG AUTH OF PORTLAND | 135 SW ASH ST, PORTLAND, OR 97204 | 100 | 505,475 |
| LINN-BENTON HSG AUTH | 1250 SE QUEEN AVE, ALBANY, OR 97321 | 100 | 380,604 |
| BLAIR COUNTY HSG AUTH | 1407 BLAIR ST VILLAGE, P O BOX 167, HOLLIDAYSBURG, PA 16648. | 25 | 108,735 |
| BUTLER COUNTY HSG AUTH | 111 SOUTH CLIFF ST, BUTLER, PA 16003 | 50 | 195,379 |
| LANCASTER HSG AUTH | 325 CHURCH ST, LANCASTER, PA 17602 | 50 | 177,300 |
| LEHIGH COUNTY HSG AUTH | 333 RIDGE ST, EMMAUS, PA 18049 | 50 | 268,512 |
| PHILADELPHIA HSG AUTH | 2012–18 CHESTNUT ST, PHILADELPHIA, PA 19103 | 100 | 565,536 |
| VENANGO COUNTY HSG AUTH | P O BOX 988, CHERRY HILL APTS, OIL CITY, PA 16301. | 50 | 227,118 |
| COVENTRY HSG AUTH | 14 MANCHESTER CIR, COVENTRY, RI 02816 | 50 | 258,533 |
| RHODE ISLAND HSG MORT FIN CORP | 44 WASHINGTON ST, PROVIDENCE, RI 02903 | 200 | 1,386,960 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| HA BEAUFORT | P O BOX 1104, BEAUFORT, SC 29901 | 10 | 40,227 |
| HA COLUMBIA | 1917 HARDEN ST, COLUMBIA, SC 29204 | 100 | 366,972 |
| BUTTE COUNTY HSG & REDEV COMM | 1220 CEDAR ST, STURGIS, SD 57785 | 8 | 27,811 |
| HURON HSG AUTH | PO BOX 283, HURON, SD 57350 | 15 | 33,874 |
| SIOUX FALLS HSG & REDEV COMM | 804 S. MINNESOTA, SIOUX FALLS, SD 57104 | 50 | 193,368 |
| YANKTON HSG & REDEV COMM | P O BOX 176, YANKTON, SD 57078 | 19 | 48,637 |
| CHATTANOOGA H/A | P O BOX 1486, CHATTANOOGA, TN 37401 | 100 | 398,964 |
| HA OAK RIDGE | 10 VAN HICKS LANE, OAK RIDGE, TN 37830 | 40 | 125,190 |
| KNOXVILLE COMMUNITY DEV'T CORP | P O BOX 3629, KNOXVILLE, TN 37937 | 90 | 334,020 |
| AMARILLO HSG AUTH | P O BOX 1971, 509 E. 7TH., AMARILLO, TX 79186 | 30 | 521,250 |
| ARLINGTON HSG AUTH | 501 W. SANFORD, STE 20, ARLINGTON, TX 76011 | 100 | 601,116 |
| CORPUS CHRISTI HSG AUTH | P O BOX 7019, CORPUS CHRISTI, TX 78467 | 14 | 78,250 |
| FORT WORTH HSG AUTH | PO BOX 430, 1201 E. 13TH. ST., FORT WORTH< TX 76101. | 100 | 2,538,230 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 25 | 142,453 |
| HSG AUTH OF DALLAS | 3939 N. Hampton RD., DALLAS, TX 75212 | 100 | 768,817 |
| HSG AUTH OF SAN ANGELO | PO BOX 1751, 115 W. FIRST ST., SAN ANGELO. TX 76902. | 20 | 69,939 |
| FORT WORTH HSG AUTH | P O BOX 430, 1201 E. 13TH. ST., FORT WORTH, TX 76101. | 100 | 2,538,230 |
| TARRANT COUNTY HSG ASSIST PROG | 1200 CIR DR., #100, FORT WORTH, TX 76119 | 100 | 422,016 |
| TEXOMA COUNCIL OF GOVERNMENTS | 3201 TEXOMA PKWY, STE 240, SHERMAN, TX 75090. | 50 | 179,082 |
| WALKER COUNTY HSG AUTH | P O BOX 1411, HUNTSVILLE, TX 77342 | 10 | 44,858 |
| SAN ANTONIO HSG AUTH | P O DRAWER 1300, SAN ANTONIO, TX 78295 | 100 | 2,224,280 |
| HSG AUTH OF THE COUNTY OF SALT LAKE | 3595 S. MAIN ST, SALT LAKE CITY, UT 84115 | 25 | 93,951 |
| HSG AUTH OF UTAH COUNTY | 240 EAST CENTER, PROVO, UT 84606 | 50 | 218,100 |
| WEST VALLEY CITY HSG AUTH | 3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT 84119. | 50 | 157,775 |
| CITY OF VIRGINIA BEACH | MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456 | 100 | 472,500 |
| WAYNESBORO REDEV & H/A | 1700 NEW HOPE RD, WAYNESBORO, VA 22980 | 10 | 26,874 |
| BURLINGTON HSG AUTH | 230 ST PAUL ST, BURLINGTON, VT 05401 | 102 | 638,640 |
| VERMONT STATE HSG AUTH | ONE PROSPECT ST, MONTPELIER, VT 05602 | 200 | 5,412,880 |
| WINOOSKI HSG AUTH | 83 BARLOW ST, WINOOSKI, VT 05404 | 66 | 303,188 |
| HA CITY OF KENNEWICK | P O BOX 6737, KENNEWICK, WA 99336 | 50 | 268,680 |
| HA CITY OF SPOKANE | W. 55TH MISSION, STE 104, SPOKANE, WA 99201 | 111 | 380,044 |
| HA COUNTY OF KING | 15455 65TH AVE SO, TUKWILA, WA 98188 | 100 | 2,886,585 |
| HA OF CITY OF SEATTLE | 120 SIXTH AVE NORTH, SEATTLE, WA 98109 | 100 | 505,332 |
| HA OF ISLAND COUNTY | 7 NORTHWEST 6TH ST, COUPEVILLE, WA 98239 | 15 | 72,353 |
| HSG AUTH CITY OF RICHLAND | 650 GEORGE WASHINGTON WAY, RICHLAND, WA 99352. | 100 | 579,780 |
| HSG AUTH OF SNOHOMISH COUNTY | 12625 4TH AVE W. STE 200, EVERETT, WA 98204 | 100 | 521,472 |
| MARSHFIELD HA | 601 S. CEDAR, MARSHFIELD, WI 54449 | 45 | 124,743 |
| WEST BEND HSG AUTH | 475 MEADOWBROOK DR., WEST BEND, WI 53095 | 50 | 182,544 |
| CHARLESTON HSG AUTH | P O BOX 86, CHARLESTON, WV 25321 | 100 | 440,676 |
| HSG AUTH OF MINGO COUNTY | P O BOX 2239, WILLIAMSON, WV 25661 | 100 | 369,444 |
| HUNTINGTON WV HSG AUTH | P.O. BOX 2183, HUNTINGTON, WV 25722 | 70 | 252,310 |
| Totals for Mainstream Program (Vouchers) | | 10,537 | $76,986,900 |
| **Mixed Population (Certificates)** | | | |
| CITY OF PHOENIX | 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85034. | 175 | $1,615,964 |
| COUNTY OF CONTRA COSTA HSG AUTH | 3133 ESTUDILLO ST, P O BOX 2759, MARTINEZ, CA 94553. | 200 | 2,970,944 |
| HSG AUTH COUNTY OF KERN | 525 ROBERTS LANE, BAKERSFIELD, CA 93308 | 45 | 379,152 |
| CITY OF JACKSONVILLE | 1300 BROAD ST, JACKSONVILLE, FL 32202 | 75 | 615,096 |
| HA DAYTONA BEACH | 118 CEDAR ST, DAYTONA BEACH, FL 32114 | 30 | 244,550 |
| BROCKTON HSG AUTH | 45 GODDARD RD, P O BOX 340, BROCKTON, MA 02303. | 50 | 521,784 |
| SOMERVILLE HSG AUTH | 30 MEMORIAL RD, SOMERVILLE, MA 02145 | 150 | 2,151,228 |
| WORCESTER HSG AUTH | 40 BELMONT ST, WORCESTER, MA 01605 | 100 | 1,039,040 |
| HSG AUTH OF BALTIMORE CITY | 417 E FAYETTE ST, BALTIMORE, MD 21202 | 200 | 2,220,496 |
| HA OF ROCHESTER | 140 WEST AVE, ROCHESTER, NY 14611 | 20 | 172,130 |
| LACKAWANNA COUNTY HSG AUTH | 2019 WEST PINE ST, DUNMORE, PA 18512 | 100 | 921,862 |
| PHILADELPHIA HSG AUTH | 2012–18 CHESTNUT ST, PHILADELPHIA, PA 19103 | 200 | 1,839,496 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 50 | 490,790 |
| BRATTLEBORO HSG AUTH | P O BOX 2275, BRATTLEBORO, VT 05301 | 75 | 617,364 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| Totals for Mixed Population (Certificates) | | 1,470 | $15,799,896 |
| **Mixed Population (Vouchers)** | | | |
| CITY OF PHOENIX | 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85034. | 25 | $237,202 |
| HSG AUTH COUNTY OF KERN | 525 ROBERTS LANE, BAKERSFIELD, CA 93308 | 105 | 775,578 |
| NORWALK HSG AUTH | 24½ MONROE ST, SOUTH NORWALK, CT 06854 | 50 | 917,982 |
| BROCKTON HSG AUTH | 45 GODDARD RD, P O BOX 340, BROCKTON, MA 02303. | 50 | 529,384 |
| BATTLE CREEK HSG COMM | 250 CHAMPION ST, BATTLE CREEK, MI 49017 | 100 | 711,692 |
| HA OF ROCHESTER | 140 WEST AVE, ROCHESTER, NY 14611 | 20 | 162,450 |
| WAYNESBORO REDEV & H/A | 1700 NEW HOPE RD, WAYNESBORO, VA 22980 | 25 | 128,596 |
| Totals for Mixed Population (Vouchers) | | 375 | $3,462,884 |
| **Preservations/Prepayments (Certificates)** | | | |
| ST FRANCIS COUNTY HSG AUTH | P O BOX 310, FORREST CITY, AR 72335 | 1 | $21,060 |
| CITY OF LOS ANGELES HSG AUTH | 2600 WILSHIRE BLVD., LOS ANGELES, CA 90057 | 195 | 757,162 |
| CITY OF HARTFORD | 10 PROSPECT ST, HARTFORD, CT 06103 | 6 | 3,336 |
| HA BRUNSWICK | P O BOX 1118, BRUNSWICK, GA 31521 | 72 | 185,865 |
| WARREN COUNTY HSG AUTH | 217 WEST SALEM, P O BOX 456, INDIANOLA, IA 50125. | 12 | 18,852 |
| CHICAGO HSG AUTH | 626 WEST JACKSON BLVD, CHICAGO, IL 60661 | 17 | 38,328 |
| VILLAGE OF PARK FOREST | 301 CENTRE, PARK FOREST, IL 60466 | 81 | 208,717 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O. BOX 7083, INDIANAPOLIS, IN 46207. | 0 | 264 |
| THE HSG AUTH OF THE CITY OF GOSHEN, | CITY OF GOSHEN 302 S 5TH ST, GOSHEN, IN 46526. | 0 | 4,308 |
| AMHERST HSG AUTH | 33 KELLOGG AVE, AMHERST, MA 01002 | 0 | 28,212 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 48 | 104,916 |
| COMM DEV PROG COMM OF MA., E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 10 | 22,752 |
| MILFORD HSG AUTH | 45 BIRMINGHAM CT, MILFORD, MA 01757 | 0 | 9,792 |
| NEW BEDFORD HSG AUTH | P O BOX A–2081, NEW BEDFORD, MA 02741 | 1 | 68,772 |
| NORTHAMPTON HSG AUTH | 49 OLD SOUTH ST, NORTHAMPTON, MA 01060 | 168 | 1,277,998 |
| PORTLAND HSG AUTH | 14 BAXTER BLVD, PORTLAND, ME 04101 | 1 | 26,208 |
| LANSING HSG COMMISSION | 310 SEYMOUR, LANSING, MI 48933 | 0 | 11,040 |
| MICHIGAN STATE HSG DEV'T | 401 S WASHINGTON SQUARE P.O. BOX, LANSING, MI 48909. | 0 | 5,640 |
| ST. CLOUD HRA | 619 MALL GERMAIN, STE 212, ST. CLOUD, MN 56301. | 12 | 17,414 |
| NORTHAMPTON COUNTY HSG AUTH | P O BOX 252, 15 S. WOOD ST, NAZARETH, PA 18064. | 0 | 144 |
| CENTRAL TEXAS COUNCIL OF GOVTS | P O BOX 729, 302 E. CENTRAL, BELTON, TX 76513. | 15 | 10,416 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23225 | 30 | 118,974 |
| OKANOGAN COUNTY HSG AUTH | P O BOX 1306, OKANOGAN, WA 98840 | 20 | 50,103 |
| Totals for Preservations/Prepayments (Certificates). | | 687 | $2,990,273 |
| **Preservations/Prepayments (Vouchers)** | | | |
| ST FRANCIS COUNTY HSG AUTH | P O BOX 310, FORREST CITY, AR 72335 | 35 | $82,673 |
| CITY OF PHOENIX | 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85034. | 71 | 285,685 |
| CITY OF TUCSON | 1501 N. ORACLE RD, STE 115, P O BOX 27210, TUCSON, AZ 85726. | 91 | 284,729 |
| ALAMEDA COUNTY HSG AUTH | 22941 ATHERTON ST, HAYWARD, CA 94541 | 209 | 1,411,034 |
| CITY OF BALDWIN PARK HSG AUTH | 14403 E PACIFIC AVE, BALDWIN PARK, CA 91706 | 36 | 164,214 |
| CITY OF GARDEN GROVE | 11400 STANFORD AVE, P O BOX 3070, GARDEN GROVE, CA 92842. | 25 | 136,367 |
| CITY OF OXNARD HSG AUTH | 1470 COLONIA RD, OXNARD, CA 93030 | 151 | 832,364 |
| CITY OF ROSEVILLE | ROSEVILLE HSG AUTH, 405 VERNON ST, ROSEVILLE, CA 95678. | 45 | 148,071 |
| CITY OF SACRAMENTO | P O BOX 1834, SACRAMENTO, CA 95812 | 389 | 1,306,317 |
| CITY OF VACAVILLE | 40 ELDRIDGE AVE, STES 1–5, VACAVILLE, CA 95687. | 41 | 93,708 |
| CITY OF VALLEJO | 555 SANTA CLARA ST, VALLEJO, CA 94590 | 14 | 46,087 |
| COUNTY OF BUTTE HSG AUTH | 580 VALLOMBROSA AVE, CHICO, CA 95926 | 82 | 208,061 |
| COUNTY OF LOS ANGELES HSG AUTH | 2 CORAL CIR, MONTEREY PARK, CA 91754 | 1 | 2,336 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| COUNTY OF ORANGE HSG AUTH | 1770 N BROADWAY, SANTA ANA, CA 92706 | 13 | 90,928 |
| COUNTY OF SACRAMENTO | P O BOX 1834, SACRAMENTO, CA 95812 | 160 | 679,601 |
| COUNTY OF SAN BERNARDINO HSG AUTH | 1053 NORTH D ST, SAN BERNARDINO, CA 92410 | 3 | 7,731 |
| COUNTY OF SAN DIEGO | 3989 RUFFIN RD, SAN DIEGO, CA 92123 | 44 | 163,007 |
| COUNTY OF SAN JOAQUIN HSG AUTH | P O BOX 447, STOCKTON, CA 95201 | 123 | 301,534 |
| COUNTY OF SANTA CLARA HSG AUTH | 505 WEST JULIAN ST, SAN JOSE, CA 95110 | 287 | 433,176 |
| HSG AUTH COUNTY OF KERN | 525 ROBERTS LANE, BAKERSFIELD, CA 93308 | 7 | 17,650 |
| PLACER COUNTY HSG AUTH | 11481 B AVE., STE 6, AUBURN, CA 95603 | 42 | 122,791 |
| ARVADA HSG AUTH | 8101 RALSTON RD, ARVADA, CO 80002 | 47 | 176,618 |
| COLORADO SPRINGS HSG AUTH | P O BOX 1575, COLORADO SPRINGS, CO 80903 | 88 | 116,129 |
| EL PASO COUNTY HSG AUTH | 30 SOUTH NEVADA, STE 304, COLORADO SPRINGS, CO 80903. | 78 | 425,091 |
| GREELEY HSG AUTH | 2448 1ST AVE, GREELEY, CO 80631 | 27 | 106,436 |
| HSG AUTH OF THE CITY OF LAKEWOOD | 445 S. ALLISON PKWY, LAKEWOOD, CO 80226 | 12 | 21,704 |
| CITY OF HARTFORD | 10 PROSPECT ST, HARTFORD, CT 06103 | 48 | 143,358 |
| WATERBURY HSG AUTH | 2 LAKEWOOD RD, WATERBURY, CT 06704 | 106 | 384,452 |
| WEST HARTFORD HSG AUTH | 759 FARMINGTON AVE, WEST HARTFORD, CT 06119. | 50 | 136,836 |
| WINCHESTER HSG AUTH | 80 CHESTNUT ST, WINSTED, CT 06098 | 38 | 98,861 |
| FORT WALTON BEACH H/A | 27 ROBINWOOD DR. SW, FORT WALTON BEACH, FL 32548. | 42 | 236,717 |
| HA TAMPA | 1514 UNION ST, TAMPA, FL 33607 | 174 | 544,628 |
| MIAMI DADE HSG AUTH | 1401 N.W. 7TH ST, MIAMI, FL 33125 | 168 | 426,691 |
| ORLANDO H/A | 300 REEVES CT, ORLANDO, FL 32801 | 175 | 728,381 |
| CITY OF MARIETTA | P O BOX 609, MARIETTA, GA 30061 | 87 | 421,830 |
| H/A DEKALB COUNTY | P O BOX 1627, DECATUR, GA 30031 | 153 | 630,518 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 64 | 260,518 |
| HA COLUMBUS GA GEN FUND ACCT CONSL | P O BOX 630, COLUMBUS, GA 31902 | 49 | 124,300 |
| HA MARIETTA | P O DRAWER K, MARIETTA, GA 30061 | 36 | 77,831 |
| CITY AND COUNTY OF HONOLULU | 715 SOUTH KING ST, HONOLULU, HI 96813 | 38 | 276,591 |
| CITY OF CEDAR RAPIDS | CITY HALL, CEDAR RAPIDS, IA 52401 | 48 | 80,355 |
| MUNICIPAL HSG AGENCY | 119 SOUTH MAIN ST, STE #200, COUNCIL BLUFFS, IA 51503. | 25 | 82,945 |
| CHICAGO HSG AUTH | 626 WEST JACKSON BLVD, CHICAGO, IL 60661 | 261 | 1,175,526 |
| DUPAGE COUNTY ILLINOIS | 128A S. COUNTY FARM RD, WHEATON, IL 60187 | 156 | 499,677 |
| HA ROCKFORD | 223 SOUTH WINNEBAGO ST, ROCKFORD, IL 61102. | 6 | 13,081 |
| BLOOMINGTON HSG AUTH | 1007 N SUMMIT, P O BOX 1815, BLOOMINGTON, IN 47402. | 5 | 62,416 |
| CITY OF INDIANAPOLIS | FIVE INDIANA SQ., SECOND FL, INDIANAPOLIS, IN 46204. | 172 | 448,768 |
| FORT WAYNE HA | P O BOX 13489, FORT WAYNE, IN 46869 | 50 | 104,238 |
| HSG AUTH CITY OF ELKHART | 1396 BENHAM AVE, ELKHART, IN 46516 | 43 | 83,314 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O.BOX 7083, INDIANAPOLIS, IN 46207. | 41 | 60,372 |
| PLYMOUTH HSG AUTH | 2124 WESTERN AVE, PLYMOUTH, IN 46563 | 9 | 35,799 |
| THE HSG AUTH OF THE CITY OF GOSHEN | 302 S 5TH ST, GOSHEN, IN 46526 | 32 | 75,860 |
| KENTUCKY HSG CORPORATION | 1231 LOUISVILLE RD, FRANKFORT, KY 40601 | 5 | 8,743 |
| JEFFERSON PARISH HSG AUTH. SEC.8 PROG | 1718 BETTY ST, MARRERO, LA 70072 | 47 | 69,656 |
| LAFAYETTE (CITY) HSG AUTH | 100 C O CIR, LAFAYETTE, LA 70501 | 80 | 190,570 |
| AMHERST HSG AUTH | 33 KELLOGG AVE, AMHERST, MA 01002 | 113 | 549,623 |
| COMM DEV PROG COMM OF MA.,E.O.C.D | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 137 | 1,017,576 |
| GREENFIELD HSG AUTH | ONE ELM TERRACE, GREENFIELD TOWN, MA 01301. | 72 | 274,870 |
| MILFORD HSG AUTH | 45 BIRMINGHAM CT, MILFORD, MA 01757 | 153 | 920,641 |
| NEW BEDFORD HSG AUTH | P O BOX A–2081, NEW BEDFORD, MA 02741 | 198 | 926,050 |
| BALTIMORE CO. HSG OFFICE | ONE INVESTMENT PL, STE P3, TOWSON, MD 21204. | 264 | 1,144,303 |
| HNG AUTH PRINCE GEORGES CO | 9400 PEPPERCORN PL, LANDOVER, MD 20785 | 173 | 678,896 |
| PORTLAND HSG AUTH | 14 BAXTER BLVD, PORTLAND, ME 04101 | 84 | 168,703 |
| CITY OF ANN ARBOR-COMM DEV'T | 100 NORTH FIFTH AVE, ANN ARBOR, MI 48107 | 0 | 600 |
| CITY OF LIVONIA | 19300 PURLINGBROOK, LIVONIA, MI 48152 | 0 | 10,824 |
| CITY OF PLYMOUTH HSG COMM | 1160 SHERIDAN, PLYMOUTH, MI 48170 | 0 | 10,800 |
| CITY OF WESTLAND | 32175 DORSEY RD, WESTLAND, MI 48185 | 0 | 11,400 |
| INKSTER HSG COMM | 4500 INKSTER RD, INKSTER, MI 48141 | 0 | 2,400 |
| LANSING HSG COMM | 310 SEYMOUR, LANSING, MI 48933 | 148 | 627,292 |
| LINCOLN PARK HSG COMM | 1356 ELECTRIC, LINCOLN PARK, MI 48146 | 0 | 1,188 |
| MICHIGAN STATE HSG DEV'T | 401 S WASHINGTON SQUARE P.O.BO, LANSING, MI 48909. | 25 | 74,153 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| MICHIGAN STATE HSG DEV'T | 401 S. WASHINGTON SQUARE, LANSING, MI 48909. | 97 | 244,612 |
| TOWNSHIP OF REDFORD | 12121 HEMINGWAY, REDFORD TWP, MI 48239 | 0 | 9,000 |
| METROPOLITAN COUNCIL | MEARS PARK CENTRE, 230 E. FIFTH ST, ST. PAUL, MN 55101. | 73 | 219,021 |
| HA SOUTH DELTA | P O BOX 5458, GREENVILLE, MS 38704 | 17 | 23,540 |
| MT DEPT OF COMMERCE | POB 200545, 836 FRONT ST, HELENA, MT 59620 | 19 | 11,864 |
| HA WILSON | P O BOX 3876, WILSON, NC 27895 | 64 | 139,630 |
| KINSTON H/A | P O BOX 697, KINSTON, NC 28502 | 35 | 80,309 |
| NASH EDGECOMBE ECON | P O BOX 2346, ROCKY MOUNT, NC 27802 | 6 | 9,190 |
| NC COMM OF INDIAN AFRS | 217 W. JONES ST, RALEIGH, NC 27603 | 2 | 1,278 |
| RALEIGH HA | P O BOX 28007, RALEIGH, NC 27611 | 118 | 503,921 |
| HSG AUTH OF CASS COUNTY | 230 8TH AVE WEST, WEST FARGO, ND 58078 | 21 | 82,097 |
| NEW HAMPSHIRE HSG FINANCE AUTH | P O BOX 5087, MANCHESTER, NH 03108 | 24 | 81,084 |
| ALBUQUERQUE HSG AUTH | 1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM 87106. | 62 | 218,533 |
| BERNALILLO COUNTY HSG DEPT | 620 LOMAS BLVD NW, ALBUQUERQUE, NM 87102 | 48 | 178,013 |
| CITY OF RENO HSG AUTH | 1525 EAST NINTH ST, RENO, NV 89512 | 166 | 656,485 |
| NORTH LAS VEGAS HSG AUTH | 1632 YALE ST, NORTH LAS VEGAS, NV 89030 | 32 | 97,759 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 38 | 177,178 |
| COLUMBUS METRO HSG AUTH | 960 EAST FIFTH AVE., COLUMBUS, OH 43201 | 226 | 802,748 |
| H.A. OF YAMHILL COUNTY | 414 N EVANS, MCMINNVILLE, OR 97128 | 3 | 8,840 |
| HA WASHINGTON COUNTY | 111 NE LINCOLN ST, STE 200–L, HILLSBORO, OR 97124. | 9 | 23,381 |
| LINN-BENTON HSG AUTH | 1250 SE QUEEN AVE, ALBANY, OR 97321 | 9 | 8,853 |
| MID COLUMBIA HSG AGENCY | 506 E 2ND, THE DALLES, OR 97058 | 3 | 3,231 |
| NORTHWEST OREGON HSG ASSOC | 1508 EXCHANGE, ASTORIA, OR 97103 | 14 | 32,608 |
| BERKS COUNTY HSG AUTH | 1803 BUTTER LANE, READING, PA 19606 | 127 | 224,161 |
| NORTHAMPTON COUNTY HSG AUTH | P O BOX 252, 15 S. WOOD ST, NAZARETH, PA 18064. | 165 | 299,752 |
| WESTMORELAND COUNTY HSG AUTH | R.D. #6, BOX 223, SOUTH GREENGATE RD, GREENSBURG, PA 15601. | 93 | 299,719 |
| CITY OF SPARTANBURG H/A | P O BOX 2828, SPARTANBURG, SC 29304 | 159 | 396,194 |
| HA FLORENCE | P O DRAWER 969, FLORENCE, SC 29503 | 54 | 122,543 |
| PENNINGTON COUNTY HSG & REDEV COMM | 1805 WEST FULTON ST, RAPID CITY, SD 57702 | 1 | 6,912 |
| KNOXVILLE COMMUNITY DEV'T CORP | P O BOX 3629, KNOXVILLE, TN 37937 | 0 | 105,930 |
| METROPOLITAN DEV'T & HSG AGENCY | 701 SIXTH ST, NASHVILLE-DAVIDSON, TN 37206 | 49 | 274,425 |
| ARLINGTON HSG AUTH | 501 W. SANFORD, STE 20, ARLINGTON, TX 76011 | 63 | 265,322 |
| CENTRAL TEXAS COUNCIL OF GOVTS | P O BOX 729, 302 E. CENTRAL, BELTON, TX 76513. | 1 | 624 |
| DENTON HSG AUTH | 308 S RUDDELL, DENTON, TX 76205 | 75 | 315,864 |
| HSG AUTH OF DALLAS | 3939 N. HAMPTON RD., DALLAS, TX 75212 | 44 | 147,664 |
| HSG AUTH OF KILLEEN | 731 WOLF ST., KILLEEN, TX 76541 | 72 | 181,380 |
| LANCASTER HSG AUTH | P O BOX 310, 246 E. FIRST ST., LANCASTER, TX 75146. | 112 | 456,440 |
| SAN ANTONIO HSG AUTH | P O DRAWER 1300, SAN ANTONIO, TX 78295 | 54 | 94,167 |
| SCHERTZ HSG AUTH | 204 SCHERTZ PKWY, SCHERTZ, TX 78154 | 10 | 23,155 |
| TARRANT COUNTY HSG ASSIST PROG | 1200 CIR DR., #100, FORT WORTH, TX 76119 | 105 | 211,209 |
| HSG AUTH OF THE COUNTY OF SALT LAKE | 3595 S. MAIN ST, SALT LAKE CITY, UT 84115 | 39 | 54,628 |
| ALEXANDRIA REDEV'T & H/A | 600 N FAIRFAX ST, ALEXANDRIA, VA 22314 | 215 | 849,985 |
| CHESAPEAKE REDEV'T & H/A | P O BOX 1304, CHESAPEAKE, VA 23320 | 178 | 347,264 |
| CITY OF VIRGINIA BEACH | MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456 | 390 | 902,656 |
| FAIRFAX CO REDEV'T & HSG AUTH | 3700 PENDER DR, FAIRFAX, VA 22030 | 88 | 315,060 |
| HAMPTON REDEV'T & HSG AUTH | P O BOX 280, HAMPTON, VA 23669 | 79 | 191,663 |
| NORFOLK REDEV'T & H/A | 201 GRANBY ST, NORFOLK, VA 23510 | 205 | 766,252 |
| PORTSMOUTH REDEV'T & H/A | 339 HIGH ST P O BOX 1098, PORTSMOUTH, VA 23705. | 123 | 274,472 |
| ROANOKE REDEV'T & H/A | P O BOX 6359, ROANOKE, VA 24017 | 2 | 5,266 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23220 | 120 | 600,914 |
| HA CITY OF SPOKANE | W. 55TH MISSION, STE 104, SPOKANE, WA 99201 | 13 | 20,086 |
| HA CITY OF VANCOUVER | 500 OMAHA WAY, VANCOUVER, WA 98661 | 16 | 69,985 |
| HA COUNTY OF KING | 15455 65TH AVE SO, TUKWILA, WA 98188 | 62 | 286,421 |
| HA OF CITY OF SEATTLE | 120 SIXTH AVE NORTH, SEATTLE, WA 98109 | 3 | 13,659 |
| WENATCHEE HSG AUTH | 1555 SOUTH METHOW, WENATCHEE, WA 98801 | 17 | 31,158 |
| BROWN COUNTY HSG AUTH | 100 N JEFFERSON ST, ROOM 6, GREEN BAY, WI 54301. | 1 | 1,041 |
| HSG AUTH OF THE CITY OF APPLETON | 525 NORTH ONEIDA ST, APPLETON, WI 54911 | 4 | 4,338 |
| MILWAUKEE CO HA | COURTHOUSE ANNEX RM 310, 907 N 10TH ST, MILWAUKEE, WI 53233. | 45 | 62,842 |
| WISCONSIN HSG & ECONOMIC DEV'T AUTH | P O BOX 1728, MADISON, WI 53701 | 40 | 120,886 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| Totals for Preservations/Prepayments (Vouchers) | | 9,606 | $33,523,405 |
| **Property Disposition Relocation (Certificates)** | | | |
| HSG AUTH OF BIRMINGHAM DISTRICT | 1826 3RD AVE SOUTH, BIRMINGHAM, AL 35233 | 107 | $464,853 |
| CITY OF HARTFORD | 10 PROSPECT ST, HARTFORD, CT 06103 | 91 | 748,931 |
| D.C. HSG AUTH | 1133 NORTH CAPITOL ST NE, WASHINGTON, DC 20002. | 19 | 172,008 |
| HNG AUTH PRINCE GEORGES CO | 9400 PEPPERCORN PL, LANDOVER, MD 20785 | 29 | 179,176 |
| MONTGOMERY CO HSG AUTH | 10400 DETRICK AVE, KENSINGTON, MD 20895 | 16 | 84,074 |
| MISSISSIPPI REG'L HSG AUTH VI | P O DRAWER 8746, JACKSON, MS 39284 | 120 | 456,048 |
| ALBANY HSG AUTH | 4 LINCOLN SQUARE, ALBANY, NY 12202 | 83 | 343,271 |
| CUYAHOGA MHA | 1441 WEST 25TH ST, CLEVELAND, OH 44113 | 291 | 1,554,542 |
| LORAIN MHA | 1600 KANSAS AVE, LORAIN, OH 44052 | 417 | 1,781,113 |
| S C STATE HSG FINANCE & DEV'T | 919 BLUFF RD, COLUMBIA, SC 29201 | 122 | 540,733 |
| TERRELL HSG AUTH | P O BOX 310, 201 E. NASH ST., TERRELL, TX 75160. | 232 | 1,661,760 |
| CITY OF VIRGINIA BEACH | MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456 | 125 | 709,290 |
| Totals for Property Disposition Relocation | | 1,652 | $8,695,799 |
| **Property Disposition Relocation (Vouchers)** | | | |
| MISSISSIPPI COUNTY PFB | 808 W KEISER, OSCEOLA, AR 72370 | 44 | 180,724 |
| WHITE RIVER REG'L HSG AUTH | P O BOX 650, MELBOURNE, AR 72556 | 9 | 21,532 |
| CITY OF HARTFORD | 10 PROSPECT ST, HARTFORD, CT 06103 | 139 | 1,076,077 |
| ORANGE CO COMM | P O BOX 1393, ORLANDO, FL 32802 | 36 | 198,389 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 19 | 142,349 |
| CHAMPAIGN HA | 102 EAST UNIVERSITY AVE., CHAMPAIGN, IL 61820. | 131 | 648,607 |
| CHICAGO HSG AUTH | 626 WEST JACKSON BLVD, CHICAGO, IL 60661 | 215 | 1,190,984 |
| EAST ST LOUIS HA | 700 N. 20TH. ST, EAST ST LOUIS, IL 62205 | 55 | 307,538 |
| CITY OF INDIANAPOLIS | FIVE INDIANA SQ., SECOND FL, INDIANAPOLIS, IN 46204. | 156 | 715,852 |
| HSG AUTH OF JEFFERSON COUNTY | 801 VINE ST, LOUISVILLE, KY 40204 | 99 | 684,509 |
| HAMMOND HSG AUTH | 411 WEST COLEMAN, HAMMOND, LA 70403 | 105 | 525,806 |
| HSG AUTH OF KANSAS CITY, MO | 712 BROADWAY, KANSAS CITY, MO 64105 | 24 | 96,783 |
| MO HSG DEV'T COMM | 3435 BROADWAY, KANSAS CITY, MO 64111 | 203 | 1,108,739 |
| ST. LOUIS HSG AUTH | 4100 LINDELL BLVD, ST. LOUIS, MO 63108 | 39 | 136,171 |
| HA SOUTH DELTA | P O BOX 5458, GREENVILLE, MS 38704 | 43 | 174,118 |
| DAYTON METROPOLITAN HA | 400 WAYNE AVE, DAYTON, OH 45410 | 36 | 151,655 |
| HUGO HSG AUTH | P O BOX 727, HUGO, OK 74743 | 17 | 62,003 |
| PUERTO RICO HSG FINANCE CORP | CALL BOX 71361-GPO, SAN JUAN, PR 00936 | 262 | 1,184,015 |
| BRAZOS VALLEY DEV'T COUNCIL | P O DRAWER 4128, BRYAN, TX 77805 | 82 | 499,202 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 89 | 439,127 |
| HSG AUTH OF DALLAS | 3939 N. HAMPTON RD., DALLAS, TX 75212 | 44 | 277,226 |
| Totals for Property Disposition Relocation (Vouchers). | | 1,847 | $9,821,406 |
| **Relocation/Replacement (Certificates)** | | | |
| H/A CITY OF MONTGOMERY | 1020 BELL ST, MONTGOMERY, AL 36104 | 8 | $67,998 |
| HA DECATUR | P O BOX 878, DECATUR, AL 35602 | 16 | 118,878 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 90 | 1,247,606 |
| HOLYOKE HSG AUTH | 475 MAPLE ST, HOLYOKE, MA 01040 | 119 | 1,455,210 |
| ST. LOUIS HSG AUTH | 4100 LINDELL BLVD, ST. LOUIS, MO 63108 | 12 | 187,490 |
| HA MIDEAST REGIONAL | PO BOX 474, WASHINGTON, NC 27889 | 20 | 241,900 |
| CARTERET HA | 96 ROOSEVELT AVE, CARTERET, NJ 07008 | 10 | 190,070 |
| CITY OF LAS VEGAS HSG AUTH | PO BOX 1897, LAS VEGAS, NV 89125 | 38 | 587,578 |
| METROPOLITAN DEV'T & HSG AGENCY | 701 SIXTH ST, NASHVILLE-DAVIDSON, TN 37206 | 43 | 481,730 |
| BOONE COUNTY HSG AUTH | BLACK DIAMOND ARBORS, LICK CREEK RD, DANVILLE, WV 25053. | 17 | 74,896 |
| Totals for Relocation/Replacement (Certificates) | | 373 | $4,653,356 |
| **Relocation/Replacement (Vouchers)** | | | |
| HA JASPER | PO BOX 582, JASPER, AL 35501 | 24 | $165,152 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| HSG AUTH OF BIRMINGHAM DISTRICT | 1826 3RD AVE SOUTH, BIRMINGHAM, AL 35233 | 405 | 3,126,286 |
| D.C. HSG AUTH | 1133 NORTH CAPITOL ST NE, WASHINGTON, DC 20002. | 139 | 3,734,422 |
| WILMINGTON HSG AUTH | 400 WALNUT ST, WILMINGTON, DE 19801 | 1 | 16,460 |
| HA TAMPA | 1514 UNION ST, TAMPA, FL 33607 | 400 | 6,893,448 |
| CITY OF INDIANAPOLIS | FIVE INDIANA SQ., SECOND FL, INDIANAPOLIS, IN 46204. | 81 | 721,652 |
| HA CITY OF EVANSVILLE | PO BOX 3605, 500 CT ST, EVANSVILLE, IN 47735 | 185 | 1,530,958 |
| MICHIGAN CITY HA | 621 EAST MICHIGAN BLVD, MICHIGAN, IN 46360 | 87 | 761,758 |
| CITY OF TOPEKA CITY HALL | 2010 SE CALIFORNIA, TOPEKA, KS 66607 | 100 | 1,024,274 |
| CITY OF PONTIAC | 1600 WEST WIDE TRACK DR, PONTIAC, MI 48058 | 50 | 685,560 |
| DAKOTA COUNTY HRA | 2496 145TH ST. WEST, ROSEMOUNT, MN 55068 | 3 | 53,504 |
| DULUTH HRA | 222 EAST 2ND ST, P O BOX 16900, DULUTH, MN 55816. | 8 | 59,552 |
| HA OF THE CITY OF CHARLOTTE | PO BOX 36795, CHARLOTTE, NC 28236 | 24 | 328,264 |
| CITY OF LAS VEGAS HSG AUTH | PO BOX 1897, LAS VEGAS, NV 89125 | 38 | 596,968 |
| CHATTANOOGA H/A | PO BOX 1486, CHATTANOOGA, TN 37401 | 22 | 209,534 |
| HSG AUTH OF BEAUMONT | PO BOX 1312, 4925 CONCORD RD., BEAUMONT, TX 77704. | 23 | 201,896 |
| HSG AUTH OF CITY OF KEYSER | 440 VIRGINIA ST, KEYSER, WV 26726 | 4 | 16,710 |
| Totals for Relocation/Replacement (Vouchers) | | 1,594 | $20,126,398 |
| **Section 8 Counseling (Certificates)** | | | |
| HARTFORD HSG AUTH | 475 FLATBUSH AVE, HARTFORD, CT 06106 | 0 | $300,000 |
| CITY OF GRAND RAPIDS | 1420 FULLER AVE SE, GRAND RAPIDS, MI 49507 | 0 | 300,000 |
| ALLEGHENY COUNTY HSG AUTH | 341 FOURTH AVE FIDELITY BL, PITTSBURGH, PA 15222. | 0 | 409,000 |
| Totals for Section 8 Counseling (Certificates) | | | $1,009,000 |
| **Section 811 Disabled (Certificates)** | | | |
| CITY OF LAKELAND H/A | PO BOX 1009, LAKELAND, FL 33802 | 25 | $491,880 |
| HA OF GENEVA | PO BOX 153, GENEVA, NY 14456 | 30 | 664,945 |
| Totals for Section 811 Disabled (Certificates) | | 55 | $1,156,825 |
| **Section 811 Disabled (Vouchers)** | | | |
| BURLINGTON HSG AUTH | 230 ST PAUL ST, BURLINGTON, VT 05401 | 100 | $2,436,840 |
| HA COUNTY OF KING | 15455 65TH AVE SO, TUKWILA, WA 98188 | 200 | 5,921,120 |
| Totals for Section 811 Disabled (Vouchers) | | 300 | $8,357,960 |
| **Terminations/Opt-outs (Certificates)** | | | |
| CITY OF PHOENIX | 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85034. | 22 | $92,764 |
| HSG AUTH OF THE COUNTY OF VENTURA | 1400 W HILLCREST DR, NEWBURY PARK, CA 91320. | 4 | 31,556 |
| CITY OF BALDWIN PARK HSG AUTH | 14403 E PACIFIC AVE, BALDWIN PARK, CA 91706 | 8 | 60,258 |
| CITY OF HAWTHORNE | 4455 W 126TH ST, HAWTHORNE, CA 90250 | 4 | 18,752 |
| CITY OF LOS ANGELES HSG AUTH | 2600 WILSHIRE BLVD., LOS ANGELES, CA 90057 | 1 | 10,665 |
| COUNTY OF LOS ANGELES HSG AUTH | 2 CORAL CIR, MONTEREY PARK, CA 91754 | 112 | 604,272 |
| COUNTY OF RIVERSIDE HSG AUTH | 5555 ARLINGTON AVE, RIVERSIDE, CA 92504 | 185 | 830,816 |
| COUNTY OF SAN BERNARDINO HSG AUTH | 1053 NORTH D ST, SAN BERNARDINO, CA 92410 | 113 | 603,023 |
| HSG AUTH OF PUEBLO | 1414 NO. SANTA FE AVE, PUEBLO, CO 81003 | 140 | 852,514 |
| BRIDGEPORT HSG AUTH | 150 HIGHLAND AVE, BRIDGEPORT, CT 06604 | 176 | 1,319,779 |
| HSG AUTH OF CITY OF NEW HAVEN | 360 ORANGE ST, NEW HAVEN, CT 06511 | 33 | 244,944 |
| WILMINGTON HSG AUTH | 400 WALNUT ST, WILMINGTON, DE 19801 | 22 | 126,598 |
| BROWARD COUNTY HSG AUTH | 1773 NORTH STATE RD 7, LAUDERHILL, FL 33313 | 87 | 614,632 |
| CITY OF MARIETTA | PO BOX 609, MARIETTA, GA 30061 | 45 | 326,734 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 54 | 356,219 |
| HA JONESBORO | PO BOX 458, JONESBORO, GA 30237 | 237 | 1,437,298 |
| HA MARIETTA | PO DRAWER K, MARIETTA, GA 30061 | 27 | 174,047 |
| BLOOMINGTON HSG AUTH | 1007 N SUMMIT, PO BOX 1815, BLOOMINGTON, IN 47402. | 26 | 145,803 |
| HSG AUTH OF BALTIMORE CITY | 417 E FAYETTE ST, BALTIMORE, MD 21202 | 42 | 343,822 |
| MONTGOMERY CO HSG AUTH | 10400 DETRICK AVE, KENSINGTON, MD 20895 | 88 | 869,459 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| INDEPENDENCE HSG AUTH | 2600 HUB DR NORTH, INDEPENDENCE, MO 64055 | 5 | 25,158 |
| HELENA HSG AUTH | 812 ABBEY ST, HELENA, MT 59601 | 38 | 213,450 |
| TOWNER COUNTY HSG AUTH | 808 E. 6TH ST, CANDO, ND 58324 | 14 | 18,447 |
| DOVER HSG AUTH | 62 WHITTIER ST, DOVER, NH 03820 | 20 | 163,190 |
| STATE OF NJ DEPT. OF COMM. AFFAIRS | 101 S. BROAD ST CN800, TRENTON, NJ 08625 | 42 | 339,927 |
| NEW YORK STATE HSG FIN. AGENCY | ONE FORDHAM PLAZA, BRONX, NY 10458 | 380 | 2,680,284 |
| HSG AUTH OF JACKSON COUNTY | 2231 TABLE ROCK RD, MEDFORD, OR 97501 | 7 | 40,901 |
| NORTHWEST OREGON HSG ASSOC | 1508 EXCHANGE, ASTORIA, OR 97103 | 66 | 365,091 |
| PHILADELPHIA HSG AUTH | 2012–18 CHESTNUT ST, PHILADELPHIA, PA 19103 | 32 | 231,448 |
| PUERTO RICO HSG FINANCE CORP | CALL BOX 71361-GPO, SAN JUAN, PR 00936 | 46 | 242,004 |
| SAN ANTONIO HSG AUTH | P O DRAWER 1300, SAN ANTONIO, TX 78295 | 38 | 123,386 |
| WEATHERFORD HSG AUTH | P O BOX 700, 1128 FORT WORTH HWY, WEATHERFORD, TX 76086. | 6 | 27,588 |
| OKANOGAN COUNTY HSG AUTH | P O BOX 1306, OKANOGAN, WA 98840 | 6 | 25,392 |
| BROWN COUNTY HSG AUTH | 100 N JEFFERSON ST, ROOM 6, GREEN BAY, WI 54301. | 49 | 213,956 |
| Totals for Terminations/Opt-outs (Certificates) | | 2,175 | $13,774,177 |
| **Terminations/Opt-outs (Vouchers)** | | | |
| HOT SPRINGS HSG AUTH | P O BOX 1257, HOT SPRINGS, AR 71902 | 69 | $232,572 |
| RUSSELLVILLE HSG AUTH(CITY | P O BOX 825, RUSSELLVILLE, AR 72801 | 100 | 443,016 |
| ST FRANCIS COUNTY HSG AUTH | P O BOX 310, FORREST CITY, AR 72335 | 19 | 40,835 |
| CITY OF MESA | 415 N. PASADENA ST, MESA, AZ 85201 | 40 | 221,914 |
| CITY OF PHOENIX | 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85034. | 170 | 1,070,494 |
| CITY OF SCOTTSDALE | 7522 E FIRST ST, SCOTTSDALE, AZ 85251 | 132 | 744,353 |
| CITY OF TUCSON | 1501 N. ORACLE RD, STE 115, P O BOX 27210, TUCSON, AZ 85726. | 32 | 136,721 |
| MARICOPA COUNTY HSG AUTH | 2024 N 7TH ST., STE 101, PHOENIX, AZ 85006 | 57 | 327,068 |
| ALAMEDA COUNTY HSG AUTH | 22941 ATHERTON ST, HAYWARD, CA 94541 | 26 | 142,928 |
| CITY OF FAIRFIELD | 823-B JEFFERSON ST, FAIRFIELD, CA 94533 | 36 | 166,168 |
| CITY OF SACRAMENTO | P O BOX 1834, SACRAMENTO, CA 95812 | 382 | 1,828,931 |
| CITY OF VACAVILLE | 40 ELDRIDGE AVE, STES 1–5, VACAVILLE, CA 95687. | 13 | 68,793 |
| CITY OF VALLEJO | CLARITA SACOTE, 555 SANTA CLARA ST, VALLEJO, CA 94590. | 28 | 190,899 |
| COUNTY OF LOS ANGELES HSG AUTH | 2 CORAL CIR, MONTEREY PARK, CA 91754 | 48 | 232,279 |
| COUNTY OF SANTA CLARA HSG AUTH | 505 WEST JULIAN ST, SAN JOSE, CA 95110 | 367 | 2,726,106 |
| HSG AUTH OF THE CITY OF LIVERMORE | 3203 LEAHY WAY, LIVERMORE, CA 94550 | 10 | 101,902 |
| SAN DIEGO HSG COMM | 1625 NEWTON AVE, SAN DIEGO, CA 92113 | 24 | 134,200 |
| SANTA CLARA COUNTY HSG AUTH | 505 WEST JULIAN ST, SAN JOSE, CA 95110 | 13 | 139,246 |
| ADAMS COUNTY HSG AUTH | 7190 COLORADO BLVD, 6TH FL, COMMERCE CITY, CO 80022. | 169 | 754,255 |
| ARVADA HSG AUTH | 8101 RALSTON RD, ARVADA, CO 80002 | 87 | 521,190 |
| AURORA HSG AUTH | 10745 E KENTUCKY AVE, AURORA, CO 80012 | 100 | 578,653 |
| COLORADO SPRINGS HSG AUTH | P O BOX 1575, COLORADO SPRINGS, CO 80903 | 69 | 296,527 |
| EL PASO COUNTY HSG AUTH | 30 SOUTH NEVADA, STE 304, COLORADO SPRINGS, CO 80903. | 25 | 181,740 |
| FORT COLLINS HSG AUTH | 1715 W. MOUNTAIN AVE., FORT COLLINS, CO 80521. | 11 | 77,144 |
| GRAND JUNCTION HSG AUTH | 805 MAIN ST, GRAND JUNCTION, CO 81501 | 62 | 271,247 |
| GREELEY HSG AUTH | 2448 1ST AVE, GREELEY, CO 80631 | 8 | 46,976 |
| HSG AUTH OF THE CITY & CO OF DENVER | P O BOX 40305-MILE HI STN, DENVER, CO 80204 | 22 | 146,609 |
| HSG AUTH OF THE CITY OF LAKEWOOD | 445 S. ALLISON PKWY, LAKEWOOD, CO 80226 | 96 | 602,435 |
| JEFFERSON COUNTY HSG AUTH | 6025 WEST 38TH AVE, WHEATRIDGE, CO 80033 | 24 | 147,714 |
| LOVELAND HSG AUTH | 2105 MAPLE DR, LOVELAND, CO 80538 | 56 | 343,818 |
| CITY OF HARTFORD | 10 PROSPECT ST, HARTFORD, CT 06103 | 49 | 352,257 |
| WEST HARTFORD HSG AUTH | 759 FARMINGTON AVE, WEST HARTFORD, CT 06119. | 38 | 117,671 |
| COLLIER COUNTY HA | 1800 FARM WORKER WAY, IMMOKALEE, FL 33934. | 91 | 703,744 |
| FORT WALTON BEACH H/A | 27 ROBINWOOD DR. SW, FORT WALTON BEACH, FL 32548. | 19 | 100,745 |
| HA TAMPA | 1514 UNION ST, TAMPA, FL 33607 | 51 | 253,476 |
| ORLANDO H/A | 300 REEVES CT, ORLANDO, FL 32801 | 16 | 77,089 |
| HA ATLANTA GA | 739 WEST PEACHTREE ST NE, ATLANTA, GA 30365. | 25 | 182,142 |
| HA SAVANNAH | P O BOX 1179, SAVANNAH, GA 31402 | 10 | 50,155 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| HSG AUTH CITY OF POCATELLO | 711 NORTH 6TH AVE, PO BOX 4161, POCATELLO, ID 83201. | 3 | 11,180 |
| IDAHO HSG AND FINANCE ASSOC | 565 W MYRTLE ST, POB 7899, BOISE, ID 83707 | 29 | 78,700 |
| CHICAGO HSG AUTH | 626 WEST JACKSON BLVD, CHICAGO, IL 60661 | 331 | 2,685,953 |
| EAST ST LOUIS HA | 700 N. 20TH. ST, EAST ST LOUIS, IL 62205 | 55 | 307,538 |
| HSG AUTH OF THE COUNTY OF COOK | 59 E VAN BUREN STE 1802, CHICAGO, IL 60605 | 55 | 357,368 |
| PEORIA HA | 100 S. SHERIDAN RD, PEORIA, IL 61605 | 48 | 215,670 |
| BLOOMINGTON HSG AUTH | 1007 N SUMMIT, P O BOX 1815, BLOOMINGTON, IN 47402. | 223 | 1,190,603 |
| CITY OF INDIANAPOLIS | FIVE INDIANA SQ., SECOND FL, INDIANAPOLIS, IN 46204. | 124 | 554,608 |
| FORT WAYNE HA | P O BOX 13489, FORT WAYNE, IN 46869 | 62 | 225,703 |
| HSG AUTH CITY OF ELKHART | 1396 BENHAM AVE, ELKHART, IN 46516 | 56 | 213,878 |
| INDIANA DEPT OF HUMAN SERVICES | 251 N. ILLINOIS P.O. BOX 7083, INDIANAPOLIS, IN 46207. | 19 | 63,588 |
| PLYMOUTH HSG AUTH | 2124 WESTERN AVE, PLYMOUTH, IN 46563 | 32 | 80,778 |
| THE HSG AUTH OF THE CITY OF GOSHEN | 302 S 5TH ST, GOSHEN, IN 46526 | 37 | 133,990 |
| WICHITA HSG AUTH | 455 N MAIN CITY HALL 11TH FLO, WICHITA, KS 67202. | 43 | 295,016 |
| HA MAYSVILLE | P O BOX 446, MAYSVILLE, KY 41056 | 34 | 105,695 |
| KENTUCKY HSG CORPORATION | 1231 LOUISVILLE RD, FRANKFORT, KY 40601 | 50 | 147,288 |
| BOSTON HSG AUTH | 52 CHAUNCY ST, BOSTON, MA 02111 | 3 | 50,642 |
| COMM DEV PROG COMM OF MA.,E.O.C.D. | 100 CAMBRIDGE ST, BOSTON, MA 02202 | 18 | 177,525 |
| DEPT. OF HSG & COMMUNITY DEV'T | 100 COMMUNITY PL, CROWNSVILLE, MD 21032 | 56 | 232,573 |
| HNG AUTH PRINCE GEORGES CO | 9400 PEPPERCORN PL, LANDOVER, MD 20785 | 36 | 306,100 |
| CITY OF LIVONIA | 19300 PURLINGBROOK, LIVONIA, MI 48152 | 59 | 274,596 |
| CITY OF TAYLOR HSG COMM | 15270 PLAZA S. DR, TAYLOR, MI 48180 | 29 | 169,765 |
| DETROIT HSG DEPT | 2211 ORLEANS, DETROIT, MI 48207 | 112 | 492,833 |
| MICHIGAN STATE HSG DEV'T AUTH | 401 S. WASHINGTON SQUARE, LANSING, MI 48909. | 28 | 132,598 |
| ST CLAIR SHORES HSG COMM | 1000 BLOSSOM HEATH BLVD, ST CLAIR SHORES, MI 48080. | 16 | 81,249 |
| METROPOLITAN COUNCIL | MEARS PARK CENTRE, 230 E. FIFTH ST, ST. PAUL, MN 55101. | 52 | 273,771 |
| NW MN MULTI-COUNTY HRA | P O BOX 128, MENTOR, MN 56736 | 11 | 34,452 |
| HSG AUTH OF KANSAS CITY, MO | 712 BROADWAY, KANSAS CITY, MO 64105 | 41 | 163,692 |
| MARIANA ISLANDS HSG AUTH | P O BOX 514, SAIPAN, MP 96950 | 20 | 243,972 |
| HA SOUTH DELTA | P O BOX 5458, GREENVILLE, MS 38704 | 49 | 172,937 |
| MISSOULA HSG AUTH | 1319 E. BROADWAY, MISSOULA, MT 59802 | 58 | 170,875 |
| MT DEPT OF COMMERCE | POB 200545, 836 FRONT ST, HELENA, MT 59620 | 70 | 189,206 |
| CITY OF CONCORD | P O BOX 308, CONCORD, NC 28026 | 32 | 159,421 |
| GASTONIA H/A | P O BOX 2398, GASTONIA, NC 28053 | 13 | 74,469 |
| HA DURHAM | P O BOX 1726, DURHAM, NC 27702 | 26 | 125,207 |
| HA GREENSBORO | P O BOX 21287, GREENSBORO, NC 27420 | 8 | 35,721 |
| HA HIGH POINT | P O BOX 1779, HIGH POINT, NC 27261 | 28 | 120,610 |
| HA OF THE CITY OF CHARLOTTE | P O BOX 36795, CHARLOTTE, NC 28236 | 46 | 175,668 |
| HSG AUTH OF THE CITY OF WILMINGTON | P O BOX 899, WILMINGTON, NC 28402 | 343 | 2,257,334 |
| KINSTON H/A | P O BOX 697, KINSTON, NC 28502 | 13 | 42,582 |
| NC COMM OF INDIAN AFFAIRS | 217 W. JONES ST, RALEIGH, NC 27603 | 29 | 74,868 |
| EDDY COUNTY HSG AUTH | 524 CENTRAL AVE, NEW ROCKFORD, ND 58356 | 9 | 16,117 |
| HSG AUTH OF CASS COUNTY | 230 8TH AVE WEST, WEST FARGO, ND 58078 | 30 | 181,368 |
| HSG AUTH OF LINCOLN | 5700 "R" ST, P O BOX 5327, LINCOLN, NE 68505 | 12 | 39,277 |
| NEW HAMPSHIRE HSG FINANCE AUTH | PO BOX 5087, MANCHESTER, NH 03108 | 24 | 83,100 |
| ALBUQUERQUE HSG AUTH | 1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM 87106. | 167 | 925,231 |
| BERNALILLO COUNTY HSG DEPT | 620 LOMAS BLVD NW, ALBUQUERQUE, NM 87102 | 167 | 840,555 |
| CITY OF LAS VEGAS HSG AUTH | P O BOX 1897, LAS VEGAS, NV 89125 | 15 | 116,064 |
| CITY OF RENO HSG AUTH | 1525 EAST NINTH ST, RENO, NV 89512 | 63 | 364,945 |
| COUNTY OF CLARK HSG AUTH | 5390 EAST FLAMINGO RD, LAS VEGAS, NV 89122 | 14 | 71,030 |
| HA OF ROCHESTER | 140 WEST AVE, ROCHESTER, NY 14611 | 124 | 661,974 |
| NEW YORK CITY HSG AUTH | 250 BROADWAY, NEW YORK, NY 10007 | 142 | 1,163,716 |
| CHILLICOTHE MET HA | 178 WEST FOURTH ST, CHILLICOTHE, OH 45601 | 28 | 87,639 |
| CINCINNATI METRO. HSG AUTH | 16 WEST CENTRAL PKWY, CINCINNATI, OH 45210 | 39 | 175,853 |
| COLUMBUS METRO. HSG AUTH | 960 EAST FIFTH AVE., COLUMBUS, OH 43201 | 301 | 1,226,486 |
| DAYTON METROPOLITAN HA | 400 WAYNE AVE, DAYTON, OH 45410 | 33 | 151,516 |
| GREENE MET HA | 538 NORTH DETROIT ST., XENIA, OH 45385 | 88 | 456,618 |
| HURON MHA | P O BOX 1029, 150 PARK AVE WEST, MANSFIELD, OH 44901. | 65 | 166,819 |
| MARION METRO HSG AUTH | P.O. BOX 1029, MANSFIELD, OH 44901 | 9 | 27,665 |
| OKLAHOMA CITY HSG AUTH | 1700 N E FOURTH ST, OKLAHOMA CITY, OK 73117. | 89 | 501,106 |

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1998—Continued

| Housing agency | Address | Units | Award |
|---|---|---|---|
| H.A. OF YAMHILL COUNTY | 414 N EVANS, MCMINNVILLE, OR 97128 | 20 | 109,765 |
| HA & COMMUNITY SVS AGENCY LANE CO. | 177 DAY ISLAND RD, EUGENE, OR 97401 | 30 | 102,168 |
| LINN-BENTON HSG AUTH | 1250 SE QUEEN AVE, ALBANY, OR 97321 | 34 | 151,123 |
| MID COLUMBIA HSG AGENCY | 506 E 2ND, THE DALLES, OR 97058 | 29 | 135,430 |
| NORTHWEST OREGON HSG ASSOC | 1508 EXCHANGE, ASTORIA, OR 97103 | 24 | 62,237 |
| HSG AUTH CITY OF PITTSBURGH | 200 ROSS ST, PITTSBURGH, PA 15219 | 107 | 379,325 |
| CITY OF ROCK HILL | P O BOX 11579, ROCK HILL, SC 29731 | 21 | 68,508 |
| CITY OF SPARTANBURG H/A | P O BOX 2828, SPARTANBURG, SC 29304 | 148 | 617,168 |
| HA FLORENCE | P O DRAWER 969, FLORENCE, SC 29503 | 57 | 209,511 |
| HA GREENVILLE | P O BOX 10047, GREENVILLE, SC 29603 | 289 | 1,201,463 |
| PENNINGTON COUNTY HSG & REDEV COMM | 1805 WEST FULTON ST, RAPID CITY, SD 57702 | 29 | 149,623 |
| VERMILLION HSG & REDEV COMM | PO BOX 362, VERMILLION, SD 57069 | 5 | 10,987 |
| HA JOHNSON CITY | P O BOX 59, JOHNSON CITY, TN 37605 | 15 | 49,711 |
| KNOXVILLE COMMUNITY DEV'T CORP | P O BOX 3629, KNOXVILLE, TN 37937 | 206 | 519,848 |
| TENNESSEE HSG DEV AGENCY | 404 J. ROBERTSON PKWY, STE 1114, NASHVILLE-DAVIDSON, TN 37243. | 6 | 13,887 |
| ALAMO AREA COUNCIL OF GOV'T | 118 BROADWAY, STE 400, SAN ANTONIO, TX 78205. | 80 | 368,976 |
| DALLAS COUNTY HSG ASSIST PROG | 2377 N. STEMMONS FREEWAY, STE 201, DALLAS, TX 75207. | 243 | 1,986,226 |
| FORT WORTH HSG AUTH | P O BOX 430, 1201 E. 13TH. ST., FORT WORTH, TX 76101. | 12 | 64,037 |
| GALVESTON HSG AUTH | 920 53RD ST, GALVESTON, TX 77550 | 48 | 198,851 |
| GARLAND HSG AUTH | P O BOX 469002, 701 CLARK ST., GARLAND, TX 75046. | 60 | 429,624 |
| HARRIS COUNTY HSG & COMM DEV'T AGENCY | 3100 TIMMONS LANE STE 200, HOUSTON, TX 77027. | 86 | 405,645 |
| HOUSTON HSG AUTH | 2640 FOUNTAIN VIEW, HOUSTON, TX 77057 | 18 | 88,856 |
| HSG AUTH OF BEAUMONT | P O BOX 1312, 4925 CONCORD RD., BEAUMONT, TX 77704. | 47 | 195,168 |
| HSG AUTH OF DALLAS | 3939 N. HAMPTON RD., DALLAS, TX 75212 | 248 | 1,646,636 |
| HSG AUTH OF PLANO | 1111 AVE H, BLDG. A, PLANO, TX 75074 | 40 | 220,584 |
| HSG AUTH OF PORT ARTHUR | P O BOX 2295, 920 DEQUEEN BLVD., PORT ARTHUR, TX 77643. | 4 | 16,520 |
| MESQUITE HSG AUTH | P O BOX 850137, 720 N. EBRITE, MESQUITE, TX 75185. | 268 | 1,375,675 |
| PASADENA (CITY OF) | P O BOX 672, PASADENA, TX 77501 | 35 | 157,308 |
| WICHITA FALLS HSG ASSIST PROG | P O BOX 1431, 1300 SEVENTH ST., WICHITA FALLS, TX 76307. | 20 | 76,924 |
| DAVIS COUNTY HSG AUTH | P O BOX 328, FARMINGTON, UT 84025 | 14 | 53,518 |
| HSG AUTH OF THE COUNTY OF SALT LAKE | 3595 S. MAIN ST, SALT LAKE CITY, UT 84115 | 99 | 456,845 |
| VIRGINIA HSG DEV'T AUTH | 601 S. BELVIDERE ST, RICHMOND, VA 23220 | 248 | 2,282,234 |
| HA CITY OF SPOKANE | W. 55TH MISSION, STE 104, SPOKANE, WA 99201 | 12 | 63,700 |
| HA CITY OF TACOMA | 902 SOUTH "L" ST, TACOMA, WA 98405 | 191 | 772,580 |
| HA CITY OF VANCOUVER | 500 OMAHA WAY, VANCOUVER, WA 98661 | 90 | 393,785 |
| HA CITY OF WALLA WALLA | 411 W. MAIN ST, WALLA WALLA, WA 99362 | 12 | 34,409 |
| HA OF CITY OF SEATTLE | 120 SIXTH AVE NORTH, SEATTLE, WA 98109 | 3 | 15,063 |
| HSG AUTH CITY OF EVERETT | 3107 COLBY AVE, EVERETT, WA 98206 | 158 | 906,596 |
| HSG AUTH OF LONGVIEW | 1207 COMMERCE AVE, LONGVIEW, WA 98632 | 42 | 104,076 |
| HSG AUTH OF SNOHOMISH COUNTY | 12625 4TH AVE W. STE 200, EVERETT, WA 98204 | 40 | 202,205 |
| CHIPPEWA CO. HSG AUTH | 711 NORTH BRIDGE ST, CHIPPEWA, WI 54729 | 12 | 22,880 |
| HSG AUTH OF THE CITY OF APPLETON | 525 NORTH ONEIDA ST, APPLETON, WI 54911 | 64 | 287,516 |
| MILWAUKEE CO HA | COURTHOUSE ANNEX RM 310, 907 N 10TH ST, MILWAUKEE, WI 53233. | 59 | 226,254 |
| WISCONSIN HSG & ECONOMIC DEV AUTH | P O BOX 1728, MADISON, WI 53701 | 44 | 173,813 |
| HSG AUTH OF THE CITY OF CHEYENNE | 3304 SHERIDAN AVE, CHEYENNE, WY 82009 | 75 | 227,952 |
| Totals for Terminations/Opt-outs (Vouchers) | | 9,802 | $52,146,523 |
| Grand Total | | 52,784 | $424,249,176 |

[FR Doc. 99–2054 Filed 1–28–99; 8:45 am]

BILLING CODE 4210–33–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4432–N–04]**

### Federal Property Suitable as Facilities to Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD by suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** January 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1998 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 21, 1999.

**Fred Karnas, Jr.,**

*Deputy Assistant Secretary for Economic Development.*

[FR Doc. 99–1859 Filed 1–28–99; 8:45 am]

BILLING CODE 4210–29–M

## DEPARTMENT OF THE INTERIOR

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Office of American Indian Trust, Interior.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501. *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden. Specifically, the Department of the Interior invites comments by the public on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical use; the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of collection on those who are to respond.

**DATES:** OMB has up to 60 days to approve or disapprove this information collection but may respond after 30 days; therefore, public comments should be submitted to OMB on or before March 1, 1999.

**ADDRESSES:** Comments should be sent to: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Copies of any comments should be sent to: Director, Office of American Indian Trust, United States Department of the Interior, 1849 C Street, NW, MS 2472 MIB, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Lohah Homer, Director, Office of American Indian Trust, United States Department of the Interior, 1849 C Street, NW, MS 2472 MIB, Washington, D.C.20240. Telephone: (202) 208–3338.

**SUPPLEMENTARY INFORMATION:**

*Title:* Evaluation of the Performance of Trust Functions Performed by Tribes under Self-Governance Compacts (OMB Control No. 1076–0146). This is a request for an extension of a currently approved information collection.

*Abstract:* This collection of information will be made to ensure compliance with 25 U.S.C. 458cc(d) which requires that the Secretary of the Interior monitor the performance of trust functions which have been assumed under Self-Governance funding agreements negotiated between the Secretary and an Indian Tribe/Consortia (hereinafter the respondent).

This information collection addresses those statutory and regulatory performance requirements imposed upon the respondent through the assumption of a particular trust function, through a formal Self-Governance agreement pursuant to the Self-Governance Act (P.L. 103–413) which, if not performed properly, may create imminent jeopardy to a trust asset. The information will be used by the Department of the Interior to determine if there is imminent jeopardy to any asset held in trust by the United States for an Indian Tribe or individual Indian that are being managed by a Tribe/Consortium on behalf of the United States pursuant to a Self-Governance agreement.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1076–0146. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 6, 1998 (Vol. 63, No. 215, Page 60016). There were no comments received.

*Burden Statement:* There is no preliminary work nor is any follow-up work required of the respondents. There are no forms to complete. The annual hour burden is calculated by the amount of time that the reviewer spends at each program site interviewing the respondents and collecting file information. Currently there are 63 respondents. The time required ranges from 4 person/hours to 80 person/hours. Based on the size and complexity of the current programs, the average hours spent for each annual evaluation is estimated at 24 person/hours. $63 \times 24 =$ 1,512 person/hours per year for the collection of information.

Dated: January 25, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99–2179 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–02–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Information Collections Submitted to the Office of Management and Budget for Approval Under the Paperwork Reduction Act

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comments.

**SUMMARY:** The collection of information described below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of the specific

information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address provided below.

**DATES:** Consideration will be given to all comments received on or before March 1, 1999. OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by the above referenced date.

**ADDRESSES:** Comments and suggestions on the requirement should be sent to Rebecca Mullin, Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 860—ARLSQ, 1849 C Street, NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at 703/358–2287, or electronically to rmullin@fws.gov.

**SUPPLEMENTARY INFORMATION:** The OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On Monday, August 24, 1998, the U.S. Fish and Wildlife Service (Service) was given emergency approval by OMB for collection of information in order to continue the grants programs currently conducted under the North American Wetlands Conservation Act (Pub. L. 101–233, as amended; December 13, 1989). The assigned OMB information collection control number is 1018–0100, and temporary approval expires in February 1999. The Service is requesting a three year term of approval for this information collection activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Service previously published a 60-day notice on the information collections associated with these grants programs (63 FR 49706; Thursday, September 17, 1998). The comment period for this notice expired on November 16, 1998, and the Service is in this notice requesting comment for the 30-day period following the date of publication in the **Federal Register**. No comments were provided to the Service Information Collection Clearance Officer as a result of the September 17 notice.

Comments are invited on : (1) 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; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

*Title:* Information Collection In Support of Grant Programs Authorized by the North American Wetlands Conservation Act of 1989 (NAWCA).

*Approval Number:* 1018–0100.

*Service Form Number(s):* N/A.

*Description and Use:* The North American Waterfowl Management Plan (NAWMP), first signed in 1986, is a tripartite agreement among Canada, Mexico and the United States to enhance, restore and otherwise protect continental wetlands to benefit waterfowl and other wetland associated wildlife through partnerships between and among the private and public sectors. Because the 1986 NAWMP did not carry with it a mechanism to provide for broadly-based and sustained financial support for wetland conservation activities, Congress passed and the President signed into law the NAWCA to fill that funding need. The purpose of NAWCA, as amended, is to promote long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish and wildlife that depend upon such habitat through partnerships. Principal conservation actions supported by NAWCA are acquisition, enhancement and restoration of wetlands and wetlands-associated habitat.

As well as providing for a continuing and stable funding base, NAWCA establishes an administrative body, made up of a State representative from each of the four Flyways, three representatives from wetlands conservation organizations, the Secretary of the Board of the National Fish and Wildlife Foundation, and the Director of the Service. This administrative body is chartered, under the Federal Advisory Committee Act, by the U.S. Department of the Interior as the North American Wetlands Conservation Council (Council). As such, the purpose of the Council is to recommend wetlands conservation project proposals to the Migratory Bird Conservation Commission (MBCC) for funding.

Subsection (c) of Section 5 (Council Procedures) provides that the ''. . . Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section . . .'' which are consideration of projects and recommendations to the MBCC, respectively. The means by which the Council decides which project proposals are important to recommend to the MBCC is through grants programs that are coordinated through the Council Coordinator's office (NAWWO) within the Service.

Competing for grant funds involves applications from partnerships that describe in substantial detail project locations and other characteristics, to meet the standards established by the Council and the requirements of NAWCA. The Council Coordinator's office publishes and distributes Standard and Small Grants instructional booklets that assist the applicants in formulating project proposals for Council consideration. The instructional booklets and other instruments, e.g., **Federal Register** notices on request for proposals, are the basis for this information collection request for OMB clearance. Information collected under this program is used to respond to such needs as: audits, program planning and management, program evaluation, Government Performance and Results Act reporting, Standard Form 424 (Application For Federal Assistance), grant agreements, budget reports and justifications, public and private requests for information, data provided to other programs for databases on similar programs, Congressional inquiries and reports required by NAWCA, etc.

In summary, information collection under these programs is required to obtain a benefit, i.e., a cash reimbursable grant that is given competitively to some applicants based on eligibility and relative scale of resource values involved in the projects. The information collection is subject to the Paperwork Reduction Act requirements for such activity, which includes soliciting comments from the general public regarding the nature and burden imposed by the collection.

*Frequency of Collection:* Occasional. The Small Grants program has one project proposal submissions window per year and the Standard Grants program has two per year.

*Description of Respondents:* Households and/or individuals; business and/or other for-profit; not-for-profit institutions; farms; Federal Government; and State, local and/or Tribal governments.

*Estimated Completion Time:* The reporting burden, or time involved in writing project proposals, is estimated to be 80 hours for a Small Grants submission and 400 hours for a Standard Grants submission.

*Number of Respondents:* It is estimated that 150 proposals will be submitted each year, 70 for the Small Grants program and 80 for the Standard Grants program.

Dated: January 13, 1999.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 99–2164 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Endangered Species Permit Applications

**AGENCY:** Fish and Wildlife Service.

**ACTION:** Notice of receipt of permit applications.

**SUMMARY:** The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

*Permit No.:* TE–007200.

*Applicant:* Bryan G. Carey, Riverside, California.

The applicant requests a permit to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) and the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with presence or absence surveys throughout each species' range for the purpose of enhancing their survival.

*Permit No.:* TE–834489.

*Applicant:* Stacie Tennant, Costa Mesa, California.

The applicant requests a permit amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout Riverside, Orange, and San Diego Counties, California for the purpose of enhancing its survival.

*Permit No.:* TE–007216.

*Applicant:* Kenneth J. Halama, Irvine, California.

The applicant requests a permit to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout Riverside, Orange, and San Diego Counties, California for the purpose of enhancing its survival.

*Permit No.:* TE–787645.

*Applicant:* Thomas Olsen Associates, Incorporated, Hemet, California.

The applicant requests a permit amendment to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout Riverside and San Diego Counties, California for the purpose of enhancing its survival.

*Permit No.:* TE–007277.

*Applicant:* Carol A. Hertzog, Vista, California.

The applicant requests a permit to take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout the range of the species range for the purpose of enhancing its survival.

*Permit No.:* TE–004939.

*Applicant:* Gordon Pratt, Riverside, California.

The applicant requests a permit to take (harass by survey, collect for captive propagation, handle, and release) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by survey) the Laguna Mountains skipper (*Pyrgus ruralis lagunae*) in conjunction with presence and absence surveys and scientific research throughout each species' range for the purpose of enhancing their survival.

**DATES:** Written comments on these permit applications must be received by March 1, 1999.

**ADDRESSES:** Written data or comments should be submitted to the Chief, Division of Recovery, Planning and Permits, Ecological Services, Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: January 25, 1999.

**Thomas J. Dwyer,**

*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 99–2212 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–015–99–1610–00; G9–0080]**

### Notice of Prohibited Acts

**AGENCY:** Bureau of Land Management, Lakeview District.

**ACTION:** Notice of Prohibited Acts.

**SUMMARY:** The Lakeview District is publishing certain closures and restrictions for the purpose of establishing a supplemental rule for the protection of persons and resources. Pursuant to 43 CFR 1610.7–2 and 8364.1, the following restriction was issued and published as an emergency closure to firewood gathering and cutting in the Lost Forest/Sand Dunes Area of Critical Environmental Concern (ACEC) in the **Federal Register**: October 20, 1998 (Volume 63, Number 202, Page 56042). Pursuant to 43 CFR 8364.1, this notice establishes the emergency closure as a supplemental rule.

**PENALTIES:** Violation of this closure is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. Authority for this penalty is found in 43 CFR 8360.0–7.

**FOR FURTHER INFORMATION CONTACT:** Scott R. Florence, Manager, Lakeview Resource Area, P.O. Box 151, Lakeview, OR 97639, or telephone (541) 947–2177.

Dated: January 14, 1999.

**Scott R. Florence,**

*Acting District Manager.*

[FR Doc. 99–2076 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–050–1110–04; GP90083]**

### Seasonal Closure (Dec 1 to May 1) of BLM Road 6578 South Boundary Forest Management Project

**AGENCY**: Bureau of Land Management, Interior.

**ACTION**: Notice is hereby given that BLM Road 6578, located in Crook County, Oregon (Township 15 South, Range 21 East, Sections 25 and 36; Township 15 South, Range 22 East, Sections 30 and 31; Township 16 South, Range 21 East,

Sections 1, 2, 3, 8, 9, 10, and 11; Township 16 South, Range 22 East, Section 6) is closed to motorized vehicles from December 1 to May 1, effective immediately.

The aforementioned lands located in Crook County, Oregon, are seasonally closed to motor vehicles from December 1 to May 1 each year. The purpose of the closure is to minimize harassment and poaching of wildlife and to protect soil and watershed resources from vehicle damage.

Exemptions to this closure will apply to administrative and law enforcement personnel of the BLM, Forest Service, affected landowners who may require access, Oregon Department of Fish and Wildlife, and personnel performing law enforcement, firefighting, or other emergency duties.

This decision is part of the implementation of the South Boundary Forest Management Project, Environmental Assessment and Decision Notice (EA ıOregon–054–98–049) signed by Harry R. Cosgriffe, Area Manager, BLM Central Oregon Resource Area, on February 8, 1996.

The Authority for this closure also comes from 43 CFR 8364.1 (a): Closure and restriction orders. Violation of this closure order is punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

A more specific location of public lands under this closure can be obtained at the BLM Prineville District Office.

**FOR ADDITIONAL INFORMATION CONTACT:** Mark Lesko, National Resources Specialist, or Jan Hanf, Wildlife Biologist, BLM Prineville District Office, P.O. Box 550, Prineville, OR 97754, telephone number 541–416–6700.

Dated: January 19, 1999.

**Harry R. Cosgriffe,**

*Area Manager, Central Oregon Resource Area.*

[FR Doc. 99–2103 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–33–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NM–932–4120–05; OKNM 101735]**

### Invitation To Participate; Exploration for Coal in Oklahoma

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Members of the public are hereby invited to participate with Farrell Cooper Mining Company on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in Haskell and Sequoyah Counties, Oklahoma, and are described as follows:

T. 11 N., R. 21 E., Indian Meridian
Sec. 25, SE¼, E½NE¼, SW¼NE¼;
Sec. 36, E½, SW¼, E½NW¼;
T. 11 N., R. 22 E., Indian Meridian
Sec. 19, Lot 4, SE¼SW¼, S½SE¼;
Sec. 29, NW¼, N½SW¼;
Sec. 30, Lots 1–4, E½, E½W½;
Sec. 31, Lots 1–4, E½W½, NE¼NE¼, W½NE¼, SW¼SE¼;

Containing 2,342.16 acres more or less.

Interested parties may obtain a complete description of the lands covered in the license application by contacting Farrell Cooper Mining Company, or the Bureau of Land Management New Mexico State Office, Solid Minerals Adjudication, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Any parties electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, and Farrell Cooper Mining Company, P.O. Box 11050, Fort Smith, Arkansas 72917. Such written notice must include a justification for wanting to participate and any recommended changes in the exploration plan with specific reasons for such changes. The notice must be received no later than 30-calendar days after the publication of this notice in the **Federal Register**.

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. A copy of the exploration plan as submitted by Farrell Cooper Mining Company may be examined at the Bureau of Land Management, New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87502, and the Tulsa Field Office, 7906 East 33rd Street, Suite 101, Tulsa, Oklahoma 74145.

Dated: January 19, 1999.

**Richard A. Whitley,**

*Associate State Director.*

[FR Doc. 99–2074 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–84–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CO–078–99–1310–00]**

### Notice of Availability of the Final Supplemental Environmental Impact Statement (SEIS) on Oil and Gas Leasing in the Glenwood Springs Resource Area

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Pursuant to sec. 202 of the Federal Land Policy and Management Act of 1976 and Bureau of Land Management (BLM) regulations in CFR 1610.5–5, BLM proposes to amend the Resource Management Plan (RMP) for its Glenwood Springs Resource Area (GSRA). As described in a Notice of Intent published on April 21, 1997 (62 FR 19349), BLM has prepared a supplemental EIS on the impacts of oil and gas development in the GSRA. On March 17, 1998, an additional Notice of Intent (63 FR 13068) expressed BLM's intent to include lands in the Naval Oil Shale Reserves (NOSR) in the SEIS and the RMP amendment. On June 18, 1998, a Notice of Availability of the Draft supplemental EIS was published (63 FR 33385). Review of the Draft continued through November 23, 1998. The Final SEIS is now available.

Copies of the Final SEIS will be available at the following BLM offices: the Glenwood Springs Resource Area Office, 50629 Highway 6 & 24, Glenwood Springs, Colorado, 81602; the Grand Junction District Office, 2815 H Road, Grand Junction, Colorado, 81506; and the Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado, 80215.

**DATES:** Comments will be accepted until March 1, 1999. Should you choose to comment, please indicate whether BLM is free to release copies of your comment for public review. BLM planning regulations provide for administrative review by the BLM Director for those who participated in the planning process and who would be adversely affected by selection of the Preferred Alternative and approval of the Proposed RMP Amendment. Those who wish to protest to the BLM Director must do so my March 1, 1999.

**ADDRESSES:** Comments should be sent to the Area Manager, Glenwood Springs Resource Area, Bureau of Land Management, P.O. Box 1009, Glenwood Springs, CO 81602, ATTN: Oil and Gas SEIS.

**FOR FURTHER INFORMATION CONTACT:** Steve Moore, (970) 947–2824.

**SUPPLEMENTARY INFORMATION:** A Notice of Intent to prepare a supplemental EIS on oil and gas leasing and development in the GSRA was published on April 21, 1997 (62 FR 19349). The EIS process indicated that some changes in the leasing decisions are necessary and that an RMP amendment will be required. After publication of that notice, the Department of Defense Authorization Act of 1998 (November 18, 1997) transferred management authority for the Naval Oil Shale Reserves (NOSR) from the Department of Energy to BLM. In addition to transferring management authority to BLM, the Act directs BLM to lease approximately 10,000 acres in the NOSR for oil and gas development by November 18, 1998. On March 17, 1998, BLM published an additional Notice of Intent (63 FR 13068) expressing its intent to include lands in the Naval Oil Shale Reserves (NOSR) in the oil and gas leasing SEIS and RMP amendment. On June 18, 1998, a Notice of Availability of the Draft supplemental EIS was published (63 FR 33385). Review of the Draft continued through November 23, 1998.

**Mark T. Morse,**

*District Manager.*

[FR Doc. 99–2108 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–JB–P

## DEPARTMENT OF INTERIOR

## Bureau of Land Management

**[(CO–017–9–1330–00) (DES–98–57)]**

## Notice of Availability of Draft Environmental Impact Statement; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** The Bureau of Land Management published a document in the **Federal Register** of January 12, 1999, concerning the availability of a draft Environmental Impact Statement for the Colorado Sodium Products Development Project located in Rio Blanco County and Garfield County, Colorado. The document contained an incorrect public meeting location.

**FOR FURTHER INFORMATION CONTACT:** Larry Shults, 970–878–3501.

### Correction

In the **Federal Register** of January 12, 1999, in FR Doc. 99–605, on page 1819, in the third column, correct the second location, Town Hall Council Chambers, 222 Grand Valley Way, Parachute, Colorado to read Grand Valley High School, 100 E. 2nd Street, Parachute, Colorado.

Dated: January 20, 1999.

**John J. Mehlhoff,**

*Resource Area Manager, White River Resource Area.*

[FR Doc. 99–2101 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–33–M

## DEPARTMENT OF THE INTERIOR

## National Park Service

## 60 Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

**AGENCY:** Department of the Interior, National Park Service, Yukon-Charley Rivers National Preserve.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Park Service (NPS) in conjunction with a natural resource protection council including members from the Air Force and a number of state and federal land management agencies is proposing in 1999 to conduct surveys of persons using selected Alaskan Military Operations Areas where Air Force training occurs. In one of these surveys, visitors to Harding Lake and Chena River State Recreation Areas will be asked about their expectation concerning Air Force training and the impacts of reported overflights on their activities and experiences.

| | Estimated number of | |
|---|---|---|
| | Re-sponses | Burden hours |
| Alaskan Military Operations Areas On-Site Visitor Survey | 1890 | 630 |

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 goal in conducting these surveys is to assess the effectiveness of current mitigation efforts in limiting impacts of Air Force training activity on human users of Alaskan Military Operations Areas.

**DATES:** Public comments will be accepted on or before March 30, 1999.

**SEND COMMENTS TO:** Darryll R. Johnson, USGS/BRD/FRESC/UWFS, College of Forest Resources, Box 352100, University of Washington, Seattle, WA 98195–2100; or Mark E. Vande Kamp, USGS/BRD/FRESC/UWFS, College of Forest Resources, Box 352100, University of Washington, Seattle, WA 98195–2100.

**FOR FURTHER INFORMATION CONTACT:** Darryll R. Johnson. Voice: 206–685–7404, Email: <darryllj@u.washington.edu>; Mark E. Vande Kamp. Voice: 206–543–0378, Email: <mevk@u.washington.edu>.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Alaskan Military Operations Areas On-Site Visitor Survey.

*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 (in conjunction with a natural resource protection council including members from the Air Force and a number of state and federal land management agencies) needs information to assess the effectiveness of current mitigation efforts in limiting impacts of Air Force training activity on human users of Alaskan Military Operations Areas.

*Automated data collection:* At the present time, there is no automated way to gather this information because it includes expectations and evaluations visitors associate with their experiences in Harding Lake and Chena River State Recreation Areas.

*Description of respondents:* A sample of individuals who use Harding Lake and Chena River State Recreation Areas for recreation purposes.

*Estimated average number of respondents:* 1890.

*Estimated average number of responses:* Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

*Estimated average burden hours per response:* 20 minutes.

*Frequency of Response:* 1 time per respondent.

*Estimated annual reporting burden:* 630 hours.

**Diane M. Cooke,**

*Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.*

[FR Doc. 99–2127 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–70–M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### Notice of Proposed Information Collection

**AGENCY:** Office of Surface Mining Reclamation and Enforcement.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for 30 CFR 705, Restriction on financial interests of State employees.

**DATES:** Comments on the proposed information collection must be received by March 30, 1999, to be assured of consideration.

**ADDRESSES:** Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies an information collection activity that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR 705, Restriction on financial interests of State employees.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

*Title:* Restrictions on financial interests of State employees, 30 CFR 705.

*OMB Control Number:* 1029–0067.

*Summary:* Respondents supply information on employment and financial interests. The purpose of the collection is to ensure compliance with section 517(g) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which places an absolute prohibition on having a direct or indirect financial interest in underground or surface coal mining operations.

*Bureau Form Number:* OSM–23.

*Frequency of Collection:* Entrance on duty and annually.

*Description of Respondents:* Any state regulatory authority employee or member of advisory boards or commissions established in accordance with state law or regulation to represent multiple interests who performs any function or duty under the Act.

*Total Annual Response:* 3,321.

*Total Annual Burden Hours:* 1,111.

Dated: January 26, 1999.

**Richard G. Bryson,**

*Chief, Division of Regulatory Support.*

[FR Doc. 99–2216 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–05–M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### Draft Petition Evaluation Document/ Environmental Impact Statement; Tennessee

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Reopening of the pubic comment period for the draft petition evaluation document/environmental impact statement (PED/EIS) for Fall Creek Falls State Park, Tennessee.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is reopening the public comment period for the draft PED/EIS on the Fall Creek Falls State Park Unsuitability Petition. Substantial public comments received during the previous comment periods expressed serious concerns regarding potential environmental and economics impacts to Fall Creek Falls State Park and Natural Area resulting from surface coal mining operations if conducted within the petition area. Consequently, OSM has decided to reopen the comment period to provide the public an additional opportunity to submit information to OSM for consideration in the evaluation of the Fall Creek Falls State Park Unsuitability Petition.

**DATES:** *Comments:* OSM will accept written comments until 5:00 p.m. Eastern time on April 29, 1999.

**ADDRESSES:** *Electronic or written comments:* Submit electronic comments to bbrock@osmre.gov. Written comments may be hand-delivered or mailed to Beverly Brock, Supervisor, Technical Group, Office of Surface Mining, 530 Gay Street, SW, Suite 500, Knoxville, Tennessee 37902.

**FOR FURTHER INFORMATION CONTACT:** Beverly Brock, Supervisor, Technical Group, Office of Surface Mining, 530 Gay Street, SW, Suite 500, Knoxville, Tennessee 37902. Telephone: (423) 545–4103, ext. 146.

**SUPPLEMENTARY INFORMATION:** OSM has been petitioned by Save Our Cumberland Mountains, Tennessee Citizens for Wilderness Planning, and forty-nine citizens to designate the watershed and viewshed of Fall Creek Falls State Park and Natural Area, Tennessee, as unsuitable for all types of surface coal mining operations. OSM prepared and distributed a draft PED/EIS as required by Section 522(d) of the Surface Mining Control and Reclamation Act of 1977 and the National Environmental Policy Act of 1969. The draft PED/EIS evaluates the potential coal resources of the area, the demand for coal resources, and the impacts of alternative unsuitability decisions on the human environment, the economy, and the supply of coal.

On May 1, 1998, OSM announced, via **Federal Register** notice (63 FR 24192), the availability of the draft PED/EIS and that written comments on the draft PED/EIS would be accepted until July 30, 1998. Subsequently, OSM reopened the comment period from August 21 to September 16, 1998 (63 FR 44925), because of the public's continuing interest and concerns regarding the environmental and economic issues addressed in the PED/EIS. As a result of

OSM receiving substantial public comments on the potential environmental impacts to Fall Creek Falls State Park and Natural Area from surface coal mining operations, OSM is reopening the public comment period until 5:00 p.m. Eastern time on April 29, 1999.

Dated: January 25, 1999.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 99–2215 Filed 1–28–99; 8:45 am]

BILLING CODE 4310–05–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. TA–201–68]**

### Lamb Meat; Import Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of time for vote on injury, and reasons for finding the investigation is ''extraordinarily complicated.''

**EFFECTIVE DATE:** January 26, 1999.

**SUMMARY:** The Commission has scheduled its vote in the injury phase of this investigation for February 9, 1999, at 2 p.m., in the Main Hearing Room, U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. The Commission is publishing a separate Government in the Sunshine Act notice for the February 9 meeting. The Commission's reasons for finding the investigation to be extraordinarily complicated are set forth in the ''background'' section below.

**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).

*Background:* On January 15, 1999, the Commission 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)). This determination allows the Commission to take up to 30 additional days to make its injury determination in this investigation—that is, the Commission must make its injury determination before the 150th day after the filing of the petition, as opposed to the 120th day. Under a 120-day schedule, the Commission would have been required to make its injury determination by February 4, 1999. However, the Commission plans to take only 5 additional days, and has scheduled its vote in the injury phase for February 9. The time and place for the hearing in the remedy phase, should this phase be necessary, and the deadlines for filing prehearing and posthearing briefs and other submissions relating to remedy, remain the same as previously announced.

The Commission's decision to designate this investigation ''extraordinarily complicated'' is based on the complexity of the issues and the size of the record, which will include a substantial amount of factual information developed late in the investigation and after the Commission's January 12 public hearing. Because the schedule for consideration of remedy issues does not change, the 5-day extension will not impair the Commission's ability to give such issues sufficient consideration.

Notice of institution of the investigation and scheduling was published in the **Federal Register** of October 23, 1998 (63 FR 56940), and notice of the Commission's determination that the investigation is extraordinarily complicated was published in the **Federal Register** of January 25, 1999 (64 FR 3715).

Issued: January 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–2315 Filed 1–28–99; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** February 9, 1999 at 2:00 p.m.

**PLACE:** Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1 . Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–201–68 (Lamb Meat)(Injury)—briefing and vote.
5. Outstanding action jackets:

(1) Document No. GC–98–069: APO matters.

(2) Document No. GC–98–071: APO matters.

(3) Document No. GC–98–073: Disposition of respondents' petition to amend protective order in previous investigation Inv. No. 337–TA–345 (Certain Anistropically Etched One Megabit and Greater DRAMs, Components Thereof, and Products Containing Such DRAMs) in Inv. No. 337–TA–414 (Certain Semiconductor Memory Devices and Products Containing Same).

(4) Document No. GC–99–003: Initial determination terminating the investigation on the basis of withdrawal of the complaint in Inv. No. 337–TA–411 (Certain Organic Photoconductor Drums and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: January 26, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99–2314 Filed 1–27–99; 1:05 pm]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Office of Community Oriented Policing Services; Agency Information Collection Activities; Proposed Collection; Comment Request

**ACTION:** Notice of Information Collection Under Review; Regional Community Policing Institute Surveys: Pre-test and Post-test.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register**. This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance

Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534. Written comments may also be submitted to the COPS Office, PPSE Division, 1100 Vermont Avenue, N.W., Washington, D.C. 20530, or via facsimile at (202) 633–1386.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) *Type of information collection.* New collection.

(2) *The title of the form/collection.* Regional Community Policing Institute Surveys: Pre-test and Post-test.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.* Form: COPS 30/01. Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* A sample of local law enforcement officers and community members receiving training on community policing from a COPS funded RCPI will be surveyed regarding their attitudes toward the RCPI training experience and the impact of training on the delivery of police services and police-citizen relations. The surveys will also capture information on the respondents' training histories, including training taken prior to RCPI participation and a description of the RCPI training program in which they enrolled.

To uphold its mandate to enhance and advance community policing and to foster training and education on community policing, the COPS Office has provided continued funding to 30 Regional Community Policing Institutes (RCPI). The RCPIs are a mechanism to provide training and technical assistance on community policing to law enforcement agencies and the communities they serve. RCPIs are charged with providing comprehensive and innovative education, training, and technical assistance to COPS grantees and other departments throughout a designated region. The geographic distribution of RCPIs has resulted in the availability of training to law enforcement agencies and communities throughout the nation.

Innovations in traditional training methods are necessary to continue the advancement of community policing in law enforcement agencies throughout the United States. In turn, it is necessary to understand and document the impact of these innovative training programs. The evaluation of the RCPI program will provide vital information on the impact of these training endeavors by closely examining the outcomes of training programs and by assessing police officer and community members' attitudes and behaviors related to the training opportunities. The Regional Community Policing Institute Surveys: Pre-test and Post-test will provide essential information on the impact of training on the behavior and attitudes of police officers and a sample of citizen trainees. The pre-test survey will be administered to officers and community members prior to receiving training from a RCPI and the post-test will be administered to the same group of trainees three months after they receive training.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* This collection includes pre- and post-test surveys. Approximately 3,000 respondents will be surveyed pre and post. Estimated time to complete each survey is 45 minutes with no preparation time.

(6) *An estimate of the total public burden (in hours) associated with the collection.* Approximately 4,500 hours.

Public comment on this proposed information collection is strongly encouraged.

**Robert B. Briggs,**

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 99–2130 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–AT–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States and State of Vermont* v. *Bennington Potters, Inc., et al.,* Civil Action Nos. 2:98–CV–421 and 2:98–CV–422 was lodged on December 31, 1998, with the United States District Court for the District of Vermont.

The complaint in this action seeks to recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601, *et al.,* response costs incurred and to be incurred by EPA at the Bennington Landfill Superfund Site located in the Town of Bennington, Vermont (''Site''). The defendants are Bennington Potters, Inc., EHH Realty Corp., Graphitek of Vermont, Inc. and Lauzon Machine & Engineering, Inc.

The proposed Consent Decree embodies an agreement with four potentially responsible parties (''PRPs'') at the Site pursuant to Section 122(g) of CERCLA, 42 U.S.C. 9622(g), to pay $175,000, in aggregate, in settlement of claims for past and future response costs at the Site and claims for natural resource damages. Of this total, $36,750 will be paid to the United States and $138,250 will be paid to five parties who are performing a remedial action at the Site. The monies paid to the five performing parties will be used to partially fund the remedial action and a natural resource damages restoration project being performed by the five performing parties.

The Consent Decree provides the settling defendants with a release for civil liability for EPA's and the State of Vermont's (''State's'') past and future CERCLA response costs and natural resource damages at the Site for resources under the trusteeship of the Secretary of the Interior and the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, and under the trusteeship of the State.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree.

Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station,

Washington, D.C. 20044, and should refer to *United States and State of Vermont* v. *Bennington Potters, Inc., et al.*, DOJ Ref. No. 90–11–3–868A/1.

The proposed consent decree may be examined at the Office of the United States Attorney, 11 Elmwood Avenue, Burlington Vermont 05401; the Region I Office of the Environmental Protection Agency, Region I Records Center, 90 Canal Street, First Floor, Boston, MA 02203; and at the Consent Decree Library, 1120 G Street NW, Fourth Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library 1120 G Street NW, Fourth Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

**Bruce Gelber,**

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 99–2078 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 7, 1999 a proposed Consent Decree (''Decree'') in *United States* v. *Anne Zabel, et al,* Civil Action No. CIV98–4162, was lodged with the United States District Court for the District of South Dakota. The United States filed this action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601, et seq., to recover the past response costs incurred at or in connection with the Zabel Battery Site in Sioux Falls, South Dakota.

The proposed Consent Decree resolves claims against Anne Zabel and the City of Sioux Falls. The proposed Consent Decree will recover response costs of $201,350.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to, *United States* v. *Anne Zabel* Civil Action No. CIV98–4162, and D.J. Ref. #90–11–2–1205.

The Decree may be examined at the United States Department of Justice, Environment and Natural Resources Division, Denver Field Office, 999 18th Street, North Tower Suite 945, Denver, Colorado, 80202 and the U.S. EPA Region VIII, 999 18th Street, Superfund Records Center, Suite 500, Denver, CO 80202, and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $4.75 for the Decrees (25 cents per page reproduction cost) payable to the Consent Decree Library.

**Joel M. Gross,**

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 99–2077 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Lead-Acid Battery Consortium (''ALABC'')

Notice is hereby given that, on October 13, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Lead-Acid Battery Consortium (''ALABC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Matsushita Battery Industrial Co., Ltd., Osaka, JAPAN has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Lead-Acid Battery Consortium (''ALABC'') intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, Advanced Lead-Aid battery Consortium (''ALABC'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on July 13, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 1998 (63 FR 51952).

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*

[FR Doc. 99–2085 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Biotechnology Research and Development Corporation (''BRDC'')

Notice is hereby given that, on November 5, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Biotechnology Research and Development Corporation (''BRDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Maxygen, Inc., Santa Clara, CA has been added as a party to this venture.

On September 18, 1998, BRDC issued to Maxygen, Inc. (''Maxygen'') and Maxygen purchased from BRDC, 746⅔ shares of common stock, without par value, of BRDC. Simultaneously, with the issuance and purchase of the shares of the common stock, BRDC and Maxygen entered into an Agreement to be bound by BRDC Master Agreement effective as of June 10, 1988, by and among BRDC and its common stockholders. Maxygen has the rights set forth in the BRDC Master Agreement in all project technology made, discovered, conceived, developed, learned or acquired by or on behalf of BRDC in connection with, or arising out of, or as the result of, a research project in existence while Maxygen is a common stockholder of BRDC.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research

project remains open, and Biotechnology Research and Development Corporation (''BRDC'') intends to file additional written notification disclosing all changes in membership.

On April 12, 1988, biotechnology Research and Development Corporation (''BRDC'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 1988 (53 FR 16919).

The last notification was filed with the Department on March 9, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 1998 (63 FR 51953).

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*

[FR Doc. 99–2084 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research And Production Act of 1993—CNgroup

Notice is hereby given that, on October 7, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CNgroup has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are CommerceNet, Palo Alto, CA; CNgroup, Palo Alto, CA; Tesserae Information Systems, Palo Alto, CA; and BusinessBots, Palo Alto, CA. The nature and objectives of the venture are cooperative research and development to develop and demonstrate component-based commerce.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2095 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—CNgroup

Notice is hereby given that, on September 18, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), CNgroup has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CNgroup, Palo Alto, CA has changed its name to Veo Systems, Inc., Mountain View, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CNgroup intends to file additional written notification disclosing all changes in membership.

On October 7, 1997, CNgroup filed its original notification pursuant to Section 6(a) of the Act. The notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2096 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research and Production Act of 1993—Consortium For Plasma Science, LLC

Notice is hereby given that, on November 5, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Consortium For Plasma Science, LLC has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Nabi, a Delaware corporation has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Consortium For Plasma Science, LLC intends to file additional written notification disclosing all changes in membership.

On February 5, 1997, Consortium for Plasma Science, LLC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 1997 (62 FR 10584).

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*

[FR Doc. 99–2088 Filed 1–28–99; 8:45 am]

BILLING CODE 44110–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research and Production Act of 1993—Digital Imaging Group

Notice is hereby given that, on September 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Digital Imaging Group has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Busy Box Productions, San Francisco, CA; Questra Corporation, Rochester, NY; Skrudland Photo, Inc., Austin, TX; Sonnetech, Ltd., San Francisco, CA; and Sound Vision, Inc., Framingham, MA have been added as parties to this venture. Also, Infinite Pictures, Inc., Portland, OR; and Visioneer, Fremont, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group intends to file additional written notification disclosing all changes in membership.

On September 25, 1997, Digital Imaging Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1997 (62 FR 60530).

The last notification was filed with the Department on June 19, 1998. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2092 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research and Production Act of 1993—The Dow Chemical Company (''DOW'')

Notice is hereby given that, on March 16, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Dow Chemical Company (''DOW'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identifies of the parties are The Dow Chemical Company, Midland, MI; and Magna International of America, Inc., Farmington Hills, MI. The nature and objectives of the venture are to effectively and efficiently engage in the research and development of a process to produce composite parts reinforced with nano-sized fillers to decrease both the cost of manufacture and weight of vehicles. This research and development is being undertaken with the intent of developing technology for the manufacture of automobile parts having lower cost of manufacture and to reduce the weight of automobiles and other models of vehicular transportation.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2080 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum

Notice is hereby given that, on March 20, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Enterprise Computer Telephony Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aspect Telecommunications, San Jose, CA; Compaq Computer Corporation, Houston, TX; Centigram Communications, San Jose, CA; Lernout & Hauspie, Ieper, BELGIUM; Picazo Communications, Palo Alto, CA; Alcatel Data Networks, Paris, FRANCE; Artesyn Communications Products, Madison, WI; Blue Wave Systems, Leicestershire, UNITED KINGDOM; CallWare Technologies, Sandy, UT; CAPI Association, Berlin, GERMANY; Daimler-Benz Aerospace, Stuttgart, GERMANY; Datakinetics Ltd., Hants, UNITED KINGDOM; ETRI, Terjon, KOREA; Frequentis Nachrichtentecknik, Vienna, AUSTRIA; GTE Communications Systems, Taunton, MA; Industrial Technology Research Institute, Chutung, TAIWAN; Intervoice, Dallas, TX; Nokia Telecommunications, Helsinki, FINLAND; Nuera Communications, San Diego, CA; Racal Recorders, Hampshire, UNITED KINGDOM; Spectrum Signal Processing, Burnaby, BC, CANADA; Syntellect, Phoenix, AZ; and Telesoft Design, Dorest, UNITED KINGDOM have been added as parties to this venture. Also, Brite Voice Systems, Wichita, KS; COM2001 Technologies, Inc., San Diego, CA; Tandem Computers, Austin, TX; Dictaphone, Stratford, CT; and Heurikon Corporation, Madison, WI have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Enterprise Computer Telephony Forum intends to file additional written notification disclosing all changes in membership.

On February 20, 1996, Enterprise Computer Telephony Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on June 25, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 1998 (63 FR 33418).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2100 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Frame Relay Forum

Notice is hereby given that, on October 9, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Frame Relay Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its memberships status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Accesslan, San Jose, CA; Hekimian Laboratories, Rockville, MD; JTEC PTY, Ltd., Meadowbank, AUSTRALIA; Negtscout, Westford, MA; and Wandel & Goltermann, Research Triangle Park, NC have joined as worldwide members. OMSI, Newark, CA and University of Hawaii, Honolulu, HI have joined as auditing members. Distributed Networking, Greensboro, NC has downgraded to auditing membership. The following members have changed their names: MCI to MCI Worldcom, Tulsa, OK and Northern Telecom. Inc. to Nortel Networks, Research Park, NC. Also, Bay Networks, Billerica, MA; Castleton Network Systems Corp., Burnaby, British Columbia, CANADA; Worldcom, Tulsa, OK and Yurie Systems, Landover, MD have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Frame Relay Forum intends to file additional written

notification disclosing all changes in membership.

On April 10, 1992, Frame Relay Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on July 2, 1998. A notice has not yet been published in the **Federal Register**.

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*

[FR Doc. 99–2086 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on December 29, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Frame Relay Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Castleton Network Systems Corp., Burnaby, British Columbia, CANADA; Cegetel Enterprises, Puteux, FRANCE; Deutshe Telekom, Darmstadt, GERMANY; France Telecom/Transpac, Issy Les Moulingaux, FRANCE; Hi/fn, Carlsbad, CA; Hitachi Telecom (USA) Inc., Norcross, GA; Kaspia Systems, Inc., Beaverton, OR; Network General Corp., Oakbrook Terrace, IL; OLICOM, Gdansk, POLAND; Siemens AG, Munich, GERMANY; SHIVA, Edinburgh, SCOTLAND; Trend Communications, Chantilly, VA; Yurie Systems, Inc., Landover, MD have joined as worldwide members. Chair for Computer Networks, Dresden, GERMANY; Mantis Technology, Ltd., New York, NY; MobileComm, Irving, TX; and RD6, Inc., Montreal, PQ, CANADA have been added as auditing members to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Frame Relay Forum intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, The Frame Relay Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on August 1, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 30, 1997 (62 FR 58748).

**Constance K. Robinson,**

*Director of Operations Antitrust Division.*

[FR Doc. 99–2087 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993; Inter Company Collaboration for AIDS Drug Development

Notice is hereby given that, on November 30, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Inter Company Collaboration for AIDS Drug Development has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and project status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bayer AG has been dropped as a party to this venture. Also, the members of the Collaboration have decided to extend the Collaboration for a five year period, up to and including December 31, 2003. The Collaboration will continue the activities in which it has been engaged since its initial formation, including new activities added after its founding, as described in its initial and subsequent filings. In addition, the members have decided to extend the activities of the Collaboration to include activities involving substances that may enhance the immune function in HIV-infected individuals.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Inter Company Collaboration for AIDS Drug Development intends to file additional written notification disclosing all changes in membership.

On May 27, 1993, Inter Company Collaboration for AIDS Drug Development filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 6, 1993 (58 FR 36223).

The last notification was filed with the Department on July 13, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 1998 (63 FR 51955).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2097 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Electrical Manufacturers Association (''NEMA'')

Notice is hereby given that, on September 9, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Electrical Manufacturers Association (''NEMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TomTec GmbH, Munich, GERMANY; and Esaote SpA, Genoa, ITALY have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NEMA intends to file additional written notification disclosing all changes in membership.

On November 14, 1997, NEMA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 30, 1998 (63 FR 52292).

The last notification was filed with the Department on March 5, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the

Act on September 29, 1998 (63 FR 51955).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2079 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Electronics Manufacturing Initiative (''NEMI'')

Notice is hereby given that, on October 8, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Electronics Manufacturing Initiative (''NEMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Industrial Computer Corporation, Atlanta, GA; Thermoset Plastics, Indianapolis, IN; Lambda Technologies, Morrisville, NC; and Unicam Software, Inc., Portsmouth, NH have been added as parties to this venture. The following member has changed its address: Cimetrix, Inc., Salt Lake City, UT. CAM/LOT/Electrovert/MPM, Haverhill, MA has been acquired by Speedline Fluids Dispensing Systems, Haverhill, MA. Also, IBM Corporation, Hopewell Junction, NY; Lawrence Livermore National Laboratory, Livermore, CA; Texas Instruments Incorporated, Temple, TX; Three-Five Systems, Inc., Tempe, AZ; MCNC, Raleigh, NC; and Sheldahl, Inc., Northfield, MN have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NEMI intends to file additional written notification disclosing all changes in membership.

On June 6, 1996, NEMI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 1996 (61 FR 33774).

The last notification was filed with the Department on June 25, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 10, 1997 (62 FR 47691).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2099 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to The National Cooperative Research and Production Act of 1993—The National Shipbuilding Research Program (''NSRP'')

Notice is hereby given that, on March 13, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Shipbuilding Research Program (''NSRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Atlantic Marine Holding Company, Jacksonville, FL; Avondale Industries, Incorporated, New Orleans, LA; Bath Iron Works Corporation, Bath, ME; Electric Boat Corporation, Groton, CT; Halter Marine, Incorporated, Gulfport, MS; Ingalls Shipbulding, Incorporated, Pascaguala, MS; National Steel and Shipbuilding Company, San Diego, CA; Newport News Shipbuilding and Dry Dock Company, Newport News, VA; and Todd Pacific Shipyard Corporation, Seattle, WA. The nature and objectives of the venture are the utilization of complementary research interest, talent and experience to obtain, manage and focus national shipbuilding funding on technologies to reduce costs to the United States Navy and/or promote United States international shipbulding competitiveness.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2098 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on October 28, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Association for Retail Technology Standards (ARTS), Reading, PA; Distributed Systems Technology Centre (DSTC Pty Ltd.), St. Lucia, AUSTRALIA; ESIGETEL, Avon, FRANCE; France Telecom, Paris, FRANCE; Moscow State Engineering Physics Institute (MEPHI), Moscow, RUSSIA; NORTEL Northern Telecom, Ltd., Alpharetta, CA; Sandia National Laboratories, Albuquerque, NM; Saudi Distributed Systems Agency, Makkah, SAUDI ARABIA; SCSSI (Service Central de la Securite et des Systems d'Information), Moulineaux, FRANCE; Security Dynamics Technologies, Inc. including RSA Securities, Redwood City, CA; Sequel Technology Corporation, Bellevue, WA; and The Dairy Farm Group, Causeway Bay, HONG KONG have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Open Group, L.L.C. intends to file additional written notification disclosing all changes in membership.

On April 21, 1997, The Open Group, L.L.C. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on July 16, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 6, 1997 (62 FR 52153).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2089 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research and Production Act Of 1993—Optical Internetworking Forum

Notice is hereby given that, on October 5, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Optical Internetworking Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Dynarc, Kista, SWEDEN; E.O.S.T., Jerusalem, ISRAEL; Epitaxx, West Trenton, NJ; FORE Systems, Warrendale, PA; Furukawa Electric, Santa Clara, CA; Indiana University, Bloomington, IN; Net Insight AB, Stockholm, SWEDEN; New Focus, Santa Clara, CA; Open Networks Engineering, Ann Arbor, MI; PMC Sierra, Burnaby, CANADA; Ryan Hankin Kent, South San Francisco, CA; Stratum One Communications, Santa Clara, CA; Tektronix, Beaverton, OR; USC, Arlington, VA; 3 Com, Boxboro, MA; ADC Telecommunications, Minneapolis, MN; Allied Signal, Morristown, NJ; AMCC, San Diego, CA; America Online, Reston, VA; AMP, Harrisburg, PA; Applied Fiber Optics, Fremont, CA; Argon Networks, Littleton, MA; Artel Video Systems, Marlboro, MA; Ascend Communications, Waterford, MA; Astral Point Communications, North Reading, MA; AT&T, Holmdel, NJ; Atmosphere Networks, Cupertino, CA; Bay Networks, Billerica, MA; Bellcore, Red Bank, NJ; BNed, Inc., San Francisco, CA; Bookham Technology, Oxfordshire, ENGLAND; Cerent Corporation, Petaluma, CA; Chromatis Networks, Chevy Chase, MD; Ciena, Palo Alto, CA; Cisco Systems, San Jose, CA; Corning, Inc., Corning, NY; CSELT, Torino, Italy; Deutsche Telekom, Berlin, GERMANY; Ditech, Sunnyvale, CA; DSC Communications, Ballerup, DENMARK; Enron Communications, Portland, OR; Ericsson, Richardson, TX; Frances Telecom, Lannion, FRANCE; Frontier Corporation, Rochester, NY; Fujitsu Network Communication, Richardson, TX; GPT Ltd., Coventry, ENGLAND; Helsinki Telephone Corporation, Helsinki, FINLAND; Hermes Europe Railtel, Hoeilaart, BELGIUM; Hewlett-Packard, San Jose, CA; Hitachi, Ltd., Yokohama, JAPAN; JDS Fitel, Nepean, Ontario, CANADA; Juniper Networks, Mountain View, CA; Lightera Networks, Cupertino, CA; Lucent Technologies, Holmdel, NJ; LYNX, Rosh Háayin, ISRAEL; Marconi S.P.A., Genova, ITALY; Molecular OptoElectronics Corporation, Watervliet, NY; Monterey Networks, Richardson, TX; MRV Communications, Chatsworth, CA; NEC, Herndon, VA; Nexabit Networks, Marlborough, MA; Nokia Telecommunications, Espoo, FINLAND; Nortel, Nepean, Ontario, CANADA; Northchurch Communications, Andover, MA; NOVA Telecommunications, Columbia, MD; NTT, Tokyo, JAPAN; OKI Electric Industry, Tokyo, JAPAN; Optical Networks, Inc., San Jose, CA; Pipelinks, Santa Clara, CA; Pirelli Cables and Systems, Lexington, SC; Pluris, Inc., Cupertino, CA; Qwest Communications International, Denver, CO; RELTEC Corporation, Bedford, TX; Santec Corporation, Komaki, Aichi, JAPAN; Siemens AG, Muenchen, GERMANY; Sprint, Overland Parks, KS; Sumitomo Electric, Santa Clara, CA; Sycamore Networks, Tewksbury, MA; Tellabs, Lisle, IL; Tellium, Oceanport, NJ; Tyco Submarine Systems, Holmdel, NJ; Williams Network, Tulsa, OK; and Worldcom, Tulsa, OK. The nature and objectives of the venture are to promote the acceptance and implementation of interoperable products and services for data switching and routing using optical internetworking technologies and to support the rapid advancement of an efficient and compatible technology base that promotes a competitive marketplace.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2090 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association (''PCA'')

Notice is hereby given that, on October 7, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Southeast Cement Promotion Association, Snellville, GA has been added as a party to this venture. Also, Southeastern Cement Shippers Association, Snellville, GA; Medusa Corporation, Cleveland, OH; Canadian Medusa Cement, Owen Sound, Ontario, CANADA; and CBR Cement Corporation, Allentown, PA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Portland Cement Association (''PCA'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Portland Cement Association (''PCA'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on February 25, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 24, 1998 (63 FR 39903).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2091 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation (''SRC'')

Notice is hereby given that, on December 1, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Semiconductor Research Corporation (''SRC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Physical Electronics Inc., Eden Prairie, MN; Synopsis, Inc., Mountain View, CA; and ULTRATECH Stepper, San Jose, CA have been added as parties to this venture. Also, SiBond L.L.C., Hopewell Junction, NY; and Solid State Measurements, Inc., Pittsburgh, PA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Research Corporation (''SRC'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Semiconductor Research Corporation (''SRC'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 12, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 1998 (63 FR 51957).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2094 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Silicon Integration Initiative, Inc.

Notice is hereby given that, on March 6, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Silicon Integration Initiative, Inc. (''SI2'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, QuestLink Technology, Inc., Austin, TX; Philips Semiconductors International B.V., Eindhoven, The Netherlands; and Aspect Development, Inc., Mountain View, CA have been added as parties to this venture. Also, Engineering DataXpress, San Jose, CA; CADIS, Inc., Boulder, CO; and Viewlogic Systems, Inc., Marlboro, MA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Silicon Integration Initiative, Inc. intends to file additional written notifications disclosing all changes in membership.

On December 30, 1998, Silicon Integration Initiative, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456).

The last notification was filed with the Department on September 5, 1997. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60532).

**Constance K. Robinson,**

*Antitrust Division.*

[FR Doc. 99–2083 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant To The National Cooperative Research and Production Act of 1993—Supercomputer Automotive Applications Partnership

Notice is hereby given that, on October 6, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Supercomputer Automotive Applications Partnership has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the nature and objectives of the venture. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the parties have agreed to add the following as an additional research objective for the group: to develop vehicle component models and first generation analytical tools, and then use those tools to (1) perform first order trade-off studies to rank major components and (2) conduct computer simulations to evaluate various vehicle configurations. These analytical tools are needed to plan for the most efficient deployment of resources to reach the goals of the Partnership for a New Generation of Vehicle, the USCAR program designed to improve vehicle technology and vehicle manufacturing processes, as well as develop a prototype next generation vehicle. The tolls will also be useful in program management and vehicle integration as the PNGV program moves forward. If successful, PNGV will develop commercially-viable vehicle technology that, over the long-term, can preserve personal mobility while further reducing the impact of cars and light trucks on the environment and reducing the nation's dependence on imported petroleum.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Supercomputer Automotive Applications Partnership intends to file additional written notification disclosing all changes in membership.

On July 6, 1993, Supercomputer Automotive Applications Partnership filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 27, 1994 (59 FR 27580).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2093 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on July 28, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ambit Design Systems, Austin, TX; AMS Group International, Erfurt, Thuringia, GERMANY; Angeles Design Systems, San Jose, CA; ChipIdea Microelectronics, Ltd., Oeiras, PORTUGAL; DNP Corporation USA, Santa Clara, CA; Frontier Design, Inc., Leuven, BELGIUM; Fuji Electric Co., Ltd., Tokyo, JAPAN; IMS Integrated Measurement Systems, Inc., Beaverton,

OR; Intel, Chandler, AZ; LEDA S.A., Meylan, FRANCE; Scientific and Engineering Software, Inc., Austin, TX; Seagate Technology, Scotts Valley, CA; SmartSand, Inc., Sunnyvale, CA; Synthesis Corporation, Osaka, JAPAN; Taveren Technology, Inc., Austin, TX; United Microelectronics Corporation, Sunnyvale, CA; Virtual Silicon Technology, Inc., Sunnyvale, CA; and Wipro Ltd., Global Products, Santa Clara, CA have been added as parties to this venture. Also, Credence Systems Corporation, Fremont, CA; Diagonal Systems, Mountain View, CA; Hyundai Electronics Industries Co., Ltd., Ichon, Kyoungki-Do, KOREA; OMI Management Office, Brussels, BELGIUM; Sebring Systems, Los Gatos, CA; Tseng Labs, Inc., Newton, PA; and Victor Company of Japan, Yokohama, Kanagawa, JAPAN have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 27, 1996, VSI Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on May 6, 1998. A notice has not yet been published.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2081 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on October 28, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, A Priori Microsystems, Inc., Fukuoka, JAPAN; Artest Corporation, Sunnyvale, CA; Co-Design Automation, Inc., Milton Common, Oxon, UNITED KINGDOM; Lee Dilley (individual), Doylestown, PA; IMMS, Ilmenau, GERMANY; Intellitech Corporation, Durham, NH; Iprias Ltd., Bristol, UNITED KINGDOM; MayaSoft Corporation, Sunnyvale, CA; Metis Associates, Inc., Sunnyvale, CA; Modelware, Inc., Tinton Falls, NJ; Silicon Systems Limited, Dublin, IRELAND; Prab Varma (individual), Mountain View, CA; and Glenn Vinogradov (individual), Newton, PA have been added as parties to this venture. Also, Advanced Logic Corporation, San Jose, CA; Chip Express Corporation, Manotick, Ontario, CANADA; Enablix Design, Inc., San Jose, CA; and Zoran Compcore, Santa Clara, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 27, 1996, VSI Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on July 28, 1998. A notice has not yet been published.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 99–2082 Filed 1–28–99; 8:45 am]

BILLING CODE 4410–11–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 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 increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

### Negative Determinations for Worker 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 firm.

*TA–W–35,155; Rocky Mount Instruments, Inc., Rocky Mount, NC*
*TA–W–35,216; Camp-Hill Corp., McKeesport, PA*
*TA–W–35,221; Spinnerin, Inc., South Hackensack, NJ*
*TA–W–35,223; LTV Steel Co., Oliquippa Tin Mill, Aliquippa, PA*
*TA–W–35,246; Active Quilting Div. of Rockville Fabrics, Plains, PA*
*TA–W–35,236; Artistic Weaving Co., Clinton, NC*
*TA–W–35,430; Rice Logging, Council, ID*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*TA–W–35,323; Blackhawk Services, Inc., Odessa, TX*
*TA–W–35,291; Prophecy Limited, Div. Of American Eagle Outfitter, New York, NY*
*TA–W–35,168; Nortel Networks, Repair Center, Nashville, TN*
*TA–W–35,352; Phoenix Dye Works, Cleveland, OH*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–35,162; Thomaston Mills, Griffin Div., Griffin, GA*
*TA–W–35,188; Greif Bros. Corp., Westfield, MA*
*TA–W–35,247; Cooper Tubocompressor, Buffalo, NY*
*TA–W–35,047; Beacon Looms, Inc., Teaneck, NJ*
*TA–W–35,305; Rayonier, Inc., Inland Wood Products Div., Plummer, ID*
*TA–W–34,981; Forman Box & Display Co., New York, NY*

*TA–W–35,263; The Wallet Works, Inc., A Subsidiary of AR Accessories, West Bend, WI*

*TA–W–35,233; Harbison-Walker Refractories Co., Fulton, MO*

Increased imports did not contribute importantly to worker separations at the firm.

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–35,260; Belden Wire and Cable Co., Cord Products Div., Franklin, NC: November 4, 1997.*

*TA–W–34,861; Oryx Energy Co., Headquartered in Dallas, TX & at Various Locations in the State of Texas: August 5, 1997.*

*TA–W–35,104; W. Seitchik & Sons, Philadelphia, PA: October 7, 1997.*

*TA–W–35,129; Pioneer Oil Co., Lawrenceville, IL: September 8, 1997*

*TA–W–35,407; Sonoco Products Co., Amsterdam, NY: December 11, 1997.*

*TA–W–35,187; Fruit of the Loom Corporate Headquarters, Bowling Green, KY: All workers of Corporate Headquarters excluding workers of contract Business and Customer Service Dept: November 22, 1997.*

*TA–W–35,143; Savage Zine, Inc., Clinch Valley Mine, Thorn Hill, TN: October 16, 1997.*

*TA–W–35,278; Molycorp. Inc., Questa Div., Questa, NM: November 4, 1997.*

*TA–W–35,256; U.S. Steel Mining Co. L.L.C., Pinnacle System, Pineville, WV: November 4, 1997.*

*TA–W–35,316; Weirton Steel Corp., Weirton, WV: November 12, 1997.*

*TA–W–35,085; Integrated Circuit Systems, Inc., Norristown, PA: November 10, 1997.*

*TA–W–35,241; L & D Dress Co., Inc., Ridgewood, NY: November 8, 1997.*

*TA–W–35,340; Chasam, Inc., Sylva, NC: December 2, 1997.*

*TA–W–35,329; Philips Consumer Communications, Including All Leased Workers of Sharp Technical Service, Piscataway, NJ: November 18, 1997*

*TA–W–35,362; Battle Mountain Gold Co., Battle Mountain Nevada Project, Copper Canyon, NV: November 27, 1997.*

*TA–W–35,109; MKE Quantum Components, Shrewsbury, MA: September 21, 1997.*

*TA–W–35,051 & A; Merix Corp., Forest Grove, OR and Loveland, CO: September 5, 1997.*

*TA–W–35,197 & A; Frank Ix & Sons, Inc., New York, NY and Charlottesville, VA: November 23, 1997.*

*TA–W–35,321; Tokyo Electron Oregon, Inc., Hillsboro, OR: December 1, 1997.*

*TA–W–35,383; Swaco, A Division of M–I, L.L.C., Williston, ND: December 1, 1997.*

*TA–W–35,371; Hamilton Beach/Proctor Silex, Inc., Washington, NC: February 8, 1999.*

*TA–W–35,439; Southwest Fashion, Inc., El Paso, TX: October 28, 1998.*

*TA–W–35,161; Weatherford International, Inc., (formerly Weatherford Enterra), Andrews, TX: October 13, 1997.*

*TA–W–35,199; Hercules, Inc., Aqualon Div., Parlin, NJ: November 30, 1998.*

*TA–W–35,448 & A; Private Line Group, Inc., Franklin, GA and Bowman, GA: December 14, 1997.*

*TA–W–35,087; Crown Crok & Seal, Arlington, TX: September 29, 1997.*

*TA–W–35,242; National Garment Co., Chanute, KS: November 16, 1997.*

*TA–W–35,208; A & J Design Corp., West New York, NJ: November 2, 1997.*

*TA–W–35,237; J.M. Huber Corp., Headquartered in Houston, TX and Operating in The Following States: A; TX and B; CO: Novmber 7, 1997.*

*TA–W–35,280; Lenox, Inc., Kirk Stieff Div., Baltimore, MD: November 16, 1997.*

*TA–W–35,417; Stanley Fastening Systems, E. Greewnwick, RI and N. Kingstown, RI: December 10, 1997.*

*TA–W–35,458; Thomas & Betts Diamond Communication Products, Inc., Garwood, NJ: December 11, 1997.*

*TA–W–35,211; Wilkens, Kaiser & Olsen, Inc., Carson, WA: November 4, 1997.*

*TA–W–35,160; Golden Books Publishing Co., Formerly Western Publishing Co., Inc., Sturtevant, WI: October 6, 1997.*

*TA–W–35,354; Inland Production Co., Myton, UT: December 3, 1997.*

*TA–W–35,373; Sooner Drilling & Exploration Trust, Konawa, OK: December 2, 1997.*

*TA–W–35,048; Beacon Looms, Inc., Beacon, NY: September 18, 1997.*

*TA–W–35,205; Northwest Alloys, Inc., Addy, WA: September 26, 1998.*

*TA–W–35,192; Rockwell Semiconductor Systems—Colorado Springs, Inc., Colorado Springs, CO: October 28, 1997.*

*TA–W–35,253; Hubbell Lighting, Inc., Christiansburg, VA: November 9, 1997.*

*TA–W–34,989; Babbie Casuals Co., Pacoima, CA: September 3, 1997.*

*TA–W–35,299; Union Oil Co Of California, D.B.A. Unocal, Headquartered in Sugar Land, TX and Operating in the Following States: A; AL, B; LA, C; MI, D; MS, E; N.M, F; OK, G; TX, H; UT: December 7, 1998.*

*TA–W–35,164; Tickle Me, Inc., Long Island, NY: October 21, 1997.*

*TA–W–35411; Dreiling Oil, Inc., Hays, KS: December 9, 1997.*

*TA–W–35,139; Kellwood Co., Sportswear Div., Morgantown, KY: October 14, 1997.*

*TA–W–35,286; Cyclone Drilling, Headquartered in Gillette, WY & Operating in The Following States: A; CO, B; MT, C; NM, D; ND: November 17, 1997.*

*TA–W–35,281; National Garment Co., Corporate Office, St. Louis, MO: November 16, 1997.*

*TA–W–35,361: The Trane Co, A Div. Of American Standard, Inc., Tyler, TX: December 1, 1997.*

*TA–W–35,348 & TA–W–35,349; WCI Steel, Inc., Including Leased Workers of Harsco Corp. A Heckett Multiserv Div., Warren, OH & Youngstown Sinter Plant, Youngstown, OH: November 30, 1997.*

*TA–W–35,343; Papillon Ribbon & Bow Co., New York NY: November 30, 1997.*

*TA–W–35,415; Doyon Drilling, Inc., Anchorage, AK: December 10, 1997.*

*TA–W–35,262; Inter-National Childrenswear, L.L.C., Ohatchee, AL: November 13, 1997.*

*TA–W–35,400; Kichler Lighting Group, Cleveland, OH: December 8, 1997.*

*TA–W–35,295; Intervascular, Inc., Clearwater, FL: November 17, 1997.*

*TA–W–35,310 & A; A.L. Gebhardt, Bruce Street Split Tannery, Milwaukee, WI and Greves Street Grain Tannery, Milwaukee, WI: November 25, 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 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 appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in 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 Determination 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–02855; Boise Cascade, Medford Plywood, Medford, OR*

*NAFTA–TAA–02768; Rayonier, Inc., Inland Wood Products Div., Plummer, ID*

*NAFTA–TAA–02759; Tokyo Electron Oregon, Inc., Hillsboro, OR*

*NAFTA–TAA–02784 & A; Private Line Group, Inc., Franklin, GA & Bowman, GA*

*NAFTA–TAA–02805; Rice Logging, Council, ID*

*NAFTA–TAA–02740; Active Quilting, Div. of Rockville Fabrics, Plains, PA*

*NAFTA–TAA–02793; Williamete Industries, Dallas Sawmill, Dallas, OR*

*NAFTA–TAA–02652; Gibeck, Inc., Indianapolis, IN*

*NAFTA–TAA–02770; Harbison-Walker Refractories Co., Fulton, MO*

*NAFTA–TAA–02774; A.P. Green Refractories, a/k/a/ Harbison-Walker Refractories, Sulphur Springs, TX:*

*NAFTA–TAA–02739; Pittsfield Woolen Yarns Co., Inc., Pittsfield, ME.*

The investigation revealed that the criteria for eligibility have not been met for reasons specified.

*NAFTA–TAA–02750; National Garment Co., Corporate Office, St. Louis, MO*

*NAFTA–TAA–02751; The Wallet Works, A Subsidiary of AR Accessories, West Bend, WI*

*NAFTA–TAA–02753; Nortel Networks, Repair Center, Nashville, TN*

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.

*NAFTA–TAA–02807; Komatsu Silicon America, Inc., Hillsboro, OR*

*NAFTA–TAA–02806; Waterford Irish Stoves, Inc., West Lebanon, NH*

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification.

**Affirmative Determinations NAFTA–TAA**

*NAFTA–TAA–02824; Flex-O-Lite, Elwood, IN: December 28, 1997.*

*NAFTA–TAA–02814; Southwest Fashion, Inc., El Paso, TX: December 28, 1997.*

*NAFTA–TAA–02789; The Trane Co., A Div. Of American Standard, Inc., Tyler, TX: December 1, 1997.*

*NAFTA–TAA–02810; Cyclone Drilling, Headquartered in Gillette, WY and Operating in The Following States: A; CO, B; MT, C; NM, D; ND: December 18, 1997.*

*NAFTA–TAA–02827; Pee Dee Apparel, Inc., Timmonsville, SC: December 21, 1997.*

*NAFTA–TAA–02728; Hubbell Lighting, Inc., Christiansburg, VA: November 9, 1997.*

*NAFTA–TAA–02687; Babbie Casuals Co., Pacoima, CA: October 1, 1997.*

*NAFTA–TAA–02755, A & B; J.M. Huber Corp., Headquartered in Houston, TX and Operating Throughout the States of TX and CO: November 23, 1997.*

*NAFTA–TAA–02771; Chasam, Inc., Sylva, NC: December 2, 1997.*

*NAFTA–TAA–02654; Crown, Cork and Seal, Arlington, TX: September 29, 1997.*

*NAFTA–TAA–02781; Battle Mountain Gold Co., Battle Mountain Nevada Project, Copper Canyon, NE: November 27, 1997.*

*NAFTA–TAA–02767; Hamilton Beach/ Proctor Silex, Inc., Washington, NC: January 25, 1999.*

*NAFTA–TAA–02746; Georgia Pacific Corp., CNS/Softwood Lumber Div., Baileyville, ME: November 10, 1997*

*NAFTA–TAA–02765; Eutectic Corp., Chicago, IL: November 30, 1997.*

*NAFTA–TAA–02790; J.A. Lamy Manufacturing Co., Sedalia, MO: December 10, 1997.*

*NAFTA–TAA–02795; Union Pacific Fuels, Inc., A Subsidiary of Union Pacific Resources Co and Union Pacific Resources Co., A Div. of Union Pacific Resources Group, Inc., Headquartered in Fort Worth, TX & Operating in The Following States: A; CO, B; LA, C; OK, D; TX, E; UT, F; WY: December 14, 1997.*

*NAFTA–TAA–02852; Borden Chemical, Inc., Borden P&IP—Kent Plant, Kent, WA: January 8, 1998.*

*NAFTA–TAA–02668; Wolverine Worldwide, Inc., Rockford, MI: September 22, 1997.*

*NAFTA–TAA–02792; Zenith Electronics Corp., Consumer Electronics Engineering Department, Glenview, IL: December 8, 1997.*

*NAFTA–TAA–02840; Texfi Industries, Inc., Fayetteville, NC: December 11, 1997.*

I hereby certify that the aforementioned determinations were issued during the months of 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 25, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2137 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

---

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34, 806 and 806B]**

### Donnkenny Apparel, Inc. Rural Retreat, Virginia and Fabric Cutters Plant, Floyd, Virginia; 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 October 22, 1998, applicable to all workers of Donnkenny Apparel, Inc. Located in Rural Retreat, Virginia. The notice was published in the **Federal Register** on November 10, 1998 (63 FR 63078).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the Fabric Cutters Plant, Floyd, Virginia location on Donnkenny Apparel, Inc. The Floyd, Virginia location produces fabric for Donnkenny Apparel's production plants including Rural Retreat, Virginia.

The intent of the Department's certification is to include all workers of Donnkenny Apparel, Inc. who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of Donnkenny Apparel, Inc., Fabric Cutters Plant, Floyd, Virginia.

The amended notice applicable to TA–W–34, 806 is hereby issued as follows:

All workers of Donnkenny Apparel, Inc., Rural Retreat, Virginia (TA–W–34, 806), and Fabric Cutters Plant, Floyd, Virginia (TA–W–34, 806B) who became totally or partially separated from employment on or after July 21, 1997 through October 22, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of January, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2143 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

---

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–35,379]**

### Harsco Corporation, Heckett Multiserv Division, Warren, Ohio; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 14, 1998 in response to a worker petition which was filed November 30, 1998 on behalf of workers at Heckett Multiserv, a Division of Harsco Corporation, Warren, Ohio.

The petitioning group of workers are included in an existing Trade Adjustment Assistance petition investigation (TA–W–35,348). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 20th day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2140 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34, 783 and 783B]**

### Huber Lace and Embroidery Incorporated; 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 October 23, 1998, applicable to workers of Huber Lace and Embroidery Incorporated. The notice was published in the **Federal Register** on November 11, 1998 (63 FR 63078).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that it was their intent to include the workers of Huber Lace and Embroidery Incorporated separated from employment in New York City. The workers of the subject firm in New York City are engaged in employment related to the production of lace and embroidery trimmings, including administrative support services and shipping.

The intent of the Department's certification is to provide coverage to all workers of the subject firm adversely affected by increased imports. According, the Department is amending the certification to expand coverage to workers of Huber Lace and Embroidery Incorporated, New York, New York.

The amended notice applicable to TA–W–34, 783 is hereby issued as follows:

All workers of Huber Lace and Embroidery Incorporated, West New York, New Jersey (TA–W–34, 783) and New York, New York (TA–W–34,783B), who became totally or partially separated from employment on or after July 6, 1997 through October 23, 2000, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2144 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–35,389]**

### John Deere Consumer Products; Gastonia, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1998 in response to a worker petition which was filed on behalf of all workers at John Deere Consumer Products, located in Gastonia, North Carolina (TA–W–35,389).

The petitioner has requested that the petition be withdrawn.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2141 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

---

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–35,388]**

### John Deere Consumer Products, Greer, South Carolina; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1998 in response to a worker petition which was filed on behalf of workers and former workers at John Deere Consumer Products, located at Greer, South Carolina (TA–W–35,388).

The petitioner has requested that the petition be withdrawn.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2142 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and training Administration

**[TA–W–35, 356]**

### Rayonier, Incorporated Inland Wood Products Division Plummer, Idaho; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 14, 1998 in response to a worker petition which was filed November 30, 1998 on behalf of workers at Rayonier, Incorporated, Inland Wood Products Division, Plummer, Idaho.

The petitioning group of workers are covered under an existing Trade Adjustment Assistance investigation (TA–W–35, 305). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 19th day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2145 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility To Apply For NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250 (b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Acting Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Acting Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Acting Director of OTAA not later than February 8, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Acting Director of OTAA at the address shown below not later than February 8, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Acting Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 20th day of January, 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

**Appendix**

| Subject firm | Location | Date received at Governor's office | Petition No. | Articles produced |
|---|---|---|---|---|
| Automotive Logistics Services (IBT) | Brownstown, MI | 11/05/1998 | NAFTA–2,763 | Warehousing & shipping operation. |
| Fashions International (UNTIE) | Scranton, PA | 12/02/1998 | NAFTA–2,764 | Mens sport, dress & suit coats & jackets. |
| Eutectic (Co.) | Charlotte, NC | 12/03/1998 | NAFTA–2,765 | Metal articles. |
| Walls Industries (Co.) | Ashville, AL | 12/02/1998 | NAFTA–2,766 | Non-insulated bib overalls. |
| Hamilton Beach/Proctor Silex (Co.) | Washingotn, NC | 12/03/1998 | NAFTA–2,767 | Electric household appliances. |
| Rayonier (Wkrs) | Plummer, ID | 11/30/1998 | NAFTA–2,768 | Dimension lumber. |
| Zenith Electronics (Wkrs) | Melrose Park, IL | 12/04/1998 | NAFTA–2,769 | T.V. picture tubes. |
| Harbison Walker Refractories (USWA) | Fulton, MO | 12/07/1998 | NAFTA–2,770 | Refractory products. |
| Chasam (Co.) | Sylva, NC | 12/04/1998 | NAFTA–2,771 | Chilidren blanketsleepers. |
| International Paper (Wkrs) | Ticonderoga, NY | 12/07/1998 | NAFTA–2,772 | Reprographic copy paper. |
| Royal Brands International (Wkrs) | Los Angeles, CA | 11/19/1998 | NAFTA–2,773 | Yogurt, milk, milk containers equipment. |
| A.P. Green Refractories (USWA) | Sulphur Springs, TX | 12/07/1998 | NAFTA–2,774 | Brick shapes, castable products. |
| Magnetek (Co.) | Prairie Grove, AR | 12/07/1998 | NAFTA–2,775 | Electric motors. |
| Co Steel Raritan (Wkrs) | Perth Amboy, NJ | 12/01/1998 | NAFTA–2,776 | Billets and steel wire rob. |
| Dresser—Rand (IAMAW) | Wellsville, NY | 12/07/1998 | NAFTA–2,777 | Castings and patterns for foundries. |
| LaBlanc (Co.) | Sioux City, IA | 11/23/1998 | NAFTA–2,778 | Communication towers. |
| Komatsu America International (Co.) | Galton, OH | 12/08/1998 | NAFTA–2,779 | Motor graders—hydraulic crans. |
| Westark Garment (Wkrs) | Magazine, AR | 12/08/1998 | NAFTA–2,780 | Outterwear. |
| Battle Mountain Gold (Wkrs) | Cooper Canyon, NV | 12/08/1998 | NAFTA–2,781 | Gold ingots. |
| General Electric (Co.) | Hickory, NC | 12/08/1998 | NAFTA–2,782 | Transformers. |
| Bonny Products (Comp) | Washington, NC | 12/14/1998 | NAFTA–2,783 | Kitchen Tools and Gadgets. |
| Private Line Group (Co.) | Franklin, GA | 12/07/1998 | NAFTA–2,784 | Men's coats. |
| Private Line Group (Co.) | Bowman, GA | 12/07/1998 | NAFTA–2,784 | Men's coats. |
| GSM Enterprises (Wkrs) | Los Angeles, CA | 12/04/1998 | NAFTA–2,785 | Sportswear. |
| Bellwether (Wkrs) | San Francisco, CA | 12/14/1998 | NAFTA–2,786 | Shorts and Jerseys. |
| Plynetics Express (Wrks) | Beaverton, OR | 12/10/1998 | NAFTA–2,787 | Prototype Products. |
| Schneider Mills (Wrks) | Alexander Mills, NC | 12/11/1998 | NAFTA–2,788 | Ladies' Apparel. |
| Trane Company (The) (IUE) | Tyler, TX | 12/11/1998 | NAFTA–2,789 | Air conditioning units. |
| J.A. Lamy Mfg. Co. ( ) | Sedalia, MO | 12/10/1998 | NAFTA–2,790 | Levi Blue Jeans & Cargo Pants. |
| Jinkerson Services (Wrks) | El Paso, TX | 12/10/1998 | NAFTA–2,791 | Jeanswear Fabric Cutting. |
| Zenith Electronics Corp (Comp) | Glenview, IL | 12/10/1998 | NAFTA–2,792 | Engineering. |
| Willamette Industries (WCIW) | Dallas, OR | 12/14/1998 | NAFTA–2,793 | Dimension lumber. |

| Subject firm | Location | Date received at Governor's office | Petition No. | Articles produced |
|---|---|---|---|---|
| A. Schulman (OCAW) | Orange, TX | 12/16/1998 | NAFTA–2,794 | Polyurathane. |
| Union Pacific Resources (Co.) | Forth Worth, TX | 12/18/1998 | NAFTA–2,795 | Oil and gas exploration and production. |
| U.S. Can (Wkrs) | Green Bay, WI | 12/17/1998 | NAFTA–2,796 | Aerosol cans. |
| Graphic Packaging (Wkrs) | Franklin, OH | 12/16/1998 | NAFTA–2,797 | Flexographic presses. |
| Am West Petroleum (Co.) | Upton, WY | 12/15/1998 | NAFTA–2,798 | Oil. |
| Elec-Tech (Co.) | Hulette, WY | 12/15/1998 | NAFTA–2,799 | Electrical work. |
| Cross Creek Apparel (Co.) | Floyd, VA | 12/01/1998 | NAFTA–2,800 | Shirts, t-shirts fleece sweatshirts. |
| Chestnut Hill Marketing (Co.) | Fall River, MA | 12/17/1998 | NAFTA–2,801 | Childrens Apparel. |
| Santa's Best—Tinsel Division (Co.) | Manitowoc, WI | 12/18/1998 | NAFTA–2,802 | Christmas decorations. |
| Thomas and Betts (IBT) | Garwood, NJ | 12/16/1998 | NAFTA–2,803 | Drop & pole line CATV hardware. |
| Texfi (Wrks) | Fayetteville, NC | 12/21/1998 | NAFTA–2,804 | Fabric. |
| Rice Logging (Co.) | Council, ID | 12/21/1998 | NAFTA–2,805 | Loggins. |
| Waterford Irish Stoves (Wrks) | West Lebanon, NH | 12/18/1998 | NAFTA–2,806 | Wood, gas and pellet stoves. |
| Komatsu Silicon America Inc. (Wrks) | Hillsboro, OR | 12/21/1998 | NAFTA–2,807 | Silicon wafers. |
| John Deere Consumer Products (Comp) | Gastonia, NC | 12/16/1998 | NAFTA–2,808 | Hand-held lawn and garden equipment. |
| Fiskars, Inc. (Wrks) | Wheaton, MN | 12/18/1998 | NAFTA–2,809 | Electrical strips and Surge Protection. |
| Cyclone Drilling (Wkrs) | Gillette, WY | 12/21/1998 | NAFTA–2,810 | Crude oil and natural gas. |
| Cyclone Drilling (Wkrs) | Operating in the State of, CO. | 12/21/1998 | NAFTA–2,810 | Crude oil and natural gas. |
| Cyclone Drilling (Wkrs) | Operating in the State of, MT. | 12/21/1998 | NAFTA–2,810 | Crude oil and natural gas. |
| Cyclone Drilling (Wkrs) | Operating in the State of, NM. | 12/21/1998 | NAFTA–2,810 | Crude oil and natural gas. |
| Cyclone Drilling (Wkrs) | Operating in the State of, ND. | 12/21/1998 | NAFTA–2,810 | Crude oil and natural gas. |
| Marquip, Inc. (Wrks) | Phillips, WI | 12/23/1998 | NAFTA–2,811 | Corregated Material Handling Machines. |
| Vastar Resources (Wrks) | Houston, TX | 12/23/1998 | NAFTA–2,812 | Natural Gas. |
| Fleming Companies, Inc. (Comp) | Portland, OR | 12/24/1998 | NAFTA–2,813 | Grocery—Dry, Frozen. |
| Southwest Fashion (Wkrs) | El Paso, TX | 12/28/1998 | NAFTA–2,814 | Men's jeans. |
| Ausco Products (Co.) | Benton Harbor, MI | 11/25/1998 | NAFTA–2,815 | Screw & mechanics jacks for auto. |
| Blount (Wkrs) | Prentice, WI | 12/28/1998 | NAFTA–2,816 | Forestry and Industrial equipment. |
| MAE Garment Finishers (Wkrs) | El Paso, TX | 12/30/1998 | NAFTA–2,817 | Jean pants. |
| 84 Mining (UMWA) | Eighty-Four, PA | 01/04/1999 | NAFTA–2,818 | Coal. |
| Triquint Semiconductor (Wkrs) | Hillsboro, OR | 01/04/1999 | NAFTA–2,819 | Semiconductor and related devices. |
| Ardney Leather and Sheepakin Company (Wkrs). | Milwaukee, WI | 12/29/1998 | NAFTA–2,820 | Shearling coats. |
| Footwear Mgt. Co., Justin Boot (Wkrs) | El Paso, TX | 12/30/1998 | NAFTA–2,821 | Boots, leather products, accessories. |
| Southern Container (UAW) | Dayton, NJ | 12/18/1998 | NAFTA–2,822 | Preprinted liner for containers. |
| Fasco Motors and Blowers (Co.) | LaGrande, GA | 12/21/1998 | NAFTA–2,823 | Electric motors and blowers. |
| Flex-O-Lite (USWA) | Elwood, IN | 12/28/1998 | NAFTA–2,824 | Safety cones, sewing of signs and flags. |
| General Electric (Wkrs) | Mebane, NC | 12/29/1998 | NAFTA–2,825 | Switchboards power panels. |
| Washington Public Power Supply System (IBEW). | Elma, WA | 12/29/1998 | NAFTA–2,826 | Electricity. |
| Pee Dee Apparel (Co.) | Timmionsville, SC | 12/21/1998 | NAFTA–2,827 | Men's and ladies activewear. |
| Illinois Glove (UNITE) | Effingham, IL | 12/23/1998 | NAFTA–2,828 | Gloves. |
| Curtis Sportswear (Co.) | Etowah, TN | 01/04/1999 | NAFTA–2,829 | Jeans. |
| Angelica Image Apparel (Co.) | Linden, TN | 12/22/1998 | NAFTA–2,830 | Uniform and healthcare products. |
| Sanyo Audio (Co.) | Milroy, PA | 01/11/1999 | NAFTA–2,831 | Hi-fi stereo speaker systems. |
| Rock-Tenn (Wkrs) | Taylorsville, NC | 01/11/1998 | NAFTA–2,832 | Folding cartons. |
| M/D Totco Instrumentation (Co.) | Casper, WY | 01/11/1999 | NAFTA–2,833 | Technical oil field equipment. |
| Asarco (Co.) | El Paso, TX | 01/11/1999 | NAFTA–2,834 | Cooper anodes. |
| Clevenger Industries (Co.) | Marion, NC | 01/06/1999 | NAFTA–2,835 | Men's Women's children's socks & hoise. |
| Linville Hosiery (Co.) | Marion, NC | 01/06/1999 | NAFTA–2,836 | Men's women's childrens socks & hosiery. |
| Sun Studs (Co.) | Roseburg, OR | 01/07/1999 | NAFTA–2,837 | Softwood veneer. |
| Beulaville Garments (Wkrs) | Beulaville, NC | 01/11/1999 | NAFTA–2,838 | Polo shirts. |
| Fair Rite Products (Wkrs) | Springfield, VT | 01/12/1999 | NAFTA–2,839 | Noise suppressors. |
| Graham Field Health Products (Co.) | Hauppauge, NY | 01/11/1999 | NAFTA–2,840 | Walkers, canes, wheelchairs, commodes. |
| Bend Wood Products (Wkrs) | Bend, OR | 01/12/1999 | NAFTA–2,841 | Wood products. |
| AII Technologies (CBO) | El Paso, TX | 01/19/1999 | NAFTA–2,842 | Computers. |
| Boston Precision (Co.) | Hyde Park, MA | 01/11/1999 | NAFTA–2,843 | Precision components. |
| Pluma (Co.) | Rocky Mount, VA | 01/13/1999 | NAFTA–2,844 | Fleecewear and jersey t-shirts. |
| Tecos Fashions (Wkrs) | El Paso, TX | 01/13/1999 | NAFTA–2,845 | Jean products—cutting. |
| Emerson Motor () | Independence, KS | 01/11/1999 | NAFTA–2,846 | |
| Sun Apparel of Texas (Co.) | El Paso, TX | 01/13/1999 | NAFTA–2,847 | Cutting of garments. |
| Great Northern Paper (Co.) | Millinocket, ME | 01/13/1999 | NAFTA–2,848 | Sawlogs, pulpwood, wood chips, hardwood. |
| Stitches (Wkrs) | El Paso, TX | 01/13/1999 | NAFTA–2,849 | Jeans products—cutting. |
| UCAR Carbon (Wkrs) | Columbia, TN | 01/15/1999 | NAFTA–2,850 | Graphite electrodes and connecting pins. |
| Ithaca Industries (Co.) | Gastinia, NC | 01/15/1999 | NAFTA–2,851 | Nosiery. |

| Subject firm | Location | Date received at Governor's office | Petition No. | Articles produced |
|---|---|---|---|---|
| Borden Chemical (Wkrs) | Kent, WA | 01/13/1999 | NAFTA–2,852 | Formaldehyde. |
| Manufacturing and Technical Enterprises (Wkrs). | Wilton, ME | 01/14/1999 | NAFTA–2,853 | Cable harnesses for electrical products. |
| Porcelantie (Co.) | Lexington, NC | 01/14/1999 | NAFTA–2,854 | Glazed ceramic wall tile. |
| Boise Cascade (Wkrs) | Medford, OR | 01/14/1999 | NAFTA–2,855 | Plywood. |
| Fourmost Garment (Wkrs) | Briston, VA | 01/15/1999 | NAFTA–2,856 | Clothing. |

[FR Doc. 99–2139 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA—02808]**

### John Deere Consumer Products, Gastonia, North Carolina; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on December 16, 1998 in response to a petition filed on behalf of workers at John Deere Consumer Products, located in Gastonia, North Carolina (NAFTA–02808).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 21st day of January 1999.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 99–2138 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment Standards Administration Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provision of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

New York N990012 (Jan. 29, 1999)

*Volume II*

None

*Volume III*

None

*Volume IV*

Michigan
MI9900007 (Jan. 29, 1999)

*Volume V*

None

*Volume VI*

None

*Volume VII*

None

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20420, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 22nd day of January 1999.

**John Frank,**

*Acting Chief, Branch, of Construction Wage Determinations.*

[FR Doc. 99–1862 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–27–M

---

## DEPARTMENT OF LABOR

## Bureau of Labor Statistics

## Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Report on Occupational Employment.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 30, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Send comments to Karin G. Kurz. BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE, Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Occupational Employment Statistics (OES) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current occupational employment and wages. OES survey data assist in the development of employment and training programs established by the Workforce Investment Act of 1998, Job Training Partnership Act (JTPA) of 1982, and the Perkins Vocational Education Act of 1984.

The OES program operates a periodic mail survey of a sample of non-farm establishments conducted by all fifty States, Guam, Puerto Rico, the District of Columbia, and the Virgin Islands. Over three-year periods, data on occupational employment and wages are collected by industry at the two- and three-digit Standard Industrial Classification (SIC) levels. The Department of Labor uses OES data in the administration of the Alien Labor Certification process under the Immigration Act of 1990.

### II. Current Actions

BLS plans to make a major change to occupations surveyed in 1999 by incorporating the 1998 edition of the Standard Occupational Classification (SOC) manual in place of the OES Dictionary. Research also is underway to evaluate any changes needed to specific industry forms to prepare for the North American Industry Classification System (NAICS) to be introduced in the 2002 OES survey. This research may result in the reduction of the number of industry forms and the introduction of an unstructured form (a form without occupations listed, sent to small establishments only) for the 1999 survey. BLS and the States are considering changes to the mail questionnaire in order to reduce respondent burden, including the addition or deletion of requests for certain survey items. Research is being conducted on the collection of OES data by electronic means, including the Internet. BLS plans to conduct a Response Analysis Survey (RAS) to examine data collection procedures. This will be the first examination of such procedures since 1989.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics.

*Title:* Report on Occupational Employment.

*OMB Number:* 1220–0042.

*Affected Public:* Business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government.

*Frequency:* Annual.

| Forms | Number of responding units | Response time (minutes) | Annual burden hours | Annual burden hours three-year average |
|---|---|---|---|---|
| BLS 2877: | | | | |
| FY 2000 | 340,000 | | 255,000 | |
| FY 2001 | 340,000 | 45 | 255,000 | 255,000 |
| FY 2002 | 340,000 | | 255,000 | |
| BLS 2877 RAS: | | | | |
| FY 2000 | 4,000 | | 933 | |
| FY 2001 | 4,000 | 14 | 933 | 622 |
| FY 2002 | 0 | | 0 | |
| Total: | | | | |
| FY 2000 | 344,000 | 59 | 255,933 | |
| FY 2001 | 344,000 | | 255,933 | 255,622 |
| FY 2002 | 340,000 | 45 | 255,000 | |

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 25th day of January 1999.

**W. Stuart Rust, Jr.,**

*Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 99–2146 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–24–M

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## Susan Harwood Training Grant Program—Shipyards

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of availability of funds and request for grant applications.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) awards funds to nonprofit organizations to conduct safety and health training and education in the workplace. This notice announces grant availability for training in safety and health programs for shipyards. The notice describes the scope of the grant program and provides information about how to get detailed grant application instructions. Applications should not be submitted without the applicant first obtaining the detailed grant application instructions mentioned later in the notice.

Section 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670) authorizes this program.

**DATES:** Applications must be received by March 26, 1999.

**ADDRESSES:** Submit grant applications to the OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018.

**FOR FURTHER INFORMATION CONTACT:** Ronald Mouw, Chief, Division of Training and Educational Programs, or Don Guerra, Program Analyst, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018, telephone (847) 297–4810, e-mail don.guerra@oti.osha.gov.

**GRANTS CONFERENCE:** The OSHA Office of Training and Education will hold a grants conference to assist potential applicants to understand the grant topic and answer questions pertaining to completing an application. The grants conference will be held from 9:30 a.m. to 12:00 p.m. on February 18, 1999, at the OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018. Persons interested in attending this conference should contact Ronald Mouw, Chief, Division of Training and Educational Programs, or Don Guerra, Program Analyst, at (847) 297–4810, or e-mail don.guerra@oti.osha.gov to obtain information about local hotel accommodations and transportation. It is not necessary to register for this conference.

**SUPPLEMENTARY INFORMATION:**

### What is the Purpose of the Program

Susan Harwood Training Grants provide funds to train workers and employers to recognize, avoid, and prevent safety and health hazards in their workplaces. The program emphasizes three areas.

- Educating workers and employers in small businesses. A small business has 250 or fewer workers.
- Training workers and employers about new OSHA standards.
- Training workers and employers about high risk activities or hazards identified by OSHA through the priority planning process or otherwise, or as part of an OSHA special emphasis program.

Grantees are expected to develop training and/or educational programs that address topics named by OSHA, recruit workers and employers for the training, and conduct the training. Grantees will also be expected to follow-up with people who have been trained to find out what, if any, changes were made to reduce hazards in their workplaces as a result of the training.

### What is the Training Topic

The purpose of this notice is to announce that funds are available for grants. The topic is recognition and avoidance of shipyard-related safety and health hazards. Each grant application must address one of the following shipyard safety and health topics:

1. Shipbuilding and ship repair. Safety and health hazards affecting workers in Standard Industrial Classification (SIC) 3731 who build or repair ocean-going vessels.

2. Shipbreaking/ship scrapping. Safety and health hazards affecting workers in SIC 4499 who are involved with Navy ship scrapping contracts or other shipbreaking/ship scrapping contracts involving ocean-going vessels.

In both the shipyard safety and health topics, the areas of primary concern are confined space entry, respiratory protection, welding, fire protection, fall protection, crane safety, asbestos removal, lead abatement, electrical safety, and hazard communication. It is permissible to cover other safety and health topics, but grants should emphasize the topics of primary concern.

### Who is Eligible to Apply for a Grant

Any nonprofit organization that is not an agency of a State or local government is eligible to apply. However, State or local government supported institutions of higher education are eligible to apply in accordance with 29 CFR 97.4(a)(1).

Applicants other than State or local government supported institutions of higher education will be required to submit evidence of nonprofit status, preferably from the IRS.

**What can Grant Funds be Spent on**

Grant funds can be spent on the following.

- Conducting training.
- Conducting other activities that reach and inform workers and employers about occupational safety and health hazards and hazard abatement.
- Developing educational materials for use in the training.

**Are There Restrictions on How Grant Funds can be Spent**

OSHA will not provide funding for the following activities.

1. Any activity that is inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.

2. Training involving workplaces that are not covered by the Occupational Safety and Health Act. Examples include state and local government workers in non-State Plan States and workers covered by section 4(b)(1) of the Act.

3. Production, publication, reproduction or use of training and educational materials, including newsletters and instructional programs, that have not been reviewed by OSHA for technical accuracy.

4. Activities that address issues other than recognition, avoidance, and prevention of unsafe or unhealthy working conditions. Examples include workers' compensation, first aid, and publication of materials prejudicial to labor or management.

5. Activities that provide assistance to workers in arbitration cases or other actions against employers, or that provide assistance to employers and/or workers in the prosecution of claims against Federal, State or local governments.

6. Activities that directly duplicate services offered by OSHA, a State under an OSHA-approved State Plan, or consultation programs provided by State designated agencies under section 7(c)(1) of the Occupational Safety and Health Act.

7. Activities intended to generate membership in the grantee's organization. This includes activities to acquaint nonmembers with the benefits of membership, inclusion of membership appeals in materials produced with grant funds, and membership drives.

**What Other Grant Requirements are There**

1. OSHA review of educational materials. OSHA will review educational materials produced by the grantee for technical accuracy during development and before final publication. OSHA will also review curriculums and purchased training materials for accuracy before they are used.

When grant recipients produce training materials, they will provide copies of completed materials to OSHA before the end of the grant period. OSHA has a lending program that circulates grant-produced audiovisual materials. Grant recipients' audiovisual materials will be included in this lending program. In addition, all materials produced by grantees may be placed on the Internet by OSHA.

2. OMB and regulatory requirements. Grantees will be required to comply with the following documents.

- 29 CFR part 95, which covers grant requirements for nonprofit organizations, including universities and hospitals. These are the Department of Labor regulations implementing OMB Circular A–110.
- OMB Circular A–21, which describes allowable and unallowable costs for educational institutions.
- OMB Circular A–122, which describes allowable and unallowable costs for other nonprofit organizations.
- OMB Circular A–133, which provides information about audit requirements.

3. Certifications. All applicants will be required to certify to a drug-free workplace in accordance with 29 CFR part 98, to comply with the New Restrictions on Lobbying published at 29 CFR part 93, to make a certification regarding the debarment rules at 29 CFR part 98, and to complete a special lobbying certification.

4. Matching share. The program requires the grantee to provide a matching share. Grant recipients are to provide a minimum of 20% of the total grant budget. This match may be in-kind, rather than a cash contribution. For example, if the Federal share of the grant is $80,000 (80% of the grant), then the matching share will be $20,000 (20% of the grant), for a total grant of $100,000. The matching share may exceed 20%.

**How are Applications Reviewed and Rated**

- OSHA staff will review grant applications and present the results to the Assistant Secretary who will make the selection of organizations to be awarded grants.
- OSHA will give preference to applications which:
- Address multiple shipyard safety and health subjects. For example, an application which addresses respiratory protection, welding, and fire protection would be preferred over one that only addresses welding.
- Plan train-the-trainer programs.
- Train managers and/or supervisors.
- Serve multiple employers. OSHA is interested in reaching more than one employer with each grant awarded.

The following factors will be considered in evaluating grant applications.

*1. Program Design*

a. The proposed training and education program addresses shipyards.

b. The proposal plans to train workers and/or employers and clearly estimates the numbers to be trained.

c. The proposal contains a train-the-trainer program, and the numbers to be trained by these trainers are clearly estimated.

d. The planned activities are appropriate for the workers and/or employers to be trained.

e. There is a plan to recruit trainees for the program.

f. If the proposal includes developing educational materials, there is a plan for OSHA to review the materials during development.

g. There is a plan to evaluate the program's effectiveness and this includes plans to follow-up with trainees to see if the training resulted in workplace change.

h. The planned work can be accomplished in one year.

i. There is a description of the target population, the hazards that will be addressed, the barriers which have prevented adequate training for the target population, why the program cannot be completed without Federal funds, and why funding sources currently available cannot be used for this purpose.

*2. Program Experience*

a. The organization applying for the grant demonstrates experience with occupational safety and health.

b. The organization applying for the grant demonstrates experience training adults in work-related subjects.

c. The staff to be assigned to the project have experience with (1) occupational safety and health, (2) shipyards, and (3) training adults.

d. The organization applying for the grant demonstrates experience in recruiting and training the population it proposes to serve under the grant.

*3. Administrative Capability*

a. The applicant organization demonstrates experience managing a variety of programs.

b. The applicant organization has administered, or will work with an organization that has administered, a number of different Federal and/or State grants over the past five years.

c. The application is complete, including forms, budget detail, narrative and workplan, and required attachments.

*4. Budget*

a. The budgeted costs are reasonable.

b. The proposed non-Federal share is at least 20% of the total budget.

c. The budget complies with Federal cost principles (which can be found in applicable OMB Circulars) and with OSHA budget requirements contained in the grant application instructions.

d. The cost per trainee is less than $500 and the cost per training hour is reasonable.

In addition to the factors listed above, the Assistant Secretary will take other items into consideration, such as the geographical distribution of the grant programs and the coverage of populations at risk.

**How Much Money is Available for Grants**

There is approximately $500,000 available for this program.

**How Long are Grants Awarded for?**

Grants are awarded for a twelve-month period. If first year performance is satisfactory, grants will be renewed for an additional twelve-month period.

**How do I get a Grant Application Package**

Grant application instructions may be obtained from the OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018. The application instructions are also available at http://www.osha-slc.gov/Training/sharwood/sharwood.html.

**When and Where are Applications To Be Sent**

The application deadline is 4:30 p.m. Central Time, March 26, 1999.

Applications are to be mailed to the Division of Training and Educational Programs, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, IL 60018. Applications may be sent by fax to (847) 297–4874.

**How Will I be Told if My Application was Selected**

Organizations selected as grant recipients will be notified by a representative of the Assistant Secretary, usually from an OSHA Regional Office. An applicant whose proposal is not selected will be notified in writing.

Notice that an organization has been selected as a grant recipient does not constitute approval of the grant application as submitted. Before the actual grant award, OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 20th day of January 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99–2068 Filed 1–28–99; 8:45 am]

BILLING CODE 4510–26–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 99–021]**

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Sun-Earth Connection Advisory Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Sun-Earth Connection Advisory Subcommittee.

**DATES:** Monday, February 22, 1999, 8:30 a.m. to 5:00 p.m., and Tuesday, February 23, 1999, 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, Florida.

**FOR FURTHER INFORMATION CONTACT:** Dr. George Withbroe, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2470.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The Agenda for the meeting is as follows:

—Review of Grand Challenges
—Roadmap Committee Report
—Key Technologies and Implementation
—Plenary Meeting
—Strategic Plan
—Scientific Goals

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99–2190 Filed 1–28–99; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 99–022]**

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Structure and Evolution of the Universe Advisory Subcommittee; Meeting.

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Structure and Evolution of the Universe Subcommittee.

**DATES:** Monday, February 22, 1999, 8:30 a.m. to 5:00 p.m.; and Tuesday, February 23, 1999, 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** Jamaica Room, Radisson Resort at the Port Hotel, 8701 Astronaut Boulevard, Cape Canaveral, Florida 32970.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan N. Bunner, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0364.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting includes the following topics:

—State of Space Science
—Theme Updates
—Current Programs and Mission Updates
—Technology Programs and Reviews
—Strategic Planning
—Public Outreach
—Other Issues Facing the Subcommittee

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 22, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99–2191 Filed 1–28–99; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 99–023]**

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astronomical Search for Origins and Planetary Systems (ORIGINS) Subcommittee; Meeting.

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, ORIGINS Subcommittee.

**DATES:** Monday, February 22, 1999, 8:30 a.m. to 5:00 p.m.; and Tuesday, February 23, 1999, 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** Burmuda Room, Radisson Resort at the Port Hotel, 8701 Astronaut Boulevard, Cape Canaveral, Florida 32920.

**FOR FURTHER INFORMATION CONTACT:** Dr. Harley Thronson, Code SR, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0362.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—ORIGINS Programmatic Update

—NGST Status

—OSS Theme Report

—Reports From Other Themes

—New Strategic Plan

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 22, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99–2192 Filed 1–28–99; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 99–024]**

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

**DATES:** Wednesday, February 24, 1999, 9:00 a.m. to 5:30 p.m.; Thursday, February 25, 1999, 8:00 a.m. to 5:45 p.m.; Friday, February 26, 1999, 8:30 a.m. to 12:00 p.m.

**ADDRESSES:** Salon 1, Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, Florida 32920.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jeffrey Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2470.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—OSS Program and Budget Status

—Theme Status Reports/Reports from Subcommittees

—Technology Program Update

—Plans for Developing the FY 2000 Strategic Plan

—Research Program Update

—Science Operations Management Office Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 22, 1999.

**Matthew M. Crouch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 99–2193 Filed 1–28–99; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL INDIAN GAMING COMMISSION

### Notice of Approval of Class III Tribal Gaming Ordinances

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform the public of class III gaming ordinances approved by the Chairman of the National Indian Gaming Commission.

**FOR FURTHER INFORMATION CONTACT:** Ms. Frances Fragua at the National Indian Gaming Commission, (202) 632–7003, or by facsimile at (202) 632–7066 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (Commission). Section 2710 of the IGRA authorizes the Commission to approve class II and class III tribal gaming ordinances. Section 2710(d) (2) (B) of the IGRA as implemented by 25 C.F.R. Section 522.8 (58 FR 5811 (January 22, 1993)), requires the Commission to publish, in the **Federal Register**, approved class III gaming ordinances.

The IGRA requires all tribal gaming ordinances to contain the same requirements concerning ownership of the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission. The Commission believes that publishing a notice of approval of each class III gaming ordinance is sufficient to meet the requirements of 25 U.S.C. Section 2710(d)(2)(B). Also, the Commission will make copies of approved class III ordinances available to the public upon request. Requests can be made in writing to the: National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington, D.C. 20005.

The Chairman has approved tribal gaming ordinances authorizing class III gaming for the following tribes:

1. Agua Caliente Band of Cahuilla Indians
2. Apache Tribe of Oklahoma
3. Auberry Big Sandy Rancheria
4. Augustine Band of Mission Indians
5. Band River Band of Lake Superior Tribe of Chippewa Indians
6. Bay Mills Indian Community
7. Bear River Band of the Rohnerville Rancheria

8. Blackfeet Tribe of Indians
9. Bridgeport Indian Colony
10. Buena Vista Rancheria of Me-Wuk Indians
11. Burns Paiute Tribe
12. Cahto Tribe of the Laytonville Rancheria
13. Cahuilla Band of Mission Indians
14. Cherokee Nation of Oklahoma
15. Chicken Ranch Band of Me-Wuk Indians
16. Chippewa Cree Tribe of the Rocky Boy's Reservation
17. Chitimacha Tribe of Louisiana
18. Choctaw Nation of Oklahoma
19. Confederated Salish & Kootenai Tribes of the Flathead Nation
20. Cow Creek Band of Umpqua Indians
21. Dry Creek Rancheria
22. Forest County Potawatomi Community
23. Grand Portage Band of Chippewa Indians
24. Hoopa Valley Tribe
25. Iowa Tribe of Kansas and Nebraska
26. Jackson Rancheria Band of Miwuk Indians
27. Jamul Band of Mission Indians
28. Kalispel Tribe of Indians
29. Kaw Nation of Oklahoma
30. Kialegee Tribal Town Business Committee
31. Kickapoo Traditional Tribe of Texas
32. Little Traverse Bay Bands of Odawa Indians
33. Lower Elwha S'Klallam Tribe
34. Lower Sioux Indian Community
35. Makah Indian Tribe of the Makah Indian Rancheria
36. Metlakatla Indian Community
37. Miccosukee Business Committee
38. Mississippi Band of Choctaw Indians
39. Nooksack Indian Tribe
40. Osage Nation
41. Otoe-Missouria Tribe of Oklahoma
42. Ottawa Tribe of Oklahoma
43. Pascua Yaqui Tribe of Arizona
44. Passamaquoddy Tribe
45. Poarch Band of Creek Indians
46. Pueblo of San Ildefonso
47. Pueblo of Santa Clara
48. Redding Rancheria
49. Reno-Sparks Indian Colony
50. Rumsey Indian Rancheria
51. Sac & Fox Nation of Oklahoma
52. Santa Ysabel Band of Mission Indians
53. Santee Sioux Tribe of Nebraska
54. Seminole Nation of Oklahoma
55. Seneca Nation of Indians
56. Seneca-Cayuga Tribe of Oklahoma
57. Shakopee Mdewakanton Sioux Community
58. Shoalwater Bay Indian Tribe
59. Skokomish Indian Tribe
60. Soboba Band of Mission Indians
61. Sokaogon Chippewa Community
62. Standing Rock Sioux Tribe
63. Stockbridge-Munsee Community
64. Table Mountain Rancheria
65. Thlopthlocco Tribal Town
66. Tohono O'odham Nation
67. Tonto Apache Tribe
68. Trinidad Rancheria
69. United Keetoowah Band of Cherokee Indians
70. Viejas Band of Mission Indians
71. Washoe Tribe of Nevada and California
72. White Earth Band of Chippewa Indians
73. White Mountain Apache Tribe
74. Yavapai Apache Tribe
75. Ysleta De Sur Pueblo Indian Tribe

**Barry Brandon,**

*General Counsel.*

[FR Doc. 99–2218 Filed 1–28–99; 8:45 am]

BILLING CODE 7565–01–U

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 030–17711 License No. 52–19438–01 EA–99–014]**

## In the Matter of NDT Services, Inc., Caguas, Puerto Rico; Order Modifying License (Effective Immediately)

### I

NDT Services, Inc. (Licensee or NDTS) is the holder of Material License No. 52–19438–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of up to 100 curies of Iridium 192 in sealed radiography sources and up to 20 curies of Cobalt 60 in sealed sources for performing radiography. The license was originally issued on August 21, 1980, was most recently amended on December 12, 1995, and is due to expire on January 31, 2002.

### II

On March 27, 1998, the NRC issued an Order Suspending License (Effective Immediately) to NDTS based on the seriousness of issues identified during inspections conducted on August 6 and October 4, 1997, and February 6, 1998, and the initial evidence gathered during an investigation conducted by the NRC Office of Investigations (OI). The Order of March 27, 1998, required, among other things, that NDTS immediately suspend all radiographic operations authorized by its license and ensure that the licensed material was placed in locked, safe storage.

In response to the Order of March 27, 1998, NDTS immediately suspended all radiographic operations and secured all licensed material in locked, safe storage at the location specified in Condition 10 of the license. This facility is owned by Crossland Boilers Sales and Service, Inc. (Crossland Boilers).

Pertinent to this issue is the current corporate status of NDTS and Crossland Boilers. Although no corporate relationship exists between NDTS and Crossland Boilers, they have a common owner, Mr. Thomas B. Crossland. On July 24, 1998, the NRC Region II Office received information that Crossland Boilers had filed for Chapter 11 Bankruptcy on May 22, 1998. First Bank of Puerto Rico, a secured lender of Crossland Boilers, provided security to protect some of the assets of Crossland Boilers, which are subject to liquidation in favor of the Bank. The licensed material is in the same building as these assets.

The security of the sources and continued compliance with the Order of March 27, 1998, was verified during NRC inspections conducted on March 30, June 3, July 16, and August 19, 1998. These inspections confirmed that the licensed material was being maintained inside a fenced building. The fence contained a gate to allow access, and access to the building interior was controlled by a door with a lock. The building contained a vault located on the second floor which has a metal cabinet with three cubicles. Each cubicle possessed a separate lock, and contained two radiographic exposure devices containing Iridium 192 per cubicle (six radiographic exposure devices in total). An additional radiographic exposure device containing a Cobalt 60 source was also located inside the vault (not inside a cubicle). Each radiographic exposure device also contained its own locking device to control licensed material removal and exposure. NRC inspections confirmed that the licensed material and locking devices, including all keys, were under the control of Clarence David Vaughn, President and Radiation Safety Officer (RSO) of NDTS. The inspection of August 19, 1998, confirmed that representatives of First Bank had arranged for a contractor to provide for 24-hour security at the facility. The RSO indicated during the June 3, 1998, inspection his understanding and willingness to contact the NRC should the RSO determine that he can no longer maintain adequate control of the licensed material.

On January 11, 1999, an NRC inspector, accompanied by the RSO, attempted to determine the security of the sources and continued compliance with the Order of March 27, 1998. The RSO informed the inspector at that time that on September 24, 1998, in response to Hurricane Georges, he had conducted an inspection of the facility and confirmed the security and safe storage of the licensed material. During the January 11, 1999 inspection, the NRC and the RSO were unable to gain access to the building as the lock which secured access to the building had been changed. The NRC learned shortly thereafter that a representative of First Bank maintained the key to this lock. After subsequent contact with a First Bank representative, on January 14, 1999, the NRC, the RSO, and Mr. Sergio Olivero, Assistant Vice President for

First Bank, gained access to the building. The NRC determined the status and security of the licensed material on January 14, 1999 to be as follows:

The building perimeter was accessible via the building yard gate. A building truck bay door, used to load and unload equipment/materials, was observed to be significantly damaged such that access to the building interior could easily be accomplished through the bay door. After entry through the building access door, the NRC noted that someone had entered the building previously and had vandalized and ransacked the building interior. The security lock to the vault that housed the licensed material was sheared. A new lock had been placed on the vault; however, the key to the new lock was in close proximity, was visible, and accessible to anyone desiring to gain entry. The NRC, RSO, and the First Bank representative accessed the vault with the key, and found that the locks for the three cubicles which housed the six radiographic devices containing the Iridium 192 licensed material were also sheared. The radiographic device containing the Cobalt 60 licensed material was found to be inside the vault, where the RSO had last verified this device to be (during his September 24, 1998 inspection in the aftermath of Hurricane Georges). The NRC confirmed that all seven radiographic devices remained intact and verified the position of the radiation sources inside the devices by taking local radiation readings. The NRC recommended that the RSO obtain a new lock for the vault and a new lock for the building yard gate. The First Bank representative obtained two new locks. As of January 15, 1999, the NRC has confirmed that these locks were in place. The RSO only has control of the vault lock key, while the RSO and a First Bank representative have control of the building yard gate lock key.

The NRC also observed during the January 14, 1999, inspection that a security guard, who was onsite to monitor the facility, was inattentive to duties and appeared to be sleeping. The NRC subsequently learned that 24-hour security for the building was not maintained, but rather security was provided by First Bank on Mondays through Saturdays, from 7:00 a.m. to 3:00 p.m.

The NRC also learned that the RSO did not have knowledge or accountability of the new vault lock, was unaware that the vault cubicle locks had been sheared, was unaware that the building interior could be easily accessed, and was unaware that the building interior had been vandalized since his inspection of September 24, 1998.

Discussions with the RSO during the NRC inspections of January 11 and 14, 1999, and during previous NRC inspections as discussed above, identified the following pertinent information:

—The RSO is not currently and has not been financially compensated by Mr. Crossland for his efforts in controlling the security and access to the licensed material, although he has made a good faith effort to do so.
—The RSO does not have access to NDTS corporate monies to initiate transfer of the sources to an authorized recipient.
—The RSO is not authorized by Mr. Crossland to transfer and/or dispose of the sources.
—The RSO has indicated that he may not remain in the Commonwealth of Puerto Rico much longer.
—The RSO, though aware of his inability to access the facility, failed to notify the NRC of his inability to verify the status of the licensed materials.
—NDTS is not currently performing any income generating work.
—Actions initiated following the January 14, 1999, inspection to ensure the security of the licensed material were at the initiative of the NRC, not the RSO.

Mr. Crossland currently is not present in the Commonwealth of Puerto Rico. As of the date of this Order, attempts to contact Mr. Crossland to discuss the status and security of licensed material have been unsuccessful.

## III

The observed lack of security of licensed material presents a hazard to public health and safety and is in violation of Section V.A of the March 27, 1998, Order Suspending License (Effectively Immediately) and 10 CFR 20.1801, which requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. In addition, the corporate and financial status of the licensee, and the uncertainties associated with the ability of the RSO to continue to maintain adequate control over the licensed material, call into question the ability of the licensee to maintain adequate long-term security controls of the licensed material.

Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 52–19438–01 in compliance with the Commission's requirements and that the health and safety of the public will be protected. Therefore, the public, health, safety and interest require that License No. 52–19438–01 be modified immediately to require both the relocation of the licensed material to a location where acceptable security can be maintained, and subsequent transfer of the licensed material to an authorized recipient. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conditions described above is such that the public health, safety and interest require that this Order be immediately effective.

## IV

Accordingly, pursuant to sections 81,161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.3, 10 CFR Parts 30 and 34, *It is hereby ordered, Effective immediately*, That LICENSE NO. 52–19438–01 Is modified as follows:

A. Within 24 hours of receipt of this Order, the Licensee shall, (1) take immediate measures to maintain and ensure adequate security of licensed material stored at your facility located at Rio Cañas Industrial Park, Lots 1 and 2, Caguas, Puerto Rico; and (2) identify an interim safe storage location within NDTS control to which the licensed material will be transferred. Within the same 24 hours, the licensee shall contact Mr. Douglas Collins, Director, Division of Nuclear Materials Safety, NRC Region II, at telephone number (404) 562–4700 or through the NRC Operations Center (24-hours a day) at 301–816–5100, to inform him of the actions which have been taken in response to Item (1) above and the proposed interim storage location identified in response to Item (2). Items (1) and (2) are subject to NRC approval. A written response documenting this information shall be submitted under oath or affirmation to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia within 10 days of this Order.

B. Within seven days of receiving NRC approval of the proposed storage location, the Licensee shall: (1) complete leak tests pursuant to 10 CFR Part 34.27(c), to confirm the absence of leakage of radioactive materials and to establish the levels of residual radioactive contamination; (2) submit the results of the leak tests in writing to the NRC Region II office; and (3) transfer the licensed material to the approved storage location. Mr. Douglas Collins, or

his designee, shall be notified immediately following the transfer.

C. Within 30 days of the date of this Order, the Licensee shall cause all licensed material in its possession to be transferred to an authorized recipient in accordance with 10 CFR 30.41 and submit for NRC approval a completed Form NRC 314. This information should be submitted to the Regional Administrator, NRC Region II, at the address given in Paragraph A above.

D. At least two working days prior to the date of the transfer of the licensed material, the License shall notify Mr. Douglas M. Collins, NRC Region II, at one of the telephone numbers given in Paragraph A above, so that the NRC may observe the transfer of the material to the authorized recipient.

The Regional Administrator, Region II, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

**V**

In accordance with 10 CFR 2.202, the Licensee must, and any person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or any persons adversely affected relies and the reason as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303–3415 and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this Order.*

Dated at Rockville, Maryland this 15th day of January 1999.

For the Nuclear Regulatory Commission.

**Malcolm R. Knapp,**

*Deputy Executive Director for Regulatory Effectiveness.*

[FR Doc. 99–2134 Filed 1–28–99; 8:45 am]

BILLING CODE 7590–01–P

---

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–508]**

## Washington Public Power Supply System, Washington Nuclear Project Unit 3; Order Revoking Construction Permit No. CPPR–154

Construction Permit No. CPPR–154 issued to Washington Public Power Supply System (the Supply System) on April 11, 1978, authorized the construction of the Washington Nuclear Project Unit 3 (WNP–3) located at the Satsop site, approximately 5 miles south of the town of Elma in Grays Harbor County, Washington. On November 2, 1984 and March 10, 1986, the Supply System filed timely requests to extend the completion date to July 1, 1999, which request was granted on May 16, 1998. The Supply System also held a second construction permit, CPPR–155, issued on April 11, 1978, for the construction of WNP–5 on the same site as Unit 3. The NRC allowed the construction permit for Unit 5 to expire, with the responsibility for site restoration to be subsumed under the construction permit for WNP–3.

On March 28, 1995, the Supply System submitted a site restoration plan, for WNP–1 and WNP–3, as well as for the previously terminated projects, WNP–4 and WNP–5. In a letter dated June 15, 1998, the Supply System submitted additional information concerning the termination of the construction permit for WNP–3 (the Satsop site).

On August 16, 1996, the Supply System filed a motion for withdrawal of application for an operating license (OL) and for termination of the proceeding before the Atomic Safety and Licensing Board (ASLB). On October 16, 1996, the ASLB issued an order granting the motion, and noted that the NRC staff would terminate the construction permit. 44 NRC 134 (1996). The staff conducted an inspection to verify that the Supply System has maintained the site in an environmentally stable condition and that the facilities are not capable of being operated as utilization facilities (Inspection Report No. 50–508/98-201 dated November 2, 1998). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on January 11, 1999 (64 FR 1644).

Pursuant to 10 CFR 51.32, the Commission has determined that the revocation of this construction permit will have no significant impact on the environment.

For the reasons given above, it is hereby ordered that Construction Permit No. CPPR–154 is terminated. This order is effective upon its date of issuance.

Dated at Rockville, Maryland, this 22nd day of January 1999.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–2133 Filed 1–28–99; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–482]**

### Wolf Creek Nuclear Operating Corporation, Wolf Creek Generating Station; Notice of Consideration of Approval of Transfer of Facility Operating LIcense and Issuance of Conforming Amendment, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. NPF–42 for the Wolf Creek Generating Station (WCGS) to the extent held by Kansas Gas and Electric Company (KGE) and Kansas City Power & Light Company (KCPL). The transfer would be to NKC, Inc., which will later be renamed Westar Energy, Inc. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

As described in an application for approval submitted by KGE, KCPL, NKC, Inc., and Wolf Creek Nuclear Operating Corporation (WCNOC), which is the exclusive licensed operator of WCGS, KGE, KCPL, and Western Resources, Inc., the parent of KGE, are planning a merger under which a new company will be established, Westar Energy, Inc. At the completion of the merger, Westar Energy will be approximately 80 percent owned by Western Resources, and will have acquired the assets and liabilities of KGE and KCPL. Specifically, it is planned that Westar Energy will succeed to the rights and obligations of KGE and KCPL as owners and licensees of WCGS. Presently, KGE and KCPL each hold a 47% ownership interest in WCGS, with Kansas Electric Power Cooperative, Inc. (KEP) holding a 6% ownership interest. According to the application, WCNOC will continue to be the exclusive operator of WCGS following the proposed merger, while KEP's ownership interest will not change. In addition, no physical changes are being proposed to WCGS in connection with the proposed transfer of the interests of KGE and KCPL in the WCGS license to Westar Energy, and there will be no change in the management organization of WCNOC or the qualifications of its technical personnel. In addition to seeking approval of the transfer of the WCGS license, to the extent held by KGE and KCPL, to Westar Energy, the application requests amendment of the WCGS license, for administrative purposes, to reflect the transfer.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By March 1, 1999, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record.

Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated October 27, 1998, and supplement dated November 10, 1998, available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and at the Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 25th day of January 1999.

For the Nuclear Regulatory Commission.

**Chet Poslusny,**

*Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–2132 Filed 1–28–99; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NUREG–1600, Rev. 1]**

### Revision of NRC Enforcement Policy; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy statement: Modification; Correction.

**SUMMARY:** This document corrects a notice appearing in the **Federal Register** on January 6, 1999 (64 FR 915), that addresses enforcement discretion in cases involving natural events. This action is necessary to preserve previous revisions to the Enforcement Policy in a notice that appeared in the **Federal Register** on December 24, 1998 (63 FR 71314), that addresses enforcement discretion for fuel cycle facilities.

**FOR FURTHER INFORMATION CONTACT:** James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741.

**SUPPLEMENTARY INFORMATION:** On page 916, in the second column, replace the complete paragraph under ''C. Exercise of Enforcement Discretion,'' with the following two paragraphs:

On occasion, circumstances may arise where a licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant (GDP), circumstances may arise where compliance with a Technical Safety Requirement (TSR) or technical specification or other certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required.

In these circumstances, the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion, designated as a Notice of Enforcement Discretion (NOED), will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. The staff may also grant enforcement discretion in cases involving severe weather or other natural phenomena, based upon balancing the public health and safety or common defense and security of not operating, against the potential radiological or other hazards associated with continued operation, and a determination that safety will not be impacted unacceptably by exercising this discretion. The Commission is to be informed expeditiously following the granting of an NOED in such situations. A licensee or certificate holder seeking the issuance of a NOED must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether to issue a NOED.

Dated at Rockville, MD, this 26th day of January 1999.

For the Nuclear Regulatory Commission.

**David L. Meyer,**

*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 99–2209 Filed 1–28–99; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for OMB Review, Comment Request for Review; of a Revised Information Collection SF 2809

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for review of a revised information collection. SF 2809, Federal Employees Health Benefits Election Form, is used by Federal employees, certain separated former Federal employees, and former dependents of Federal employees, to enroll for health insurance coverage under the FEHB Program. Certain former spouses or former Federal employees who are eligible for enrollment under the Spouse Equity Act of 1984 (Pub. L. 98–615), and former spouse employees and former dependents who are eligible for enrollment under the Temporary Continuation of Coverage (TCC) provisions of FEHB law (5 U.S.C. 8905a) also use this form.

Approximately 9,000 SF 2809 forms are completed annually. Each form takes approximately 30 minutes to complete. The annual estimated burden is 4,500 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

**DATES:** Comments on this proposal should be received by March 1, 1999.

**ADDRESSES:** Send or deliver comments to—

Abby L. Block, Chief, Insurance Policy and Information Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3425, Washington, DC 20415–0001.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 3002, Washington, DC 20503.

**FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:** Donna G. Lease, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–2069 Filed 1–28–99; 8:45 am]

BILLING CODE 6325–01–M

## OFFICE OF PERSONNEL MANAGEMENT

### Privacy Act of 1974; Publication of a Proposed New Routine Use

**AGENCY:** Office of Personnel Management (OPM).

**ACTION:** Notice of a proposed new routine use.

**SUMMARY:** This notice proposes to add a new routine use to an existing Internal System of Records.

**DATES:** This proposed routine use will be effective without further notice March 10, 1999, unless comments received dictate otherwise.

**ADDRESSES:** Send written comments to Office of Personnel Management, Attn: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street NW., Room 5415, Washington, DC 20415–7900.

**FOR FURTHER INFORMATION CONTACT:** Mary Beth Smith-Toomey, (202) 606–8358.

**SUPPLEMENTARY INFORMATION:** OPM finds that it is in the Government's interest to

add a new routine use to OPM's Internal System of Records, OPM/Internal-5, Pay, Leave, and Travel Records. The new routine use will facilitate OPM's disclosure of information in compliance with orders, interrogatories, and other requests relating to garnishment orders that OPM is required to comply with in accordance with 42 U.S.C. 659 (support garnishment) and 5 U.S.C. 5520a (commercial garnishment).

The new routine use is added to the following Internal System of Records:

**OPM/Internal–5**

**SYSTEM NAME:**

Pay, Leave, and Travel Records

* * * * *

l. To disclose information in compliance with orders, interrogatories, and other information requests relevant to garnishment orders that the Office of Personnel Management is required to comply with in accordance with 42 U.S.C. 659 (support garnishment) and 5 U.S.C. 5520a (commercial garnishment) to a court of competent jurisdiction, an authorized official, or to an authorized state agency as defined in 5 CFR parts 581 and 582.

Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

[FR Doc. 99–2070 Filed 1–28–99; 8:45 am]

BILLING CODE 6325–01–P

## POSTAL SERVICE

### Information-Based Indicia Program (IBIP) Performance Criteria for Information-Based Indicia and Security Architecture for Closed IBI Postage Metering Systems (PCIBI–C)

**AGENCY:** Postal Service.

**ACTION:** Notice of availability of Performance Criteria, with request for comments.

**SUMMARY:** The Postal Service has compiled a set of draft functional Performance Criteria for closed systems of the IBI program, as defined in this release. The current release contains the performance criteria for the indicium and the Postal Security Device (PSD) components of a closed IBI system. The performance criteria for the Host System and Public Key Infrastructure components will be released at a later date.

The Postal Service also seeks comments on intellectual property issues raised by IBIP Performance Criteria, policy, and procedures if adopted in present form. If an intellectual property issue includes patents or patent applications covering any implementations of the Performance Criteria, the comment should include a listing of such patents and applications and the license terms available for such patents and applications.

**ADDRESSES:** Copies of the Performance Criteria noted above may be downloaded from the IBIP website at http://www.usps.com/ibip/welcome.htm, or obtained from Edmund Zelickman, United States Postal Service, 475 L'Enfant Plaza SW, Room 1P–801, Washington, DC 20260–2444. Copies of all written comments may be inspected, by appointment, between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

**DATES:** All written comments must be received on or before March 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dan Lord, 202–268–4599.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 99–2163 Filed 1–26–99; 1:07 pm]

BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–26968]**

### Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 22, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 16, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After February 16, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**Unitil Corporation (70–9429)**

Until Corporation (''Unitil''), 6 Liberty Lane West, Hampton, New Hampshire 03833, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

The Unitil board of directors has adopted the Unitil Corporation 1998 stock option plan (''Plan''). Unitil proposes to grant stock options (''Stock Options'') through March 1, 2004 under the Plan to certain employees and directors, for the purchase of up to 350,000 shares of Unitil common stock (''Common Stock''). In addition, Unitil proposes to issue and sell up to 350,000 shares of Common Stock through March 1, 2004 upon the exercise of Stock Options.

The purpose of the Plan is to provide an incentive to key employees and directors of Unitil and its affiliates who are in a position to contribute materially to the long-term success of Unitil and/or its affiliates, to increase their interest in the welfare of Unitil and its affiliates and to attract and retain employees and directors of outstanding ability. A committee (''Committee''), made up of Unitil board members, will administer the Plan. The Committee will have authority to interpret the Plan and to designate the recipients of the Stock Options.

Stock Options granted under the Plan will entitle the holders of those options to purchase up to the number of shares of Common Stock specified in the grant at a price established by the Committee. Under the Plan, Stock Options for shares constituting not more than five percent of the Common Stock may be issued in any one year.

For the Commission by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–2105 Filed 1–28–99; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–40968; File No. SR–NASD–98–98]**

## Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Pre-Trading Quotation Period for Initial Public Offerings

January 22, 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 December 23, 1998, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD, through its wholly-owned subsidiary Nasdaq, is proposing to revise its practices concerning market maker quotations in Nasdaq securities that are being quoted for the first time after an initial public offering (''IPO''). Under the proposal, the pre-opening period for the initial display of market maker quotes will be extended to 15 minutes prior to the commencement of trading to permit the development of orderly quotations, with provision for a single additional fifteen minute extension of the pre-opening period of the market is locked or crossed at the conclusion of the first fifteen minute period.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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 III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

In 1994, Nasdaq established a five minute quotation-only time period for market makers to enter and adjust their first quotations for securities newly released for trading in its market.[3] This period, similar to the daily pre-opening display of quotations allowed for Nasdaq securities already trading in the secondary market,[4] was created to facilitate the opening of trading for IPOs and replaced the previous practice of only allowing immediate and simultaneous initial quotation and trading of Nasdaq IPO securities.

Recently, significant increased volatility has been observed in the opening of IPOs for secondary market trading on Nasdaq. This volatility appears to be the result of many converging factors, including the recent popularity of internet-related stocks, an increase in the influx of retail orders through on-line trading linkages, investor perceptions and expectations as well as other technological and economic factors. Nasdaq believes this excessive volatility has inhibited the smooth functioning of the Nasdaq market during the initial trading of these IPOs to the detriment of all market participants, including public investors.

In response, Nasdaq proposes to extend the current five minute pre-trading quotation period for all IPOs to fifteen minutes, with the potential for a single, further extension of an additional fifteen minute pre-trade quotation period if the issue is locked or crossed at the conclusion of the first fifteen minute period.[5] Nasdaq believes that these extended time periods will allow the market participants to better digest and respond to market price indications before an IPO is released for trading and thus provide better information upon which to make trading decisions. Nasdaq also believes that its proposal provides a modicum of opportunity in volatile, fast-paced markets to review and react to dramatic market movements that may manifest themselves in pricing anomalies. While this proposal represents an initial response, Nasdaq notes that it will continue to monitor and review trading activity and market practices with a view towards developing additional proposals to further mitigate excessive volatility in all areas of Nasdaq trading.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) and 15A(b)(11)[6] of the Act in that the proposal is designed to facilitate transactions in securities as well as produce fair and informative quotations and prevent fictitious or misleading quotations.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

Nasdaq did not solicit or receive written comments with respect to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34254 (June 24, 1994), 59 FR 33808 (June 30, 1994). When an IPO is first authorized for inclusion in Nasdaq, the system displays the time of day when quoting in the issue may begin and the time of day when trading in that issue may begin. Specifically, when a new security is released for trading, the window for quotations has been set to allow market makers a period of five minutes to enter and adjust their quotations prior to the commencement of trading.

[4] Nasdaq has represented that its practices of providing a pre-trading, quotation-only period for IPO securities is related to Nasdaq Rule 4120, ''Trading Halts,'' and Nasdaq Rule 4613, ''Character of Quotations.'' Nasdaq stated that this practice, like the objectives in Nasdaq Rule 4120, is designed to ensure that markets are not open for trading when unusual circumstances may prevent such markets from remaining fair and orderly. Nasdaq also stated that its current practice is similar to Nasdaq Rule 4613(c) and (e) in that market maker quotations are required to be reasonably related to the prevailing market, and market makers are prohibited from locking or crossing markets. Telephone conversation between Michael L. Loftus, Attorney, Division of Market Regulation, Commission; Robert E. Aber, Senior Vice President and General Counsel; and Thomas P. Moran, Senior Attorney, Office of General Counsel, Nasdaq (Jan. 22, 1999).

[5] Nasdaq's MarketWatch Department will determine whether an additional fifteen minute quotation-only period is necessary before trading in an IPO security may begin. The determination of MarketWatch will be based solely upon whether a market is locked or crossed to such an extent that releasing the IPO security for trading would be detrimental to the market or investors. Although MarketWatch will closely monitor pre-trading quotation activity during the entire fifteen minute period, the determination of MarketWatch will be predicated on the status of the market at the expiration of the initial fifteen minute period. Telephone conversation between Michael L. Loftus, Attorney, Division of Market Regulation, Commission; Robert E. Aber, Senior Vice President and General Counsel; and Thomas P. Moran, Senior Attorney, Office of General Counsel, Nasdaq (Jan. 22, 1999).

[6] 15 U.S.C. 78o-3(b)(6) and 78o-3(b)(11).

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the 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 proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–98 and should be submitted by February 19, 1999.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has carefully reviewed Nasdaq's proposed rule change and believes the proposal is consistent with the requirements of Section 15A(b) of the Act [7] and the rules and regulations thereunder applicable to a national securities association. Specifically, the Commission believes the proposal is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Act [8] which require, among other things, that a national securities association's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, facilitate transactions in securities, produce fair and informative quotations, prevent fictitious or misleading quotations, and promote orderly procedures for collecting, distributing, and publishing quotations.[9]

Under current Nasdaq practice, market makers are permitted to enter and adjust their first quotations for IPO securities during a pre-trading, quotation-only time period that lasts five minutes. Nasdaq created this quotation-only time period to facilitate the opening of trading for IPOs. Previously, when an IPO was authorized for trading on Nasdaq, market makers were permitted to immediately and simultaneously enter quotations and trade on the subject security.[10]

The Commission recognizes that it may be difficult at times to accurately gauge interest in an IPO, and that as a result, the opening of secondary market trading for Nasdaq IPO securities may be subject to increased volatility. As Nasdaq notes, such excessive volatility could impede the smooth functioning of the Nasdaq market during the initial trading of IPOs to the detriment of all market participants, including public investors.

The Nasdaq proposal was designed to address the increased volatility associated with the opening of IPOs for secondary market trading on Nasdaq. The proposal would extend the current five minute pre-trading quotation period for all IPOs to fifteen minutes, and provide the potential for an additional fifteen minute pre-trade quotation period if an IPO issue was locked or crossed at the conclusion of the first fifteen minute period. The Commission believes that this additional time should assist market participants in gauging the likely interest in an IPO and adjusting their quotes accordingly.

Pursuant to Section 19(b)(2) of the Act,[11] 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**. The Commission recognizes that increased investor demand for the securities of high-technology companies, especially those offered through IPOs, may be contributing to greater volatility of Nasdaq securities. The Commission believes it is important that before trading in an IPO security commences, Nasdaq market makers be provided sufficient time to determine an appropriate opening price that accurately reflects market interest in the IPO security. Setting a more accurate opening price for an IPO could help to reduce volatility in those securities as trading begins.

The Commission further believes that the availability of an additional fifteen minute quotation-only time period is an appropriate response to those instances where the market may be locked or crossed at the conclusion of the first fifteen minute period. Finally, the Commission notes that the proposal to extend the pre-trading quotation period represents one element of Nasdaq's response to excessive volatility, and encourages Nasdaq to continue to develop additional proposals as part of its ongoing review of trading activity and Nasdaq market practices.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change, SR–NASD–98–98, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99–2104 Filed 1–28–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78o–3(b).

[8] 15 U.S.C. 78o–3(b)(6) and 78o–3(b)(11).

[9] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] *See* Securities Exchange Act Release No. 34254 (June 24, 1994), 59 FR 33808 (June 30, 1994).

[11] 15 U.S.C. 78s(b)(2).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

---

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Economic Injury Disaster #9A81]**

### State of California

Fresno and Tulare Counties and the contiguous counties, Inyo, Kern, Kings, Madera, Merced, Mono, Monterey, and San Benito in the State of California constitute an economic injury disaster loan area as a result of extremely low temperatures and sub-freezing conditions beginning on December 20, 1998 and continuing. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on October 15, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, PO Box 13795, Sacramento, CA 95853–4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for this disaster is 9A8100.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: January 15, 1999.

**Mary Kristine Swedin,**

*Acting Administrator.*

[FR Doc. 99–2166 Filed 1–28–99; 8:45 am]

BILLING CODE 8025–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3152]**

### State of New York

Queens County and the contiguous Counties of Bronx, Kings, Nassau, and New York in the State of New York constitute a disaster area as a result of damages caused by heavy rain and flooding that occurred on January 3, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 19, 1999 and for economic injury until the close of business on October 15, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners with credit available elsewhere | 6.750 |
| Homeowners without credit available elsewhere | 3.375 |
| Businesses with credit available elsewhere | 8.000 |
| Businesses and non-profit organizations without credit available elsewhere | 4.000 |
| Others (including non-profit organizations) with credit available elsewhere | 7.000 |
| For Economic Injury: | |
| Businesses and small agricultural cooperatives without credit available elsewhere | 4.000 |

The numbers assigned to this disaster are 315206 for physical damage and 9A8200 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 15, 1999.

**Mary Kristine Swedin,**

*Acting Administrator.*

[FR Doc. 99–2167 Filed 1–28–99; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Region X Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, OR, will hold a public meeting at 9:00 A.M. to 2:00 P.M. on Thursday, February 04, 1999, at the Atwater's Restaurant, Adams Room, 30th Floor, 111 SW Fifth Avenue, Portland, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

**FOR FURTHER INFORMATION CONTACT:** Write or call Mr. Phillip E. Gentry, District Director, U.S. Small Business Administration, 1515 SW Fifth Avenue, Suite 1050, Portland, Oregon 97201–5494, (503) 326–5210.

Dated: January 20, 1999.

**Shirl Thoms,**

*Director, External Affairs.*

[FR Doc. 99–2168 Filed 1–28–99; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

### Bureau of Consular Affairs

**[Public Notice 2969]**

### Certain Foreign Passports Validity

In accordance with section 212(a)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(B)), a nonimmigrant alien who makes an application for a visa or for admission into the United States is required to possess a passport that: (1) is valid for a minimum of six months beyond the date of the expiration of the initial period of the alien's admission into the United States or contemplated initial period of stay and, (2) authorizes the alien to return to the country from which he or she came, or to proceed to and enter some other country during such period. Because of the foregoing requirement, certain competent authorities have agreed that their passports will be recognized as valid for the return of the bearer for a period of six months beyond the expiration date specified in the passport, thereby effectively extending the validity period of the foreign passport an additional six months beyond its expiration date, see 22 CFR 41.104(b).

This public notice adds Russia to the list of competent authorities that have provided the necessary assurances to the Government of the United States. The updated list of competent authorities who have made the necessary assurances is shown below:

### Table of Foreign Passports Recognized for Extended Validity

ALGERIA
ANTIGUA & BARBUDA
ARGENTINA
AUSTRALIA
AUSTRIA
BAHAMAS, THE
BANGLADESH
BARBADOS
BELGIUM
BRAZIL
CANADA
CHILE
COLOMBIA
COSTA RICA
COTE D'IVOIRE
CUBA
CYPRUS
CZECH REPUBLIC
DENMARK
DOMINICA
DOMINICAN REPUBLIC
ECUADOR
EGYPT
EL SALVADOR
ETHIOPIA
FINLAND
FRANCE
GERMANY
GREECE
GRENADA
GUINEA
HONG KONG (Certificates of identity & passports)
HUNGARY
ICELAND
INDIA
IRELAND
ISRAEL
ITALY
JAMAICA
JAPAN
JORDAN
KOREA
KUWAIT
LAOS
LEBANON
LIECHTENSTEIN
LUXEMBOURG
MADAGASCAR
MALAYSIA
MALTA
MAURITIUS
MEXICO
MONACO
NETHERLANDS
NEW ZEALAND
NICARAGUA (Diplomatic & official only)
NIGERIA
NORWAY
OMAN
PAKISTAN
PANAMA
PARAGUAY
PERU
PHILIPPINES
POLAND
PORTUGAL
QATAR
RUSSIA
SENEGAL
SINGAPORE
SLOVAK REPUBLIC
SLOVENIA
SOUTH AFRICA
SPAIN
SRI LANKA
ST. KITTS & NEVIS
ST. LUCIA
ST. VINCENT & THE GRENADINES
SUDAN
SURINAME
SWEDEN
SWITZERLAND
SYRIA
TAIWAN
THAILAND

TOGO
TRINIDAD & TOBAGO
TUNISIA
TURKEY
UNITED ARAB EMIRATES
UNITED KINGDOM
URUGUAY
VENEZUELA

Public Notice 2920 of October 24, 1998 published at 63 FR 60436 is hereby superseded.

Dated: January 16, 1999.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs.*

[FR Doc. 99–2075 Filed 1–28–99; 8:45 am]

BILLING CODE 4710–06–P

## DEPARTMENT OF STATE

**[Public Notice No. 2962]**

## Advisory Committee on International Economic Policy; Notice of Partially Closed Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 9:00 a.m. to 1:00 p.m. on Wednesday, February 10, 1999, in Room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. Shorter notification was necessitated by changes in the agenda and scheduling conflicts. The meeting will be hosted by Committee Chairman R. Michael Gadbaw and by Assistant Secretary of State for Economic and Business Affairs Alan P. Larson.

The ACIEP will first meet in closed session, which will be devoted to State and Local Sanctions. The closed briefing involves discussion of classified information, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. 552b(c)(1), 5 U.S.C. 442b(c)(4), and 5 U.S.C. 552b(c)(9)(B). Open session topics will be: the Global Economic Crisis: Proposals for Reform; Combating Corruption in Commercial Transactions; Y2K: the International Challenge; Civil Society and Economic Agreements; and Human Rights and the International Economy. Members of the public may attend the open session beginning at approximately 10:00 a.m. as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting should notify the ACIEP Executive Secretariat by phone at (202) 647–5968 or fax (202) 647–5713 (Attn: Sharon Rogers) by Wednesday, February 5, 1999. Each person should provide his or her name, company or organization affiliation, date of birth, and social security number. On the date of the meeting, persons who have registered should bring a valid photo ID for entry into the State Department. A list will be made up for Diplomatic Security and the Reception personnel will direct them to Room 1107.

For further information, contact Sharon Rogers, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520.

Dated: January 25, 1999.

**Alan P. Larson,**

*Assistant Secretary for Economic and Business Affairs.*

[FR Doc. 99–2241 Filed 1–28–99; 8:45 am]

BILLING CODE 4710–27–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

## Generalized System of Preferences; Imports Statistics Relating to Competitive Need Limitations; Invitation for Public Comment

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; invitation or public comment.

**SUMMARY:** The Trade Policy Staff Committee (TPSC) is informing the public of interim 1998 import statistics relating to Competitive Need Limitations (CNLs) under the Generalized System of Preferences (GSP) program. The TPSC also invites public comments by 5:00 p.m. March 19, 1999, regarding possible de minimis CNL waivers with respect to particular articles, and possible redesignations under the GSP program of articles currently subject to CNLs.

**FOR FURTHER INFORMATION CONTACT:** GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508. The telephone number is (202) 395–6971.

**SUPPLEMENTARY INFORMATION:**

### I. Competitive Need Limitations

Section 503(c)(2)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(A)), provides for Competitive Need Limitations on duty-free treatment under the GSP program. When the President determines that a beneficiary developing country exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($85 million for 1998), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the ''50 percent'' CNL), the President shall terminate GSP duty-free treatment for that article from that beneficiary developing country by no later than July 1 of the next calendar year.

### II. Discretionary Decisions

*A. De Minimis Waivers*

Section 503(c)(2)(F) of the 1974 Act provides the President with discretion to waive the 50 percent CNL with respect to an eligible article imported from a beneficiary developing country if the value of total imports of that article from all countries during the calendar year did not exceed the applicable amount for that year ($14 million for 1998).

*B. Redesignation of Eligible Articles*

Where an eligible article from a beneficiary developing country ceased to receive duty-free treatment due to exceeding the CNLs in a prior year, Section 503(c)(2)(C) of the 1974 Act provides the President with discretion to redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNLs.

### III. Implementation of Competitive Need Limitations, Waivers, and Redesignations

Exclusions from GSP duty-free treatment where CNLs have been exceeded, as well as the return of GSP duty-free treatment to products for which the President has used this discretionary authority to grant redesignations, will be effective July 1, 1999. Decisions on these matters, as well as decisions with respect to de minimis waivers, will be based on full 1998 calendar year import statistics.

### IV. Interim 1998 Import Statistics

In order to provide advance indication of possible changes in the list of eligible articles pursuant to exceeding CNLs, and to afford an earlier opportunity for comment regarding possible de minimis waivers and redesignations, interim import statistics covering the first 10 months of 1998 are included with this notice.

The following lists contains the HTS subheadings and beneficiary country of origin for GSP-eligible articles, the value of imports of such articles for the first ten months of 1998, and their percentage of total imports of that product from all countries. The flags indicate that status of GSP eligibility.

Articles marked with an ''*'' are those that have been excluded from GSP eligibility for the entire past calendar year. Flags ''1'' or ''2'' indicate products that were not eligible for duty-free

treatment under GSP for the first six months or last six months, respectively, of 1998.

The flag ''D'' identifies articles with total U.S. imports from all countries, based on interim 1998 data, less than the applicable amount ($14 million in 1998) for eligibility for a de minimis waiver of the 50 percent CNL.

List I shows GSP-eligible articles from beneficiary developing countries that already have exceeded the CNL of $85 million based on interim 1998 data. None of these articles were receiving duty-free treatment as of December 31, 1998. The listed articles did not receive GSP-duty free treatment either during all of 1998 or during the second half of 1998 (denoted with flags ''*'' or ''2'', respectively).

List II shows GSP-eligible articles from beneficiary developing countries that (1) have not yet exceeded, but are approaching, the $85 million CNL during the period from January through October 1998, or (2) are close to or above the 50 percent CNL. Depending on final calendar year 1998 import data, these products stand to lose GSP duty-free treatment on July 1, 1999.

List III is a subset of List II. List III identifies GSP-eligible articles from beneficiary developing countries that are near or above the 50 percent CNL, but that may be eligible for a de minimis waiver of the 50 percent CNL. Actual eligibility for de minimis waivers will depend on final calendar year 1998 import data.

List IV shows GSP articles from beneficiary developing countries which are currently not receiving GSP duty-free treatment, but which have import levels (based on interim 1998 data) below the $85 million CNL. Depending on whether such articles meet both the $85 million CNL and the 50 percent CNL based on full 1998 data, such articles might be eligible for redesignation pursuant to the President's discretionary authority. Articles with a ''D'' flag exceed the 50 percent CNL (based on interim 1998 data) but might be eligible for a de minimis waiver. The list may contain articles that may not be redesignation until certain conditions are fulfilled, as for example, where GSP eligibility for articles was suspended because of deficiencies in beneficiary countries' protection of the rights of workers or owners of intellectual property. This list does not include articles from India which do not receive GSP treatment as a result of Presidential Proclamation 6425 of April 29, 1992 (57 FR 19067).

Each list is followed by a summary table that indicates the number of products cited from each beneficiary developing country and the total value of imports of those products from the beneficiary developing country.

The lists appended to this notice are provided for informational purposes only. The attached lists are computer-generated, based on interim 1998 data, and may not include all articles that might be affected by the GSP CNLs. Regardless of whether or not an article is included on the list, all determinations and decisions regarding the CNLs of the GSP program will depend on full calendar year 1998 import data with respect to each GSP eligible article. Each interested party is advised to conduct its own review of 1998 import data with regard to the possible application of GSP CNLs.

## V. Public Comments

All written comments with regard to the matters discussed above should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20508. All submissions must be in English and should conform to the information requirements of 15 CFR 2007. Furthermore, each party providing comments should indicate on the first page of the submission its name, the relevant Harmonized Tariff Schedule subheading(s), the beneficiary country or territory of interest, and the type of action (e.g., the use of the President's de minimis waiver authority, etc.) in which the party is interested.

A party must provide fourteen copies of its statement which must be received by the Chairman of the GSP Subcommittee no later than 5 p.m., Friday, March 19, 1999. Comments received after the deadline will not be accepted. If the comments contain business confidential information, fourteen copies of non-confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, the submissions containing confidential information should be clearly marked ''confidential'' at the top and bottom of each page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, ''public verion'' or ''non-confidential''.

Written comments submitted in connection with these decisions, except for information granted ''business confidential'' status pursuant to 15 CFR 2007.7, will be available for public inspection shortly after the filing deadline by appointment only with the staff of the USTR Public Reading Room ((202) 395–6186). Other requests and questions should be directed to the GSP Information Center at USTR by calling (202) 395–6972.

**Frederick L.Montgomery,**

*Chairman, Trade Policy Staff Committee.*

BILLING CODE 3190–01–M

LIST I : ITEMS GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| * | 0603.10.70 | Colombia..... | 118,938,014 | 88.4% |
| * | 1701.11.10 | Dominican Republic.. | 107,017,629 | 18.1% |
| * | 1701.11.10 | Brazil..... | 94,287,225 | 15.9% |
| * | 2402.10.80 | Dominican Republic.. | 186,086,324 | 64.3% |
| * | 2603.00.00 | Chile..... | 96,182,829 | 61.0% |
| * | 4015.11.00 | Thailand..... | 156,749,125 | 22.4% |
| 2 | 4104.39.40 | Argentina..... | 156,426,989 | 71.1% |
| 2 | 4409.10.40 | Chile..... | 97,024,100 | 38.7% |
| * | 6406.10.65 | Dominican Republic.. | 163,568,604 | 59.7% |
| * | 7113.11.50 | Thailand..... | 108,869,276 | 28.3% |
| * | 7113.19.50 | Dominican Republic.. | 110,994,909 | 5.3% |
| 2 | 7113.19.50 | Turkey..... | 86,972,128 | 4.1% |
| * | 7113.19.50 | India..... | 243,879,524 | 11.6% |
| * | 7403.11.00 | Peru..... | 153,887,780 | 16.6% |
| * | 7403.11.00 | Chile..... | 87,544,886 | 9.4% |
| * | 8471.60.35 | Indonesia..... | 94,878,867 | 1.7% |
| * | 8516.50.00 | Thailand..... | 115,267,066 | 15.5% |
| * | 8517.21.00 | Thailand..... | 126,271,929 | 20.0% |
| * | 8544.30.00 | Thailand..... | 134,637,150 | 3.6% |
| * | 8802.30.00 | Brazil..... | 672,434,722 | 21.3% |
| * | 9009.12.00 | Thailand..... | 105,885,895 | 5.5% |
| * | 9018.90.80 | Dominican Republic.. | 267,908,298 | 30.9% |
| * | 9403.60.80 | Indonesia..... | 101,856,470 | 5.4% |

FLAGS: '*'=Excluded full yr; '1'=Excluded January/June; '2'=Excluded July/December

LIST I : ITEMS GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER

| PARTNER | IMPORTS | COUNT |
|---|---|---|
| Argentina..... | 156,426,989 | 1 |
| Brazil..... | 766,721,947 | 2 |
| Chile..... | 280,751,815 | 3 |
| Colombia..... | 118,938,014 | 1 |
| Dominican Republic.. | 835,575,764 | 5 |
| India..... | 243,879,524 | 1 |
| Indonesia..... | 196,735,337 | 2 |
| Peru..... | 153,887,780 | 1 |
| Thailand..... | 747,680,441 | 6 |
| Turkey..... | 86,972,128 | 1 |
| TOTAL..... | 3,587,569,739 | 23 |

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| D | 0210.20.00 | Uruguay | 1,026,710 | 50.1% |
| D | 0306.24.20 | Venezuela | 3,486,953 | 52.0% |
| D | 0703.10.20 | Argentina | 664,560 | 52.2% |
| D | 0710.29.30 | Dominican Republic | 1,368,415 | 56.6% |
| 1 D | 0711.40.00 | India | 1,671,264 | 50.2% |
| D | 0712.90.30 | Peru | 58,493 | 58.5% |
| D | 0712.90.70 | Egypt | 297,265 | 84.7% |
| | 0712.90.80 | Chile | 11,745,551 | 46.8% |
| D | 0713.33.20 | El Salvador | 402,902 | 55.1% |
| D | 0713.90.60 | India | 26,475 | 52.7% |
| D | 0714.20.10 | Dominican Republic | 6,670 | 73.2% |
| | 0714.90.20 | Costa Rica | 9,510,661 | 47.0% |
| D | 0714.90.45 | Costa Rica | 820,823 | 45.2% |
| D | 0802.31.00 | India | 45,500 | 100.0% |
| D | 0802.50.40 | Turkey | 201,509 | 52.6% |
| D | 0804.50.80 | Thailand | 1,335,426 | 49.7% |
| D | 0805.90.00 | Turkey | 695,721 | 63.3% |
| D | 0813.40.10 | Thailand | 1,034,049 | 90.3% |
| D | 0904.20.76 | India | 3,519,356 | 59.3% |
| D | 0910.10.40 | India | 342,301 | 74.2% |
| D | 1102.30.00 | Thailand | 2,317,908 | 76.9% |
| D | 1104.23.00 | Peru | 87,468 | 44.5% |
| | 1509.90.40 | Turkey | 6,009,552 | 42.2% |
| D | 1510.00.60 | Morocco | 1,327,565 | 52.9% |
| D | 1601.00.40 | Brazil | 128,500 | 65.6% |
| | 1602.50.20 | Brazil | 32,362,434 | 45.7% |
| D | 1604.14.50 | Colombia | 652,890 | 58.9% |
| D | 1605.90.10 | Thailand | 2,877,712 | 67.5% |
| D | 1701.91.05 | India | 11,610 | 100.0% |
| D | 1701.91.10 | Philippines | 63,765 | 62.9% |
| D | 1702.30.22 | Argentina | 68,570 | 80.3% |
| D | 1702.90.35 | Brazil | 2,901,294 | 90.9% |
| | 1702.90.40 | Brazil | 20,465,117 | 73.3% |
| D | 1703.10.30 | Brazil | 958,313 | 49.1% |
| D | 1703.90.30 | Lebanon | 14,172 | 51.5% |
| | 1703.90.50 | Poland | 8,748,687 | 54.7% |
| D | 1806.10.22 | Colombia | 27,324 | 93.3% |
| D | 1806.20.22 | Turkey | 6,300 | 100.0% |
| D | 1806.90.01 | Croatia | 94,416 | 60.0% |
| D | 2005.10.00 | Guatemala | 73,405 | 45.6% |
| D | 2005.10.00 | Turkey | 81,728 | 50.8% |
| D | 2006.00.70 | Thailand | 1,859,901 | 49.7% |
| D | 2008.19.15 | Dominican Republic | 5,962,130 | 46.0% |
| D | 2008.50.20 | Republic of South Af | 27,065 | 53.4% |
| D | 2008.99.35 | Thailand | 2,931,201 | 90.3% |
| D | 2008.99.45 | Dominican Republic | 86,492 | 51.1% |
| D | 2008.99.50 | Thailand | 1,596,982 | 49.1% |
| D | 2106.90.52 | El Salvador | 5,775 | 100.0% |
| D | 2208.60.50 | Russia | 15,348 | 59.5% |
| D | 2309.90.70 | Hungary | 174,420 | 89.8% |
| D | 2401.20.57 | India | 113,664 | 45.2% |
| D | 2516.12.00 | India | 2,533,987 | 50.9% |
| D | 2619.00.30 | Venezuela | 585,969 | 50.7% |
| D | 2811.29.50 | Brazil | 4,976,748 | 47.7% |
| D | 2819.10.00 | Kazakhstan | 5,297,437 | 79.5% |
| D | 2820.90.00 | Republic of South Af | 504,768 | 42.9% |
| D | 2825.70.00 | Chile | 7,657,362 | 92.2% |
| D | 2841.61.00 | Czech Republic | 970,442 | 49.2% |
| D | 2841.70.10 | Chile | 4,716,876 | 59.9% |
| D | 2902.90.40 | Hungary | 51,163 | 81.0% |
| D | 2903.51.00 | Romania | 2,205,456 | 51.7% |
| D | 2914.12.00 | Republic of South Af | 2,563,736 | 47.8% |
| D | 2914.22.10 | Slovakia | 495,884 | 75.7% |
| 1 D | 2916.31.15 | Estonia | 5,525,768 | 45.2% |
| D | 2917.19.10 | Hungary | 1,301,939 | 70.1% |
| D | 2918.21.50 | Brazil | 3,758,552 | 76.6% |
| D | 2922.12.00 | Brazil | 1,485,383 | 47.5% |
| D | 2931.00.25 | Brazil | 3,179,589 | 91.3% |
| D | 2933.40.08 | Hungary | 387,103 | 100.0% |
| D | 2935.00.05 | Czech Republic | 29,942 | 49.4% |
| D | 2938.10.00 | Brazil | 896,319 | 47.9% |
| | 3212.90.00 | Colombia | 38,247,537 | 50.4% |
| D | 3603.00.30 | Brazil | 1,438,127 | 46.9% |
| D | 3808.30.20 | Brazil | 457,176 | 76.4% |
| D | 3824.90.32 | Thailand | 17,983 | 42.0% |
| D | 3920.63.20 | India | 1,114,309 | 68.1% |
| D | 4202.22.35 | Philippines | 445,850 | 94.8% |
| D | 4205.00.60 | Panama | 288,860 | 48.0% |
| D | 4302.20.90 | Republic of South Af | 20,420 | 46.1% |
| D | 4409.10.60 | Honduras | 787,283 | 43.4% |
| D | 4412.13.25 | Brazil | 2,308,827 | 73.6% |
| | 4412.14.05 | Russia | 50,207,257 | 44.2% |
| D | 4412.14.25 | Brazil | 6,087,858 | 96.0% |
| D | 4412.19.10 | Chile | 1,064,874 | 63.7% |
| D | 4412.29.15 | Russia | 2,284,056 | 64.1% |
| D | 4412.92.50 | Guyana | 139,245 | 59.9% |
| D | 4412.99.15 | Brazil | 230,102 | 98.8% |
| D | 4412.99.45 | Brazil | 236,475 | 59.8% |
| D | 4602.10.23 | Philippines | 3,256 | 55.3% |
| D | 4802.51.10 | Venezuela | 18,369 | 42.5% |
| D | 4810.11.20 | Brazil | 1,592,428 | 60.5% |
| D | 5007.10.30 | India | 2,394,166 | 47.5% |
| D | 5102.10.60 | Republic of South Af | 50,872 | 54.9% |
| D | 5607.30.20 | Philippines | 3,705,380 | 78.1% |
| D | 5904.92.00 | Guatemala | 704 | 57.7% |
| D | 5904.92.00 | Thailand | 514 | 42.2% |
| | 6116.10.08 | Thailand | 10,536,960 | 46.6% |
| D | 6501.00.30 | Czech Republic | 1,451,570 | 48.7% |
| D | 6814.90.00 | India | 1,187,111 | 67.0% |
| | 7018.10.50 | Czech Republic | 9,918,181 | 46.2% |
| D | 7113.20.29 | India | 1,757,083 | 66.9% |
| D | 7113.20.30 | Mauritius | 601,749 | 60.0% |

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| | 7114.19.00 | Peru..... | 46,532,063 | 97.0% |
| | 7115.90.30 | Colombia..... | 42,353,290 | 90.9% |
| D | 7202.21.10 | Macedonia (Skopje).. | 3,587,646 | 85.1% |
| | 7202.49.50 | Russia..... | 24,830,073 | 43.7% |
| D | 7202.80.00 | Russia..... | 2,004,248 | 52.6% |
| | 7206.90.00 | Venezuela..... | 24,369,876 | 98.2% |
| | 7403.12.00 | Russia..... | 17,327,397 | 96.5% |
| D | 7405.00.60 | Russia..... | 990,133 | 80.2% |
| D | 7409.31.10 | Poland..... | 1,376,789 | 79.9% |
| D | 7418.19.10 | India..... | 4,997,068 | 48.6% |
| | 7418.19.20 | India..... | 22,556,476 | 47.7% |
| D | 7604.10.30 | Slovenia..... | 5,995,829 | 59.4% |
| | 7604.10.50 | Russia..... | 28,265,311 | 49.4% |
| D | 7801.99.30 | Dominican Republic.. | 271,140 | 100.0% |
| D | 8112.19.00 | Kazakhstan..... | 771,529 | 94.5% |
| D | 8112.91.50 | Chile..... | 7,898,383 | 85.2% |
| D | 8308.10.00 | Philippines..... | 5,886,293 | 47.1% |
| D | 8410.13.00 | Egypt..... | 800,000 | 95.5% |
| | 8414.51.00 | Thailand..... | 59,515,386 | 8.7% |
| | 8483.10.30 | Brazil..... | 68,301,720 | 26.0% |
| | 8517.19.80 | Indonesia..... | 75,555,880 | 9.3% |
| | 8517.90.24 | Costa Rica..... | 71,342,816 | 28.8% |
| | 8525.20.05 | Thailand..... | 8,405,881 | 52.8% |
| D | 8525.20.28 | Thailand..... | 4,046,435 | 42.8% |
| D | 8540.12.10 | India..... | 432,995 | 84.7% |
| D | 8543.81.00 | Philippines..... | 2,595,801 | 45.9% |
| D | 8708.99.31 | Bosnia-Hercegovina.. | 30,760 | 63.4% |
| | 8708.99.67 | Venezuela..... | 59,952,366 | 4.3% |
| D | 9013.10.30 | Ukraine..... | 2,583,865 | 65.9% |
| D | 9401.90.15 | Czech Republic..... | 1,052,341 | 56.8% |
| D | 9403.50.60 | Indonesia..... | 4,212 | 60.0% |
| D | 9506.19.40 | Czech Republic..... | 1,224,272 | 63.0% |
| D | 9606.30.80 | Ecuador..... | 952,104 | 44.1% |

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST II : ITEMS APPROACHING COMPETITIVE NEED LIMITS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER

| PARTNER | IMPORTS | COUNT |
|---|---|---|
| Argentina..... | 733,130 | 2 |
| Bosnia-Hercegovina.. | 30,760 | 1 |
| Brazil..... | 151,764,962 | 18 |
| Chile..... | 33,083,046 | 5 |
| Colombia..... | 81,281,041 | 4 |
| Costa Rica..... | 81,674,300 | 3 |
| Croatia..... | 94,416 | 1 |
| Czech Republic..... | 14,646,748 | 6 |
| Dominican Republic.. | 7,694,847 | 5 |
| Ecuador..... | 952,104 | 1 |
| Egypt..... | 1,097,265 | 2 |
| El Salvador..... | 408,677 | 2 |
| Estonia..... | 5,525,768 | 1 |
| Guatemala..... | 74,109 | 2 |
| Guyana..... | 139,245 | 1 |
| Honduras..... | 787,283 | 1 |
| Hungary..... | 1,914,625 | 4 |
| India..... | 42,703,365 | 15 |
| Indonesia..... | 75,560,092 | 2 |
| Kazakhstan..... | 6,068,966 | 2 |
| Lebanon..... | 14,172 | 1 |
| Macedonia (Skopje).. | 3,587,646 | 1 |
| Mauritius..... | 601,749 | 1 |
| Morocco..... | 1,327,565 | 1 |
| Panama..... | 288,860 | 1 |
| Peru..... | 46,678,024 | 3 |
| Philippines..... | 12,700,345 | 6 |
| Poland..... | 10,125,476 | 2 |
| Republic of South Af | 3,166,861 | 5 |
| Romania..... | 2,205,456 | 1 |
| Russia..... | 125,923,823 | 8 |
| Slovakia..... | 495,884 | 1 |
| Slovenia..... | 5,995,829 | 1 |
| Thailand..... | 96,476,338 | 13 |
| Turkey..... | 6,994,810 | 5 |
| Ukraine..... | 2,583,865 | 1 |
| Uruguay..... | 1,026,710 | 1 |
| Venezuela..... | 88,413,533 | 5 |
| TOTAL..... | 914,841,695 | 135 |

LIST III : POSSIBLE de MINIMIS ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| D | 0210.20.00 | Uruguay..... | 1,026,710 | 50.1% |
| D | 0306.24.20 | Venezuela..... | 3,486,953 | 52.0% |
| D | 0703.10.20 | Argentina..... | 664,560 | 52.2% |
| D | 0710.29.30 | Dominican Republic.. | 1,368,415 | 56.6% |
| 1 D | 0711.40.00 | India..... | 1,671,264 | 50.2% |
| D | 0712.90.30 | Peru..... | 58,493 | 58.5% |
| D | 0712.90.70 | Egypt..... | 297,265 | 84.7% |
| D | 0713.33.20 | El Salvador..... | 402,902 | 55.1% |
| D | 0713.90.60 | India..... | 26,475 | 52.7% |
| D | 0714.20.10 | Dominican Republic.. | 6,670 | 73.2% |
| D | 0714.90.45 | Costa Rica..... | 820,823 | 45.2% |
| D | 0802.31.00 | India..... | 45,500 | 100.0% |
| D | 0802.50.40 | Turkey..... | 201,509 | 52.6% |
| D | 0804.50.80 | Thailand..... | 1,335,426 | 49.7% |
| D | 0805.90.00 | Turkey..... | 695,721 | 63.3% |
| D | 0813.40.10 | Thailand..... | 1,034,049 | 90.3% |
| D | 0904.20.76 | India..... | 3,519,356 | 59.3% |
| D | 0910.10.40 | India..... | 342,301 | 74.2% |
| D | 1102.30.00 | Thailand..... | 2,317,908 | 76.9% |
| D | 1104.23.00 | Peru..... | 87,468 | 44.5% |
| D | 1510.00.60 | Morocco..... | 1,327,565 | 52.9% |
| D | 1601.00.40 | Brazil..... | 128,500 | 65.6% |
| D | 1604.14.50 | Colombia..... | 652,890 | 58.9% |
| D | 1605.90.10 | Thailand..... | 2,877,712 | 67.5% |
| D | 1701.91.05 | India..... | 11,610 | 100.0% |
| D | 1701.91.10 | Philippines..... | 63,765 | 62.9% |
| D | 1702.30.22 | Argentina..... | 68,570 | 80.3% |
| D | 1702.90.35 | Brazil..... | 2,901,294 | 90.9% |
| D | 1703.10.30 | Brazil..... | 958,313 | 49.1% |
| D | 1703.90.30 | Lebanon..... | 14,172 | 51.5% |
| D | 1806.10.22 | Colombia..... | 27,324 | 93.3% |
| D | 1806.20.22 | Turkey..... | 6,300 | 100.0% |
| D | 1806.90.01 | Croatia..... | 94,416 | 60.0% |
| D | 2005.10.00 | Guatemala..... | 73,405 | 45.6% |
| D | 2005.10.00 | Turkey..... | 81,728 | 50.8% |
| D | 2006.00.70 | Thailand..... | 1,859,901 | 49.7% |
| D | 2008.19.15 | Dominican Republic.. | 5,962,130 | 46.0% |
| D | 2008.50.20 | Republic of South Af | 27,065 | 53.4% |
| D | 2008.99.35 | Thailand..... | 2,931,201 | 90.3% |
| D | 2008.99.45 | Dominican Republic.. | 86,492 | 51.1% |
| D | 2008.99.50 | Thailand..... | 1,596,982 | 49.1% |
| D | 2106.90.52 | El Salvador..... | 5,775 | 100.0% |
| D | 2208.60.50 | Russia..... | 15,348 | 59.5% |
| D | 2309.90.70 | Hungary..... | 174,420 | 89.8% |
| D | 2401.20.57 | India..... | 113,664 | 45.2% |
| D | 2516.12.00 | India..... | 2,533,987 | 50.9% |
| D | 2619.00.30 | Venezuela..... | 585,969 | 50.7% |
| D | 2811.29.50 | Brazil..... | 4,976,748 | 47.7% |
| D | 2819.10.00 | Kazakhstan..... | 5,297,437 | 79.5% |
| D | 2820.90.00 | Republic of South Af | 504,768 | 42.9% |
| D | 2825.70.00 | Chile..... | 7,657,362 | 92.2% |
| D | 2841.61.00 | Czech Republic..... | 970,442 | 49.2% |
| D | 2841.70.10 | Chile..... | 4,716,876 | 59.9% |
| D | 2902.90.40 | Hungary..... | 51,163 | 81.0% |
| D | 2903.51.00 | Romania..... | 2,205,456 | 51.7% |
| D | 2914.12.00 | Republic of South Af | 2,563,736 | 47.8% |
| D | 2914.22.10 | Slovakia..... | 495,884 | 75.7% |
| 1 D | 2916.31.15 | Estonia..... | 5,525,768 | 45.2% |
| D | 2917.19.10 | Hungary..... | 1,301,939 | 70.1% |
| D | 2918.21.50 | Brazil..... | 3,758,552 | 76.6% |
| D | 2922.12.00 | Brazil..... | 1,485,383 | 47.5% |
| D | 2931.00.25 | Brazil..... | 3,179,589 | 91.3% |
| D | 2933.40.08 | Hungary..... | 387,103 | 100.0% |
| D | 2935.00.05 | Czech Republic..... | 29,942 | 49.4% |
| D | 2938.10.00 | Brazil..... | 896,319 | 47.9% |
| D | 3603.00.30 | Brazil..... | 1,438,127 | 46.9% |
| D | 3808.30.20 | Brazil..... | 457,176 | 76.4% |
| D | 3824.90.32 | Thailand..... | 17,983 | 42.0% |
| D | 3920.63.20 | India..... | 1,114,309 | 68.1% |
| D | 4202.22.35 | Philippines..... | 445,850 | 94.8% |
| D | 4205.00.60 | Panama..... | 288,860 | 48.0% |
| D | 4302.20.90 | Republic of South Af | 20,420 | 46.1% |
| D | 4409.10.60 | Honduras..... | 787,283 | 43.4% |
| D | 4412.13.25 | Brazil..... | 2,308,827 | 73.6% |
| D | 4412.14.25 | Brazil..... | 6,087,858 | 96.0% |
| D | 4412.19.10 | Chile..... | 1,064,874 | 63.7% |
| D | 4412.29.15 | Russia..... | 2,284,056 | 64.1% |
| D | 4412.92.50 | Guyana..... | 139,245 | 59.9% |
| D | 4412.99.15 | Brazil..... | 230,102 | 98.8% |
| D | 4412.99.45 | Brazil..... | 236,475 | 59.8% |
| D | 4602.10.23 | Philippines..... | 3,256 | 55.3% |
| D | 4802.51.10 | Venezuela..... | 18,369 | 42.5% |
| D | 4810.11.20 | Brazil..... | 1,592,428 | 60.5% |
| D | 5007.10.30 | India..... | 2,394,166 | 47.5% |
| D | 5102.10.60 | Republic of South Af | 50,872 | 54.9% |
| D | 5607.30.20 | Philippines..... | 3,705,380 | 78.1% |
| D | 5904.92.00 | Guatemala..... | 704 | 57.7% |
| D | 5904.92.00 | Thailand..... | 514 | 42.2% |
| D | 6501.00.30 | Czech Republic..... | 1,451,570 | 48.7% |
| D | 6814.90.00 | India..... | 1,187,111 | 67.0% |
| D | 7113.20.29 | India..... | 1,757,083 | 66.9% |
| D | 7113.20.30 | Mauritius..... | 601,749 | 60.0% |
| D | 7202.21.10 | Macedonia (Skopje).. | 3,587,646 | 85.1% |
| D | 7202.80.00 | Russia..... | 2,004,248 | 52.6% |
| D | 7405.00.60 | Russia..... | 990,133 | 80.2% |
| D | 7409.31.10 | Poland..... | 1,376,789 | 79.9% |
| D | 7418.19.10 | India..... | 4,997,068 | 48.6% |
| D | 7604.10.30 | Slovenia..... | 5,995,829 | 59.4% |
| D | 7801.99.30 | Dominican Republic.. | 271,140 | 100.0% |
| D | 8112.19.00 | Kazakhstan..... | 771,529 | 94.5% |
| D | 8112.91.50 | Chile..... | 7,898,383 | 85.2% |
| D | 8308.10.00 | Philippines..... | 5,886,293 | 47.1% |

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| D | 8410.13.00 | Egypt..... | 800,000 | 95.5% |
| D | 8525.20.28 | Thailand..... | 4,046,435 | 42.8% |
| D | 8540.12.10 | India..... | 432,995 | 84.7% |
| D | 8543.81.00 | Philippines..... | 2,595,801 | 45.9% |
| D | 8708.99.31 | Bosnia-Hercegovina.. | 30,760 | 63.4% |
| D | 9013.10.30 | Ukraine..... | 2,583,865 | 65.9% |
| D | 9401.90.15 | Czech Republic..... | 1,052,341 | 56.8% |
| D | 9403.50.60 | Indonesia..... | 4,212 | 60.0% |
| D | 9506.19.40 | Czech Republic..... | 1,224,272 | 63.0% |
| D | 9606.30.80 | Ecuador..... | 952,104 | 44.1% |

FLAGS: '1'=Excluded January/June; 'D'=De minimis;

LIST III : POSSIBLE de MINIMIS ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER

| PARTNER | IMPORTS | COUNT |
|---|---|---|
| Argentina..... | 733,130 | 2 |
| Bosnia-Hercegovina.. | 30,760 | 1 |
| Brazil..... | 30,635,691 | 15 |
| Chile..... | 21,337,495 | 4 |
| Colombia..... | 680,214 | 2 |
| Costa Rica..... | 820,823 | 1 |
| Croatia..... | 94,416 | 1 |
| Czech Republic..... | 4,728,567 | 5 |
| Dominican Republic.. | 7,694,847 | 5 |
| Ecuador..... | 952,104 | 1 |
| Egypt..... | 1,097,265 | 2 |
| El Salvador..... | 408,677 | 2 |
| Estonia..... | 5,525,768 | 1 |
| Guatemala..... | 74,109 | 2 |
| Guyana..... | 139,245 | 1 |
| Honduras..... | 787,283 | 1 |
| Hungary..... | 1,914,625 | 4 |
| India..... | 20,146,889 | 14 |
| Indonesia..... | 4,212 | 1 |
| Kazakhstan..... | 6,068,966 | 2 |
| Lebanon..... | 14,172 | 1 |
| Macedonia (Skopje).. | 3,587,646 | 1 |
| Mauritius..... | 601,749 | 1 |
| Morocco..... | 1,327,565 | 1 |
| Panama..... | 288,860 | 1 |
| Peru..... | 145,961 | 2 |
| Philippines..... | 12,700,345 | 6 |
| Poland..... | 1,376,789 | 1 |
| Republic of South Af | 3,166,861 | 5 |
| Romania..... | 2,205,456 | 1 |
| Russia..... | 5,293,785 | 4 |
| Slovakia..... | 495,884 | 1 |
| Slovenia..... | 5,995,829 | 1 |
| Thailand..... | 18,018,111 | 10 |
| Turkey..... | 985,258 | 4 |
| Ukraine..... | 2,583,865 | 1 |
| Uruguay..... | 1,026,710 | 1 |
| Venezuela..... | 4,091,291 | 3 |
| TOTAL..... | 167,781,223 | 112 |

LIST IV : POSSIBLE REDESIGNATION ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| 2 D | 0202.30.10 | Argentina..... | 1,066,788 | 99.8% |
| * | 0303.77.00 | Argentina..... | 3,088,321 | 36.6% |
| * | 0304.20.50 | Argentina..... | 33,750 | 2.8% |
| * | 0404.90.10 | Argentina..... | 0 | 0.0% |
| * | 0703.10.20 | Chile..... | 0 | 0.0% |
| * | 0703.20.00 | Argentina..... | 7,610,894 | 21.0% |
| * D | 0708.10.20 | Guatemala..... | 1,232,462 | 57.3% |
| 2 D | 0708.90.30 | Ecuador..... | 197,862 | 59.7% |
| * | 0709.10.00 | Chile..... | 60,943 | 3.1% |
| * D | 0709.20.10 | Peru..... | 5,223,377 | 64.1% |
| 2 | 0710.29.30 | Ecuador..... | 290,984 | 12.0% |
| * | 0710.80.70 | Guatemala..... | 845,773 | 13.2% |
| * D | 0710.80.93 | Guatemala..... | 2,067,771 | 58.7% |
| 2 D | 0711.30.00 | Turkey..... | 746,886 | 56.5% |
| 2 | 0712.90.74 | Turkey..... | 337,315 | 13.3% |
| * | 0713.90.10 | Peru..... | 148,906 | 25.4% |
| * D | 0714.10.10 | Costa Rica..... | 5,785,674 | 85.3% |
| * D | 0714.10.20 | Costa Rica..... | 13,359,058 | 97.4% |
| * D | 0714.20.20 | Dominican Republic.. | 3,282,482 | 94.0% |
| 2 D | 0802.50.20 | Turkey..... | 153,107 | 69.5% |
| 2 | 0802.90.80 | Guatemala..... | 222,920 | 16.7% |
| * | 0811.20.40 | Chile..... | 30,358 | 4.9% |
| * D | 0811.90.10 | Costa Rica..... | 2,268,855 | 45.5% |
| * D | 0811.90.50 | Costa Rica..... | 1,467,397 | 59.1% |
| * | 0813.10.00 | Turkey..... | 25,099,477 | 96.7% |
| * D | 0813.30.00 | Argentina..... | 3,162,156 | 55.9% |
| * | 1005.90.20 | Argentina..... | 0 | 0.0% |
| * | 1005.90.40 | Argentina..... | 13,790 | 0.3% |
| * D | 1007.00.00 | Argentina..... | 145,317 | 67.2% |
| * | 1106.30.20 | Ecuador..... | 26,238 | 35.7% |
| * | 1301.90.40 | Indonesia..... | 978,667 | 37.8% |
| * | 1403.90.40 | India..... | 839,590 | 41.8% |
| 2 D | 1602.50.09 | Argentina..... | 8,004,044 | 88.8% |
| * | 1602.50.20 | Argentina..... | 34,700,752 | 49.0% |
| * | 1604.14.50 | Thailand..... | 372,351 | 33.6% |
| 2 | 1604.14.50 | Indonesia..... | 57,079 | 5.1% |
| 2 D | 1604.15.00 | Chile..... | 6,012,007 | 63.8% |
| * | 1604.16.10 | Argentina..... | 288,000 | 1.8% |
| * D | 1605.90.55 | Indonesia..... | 1,269,975 | 55.5% |
| * | 1701.11.05 | Brazil..... | 0 | 0.0% |
| * | 1701.11.10 | Argentina..... | 28,074,701 | 4.7% |
| * | 1701.11.20 | Guatemala..... | 12,139,325 | 19.4% |
| * | 1701.11.20 | Brazil..... | 239,985 | 0.3% |
| * | 1701.12.10 | Brazil..... | 0 | 0.0% |
| * | 1701.91.05 | Brazil..... | 0 | 0.0% |
| * | 1701.91.10 | Brazil..... | 0 | 0.0% |
| 2 | 1701.91.42 | Jamaica..... | 0 | 0.0% |
| * | 1701.99.05 | Brazil..... | 0 | 0.0% |
| * | 1701.99.10 | Brazil..... | 230,000 | 1.7% |
| * | 1702.90.35 | Belize..... | 0 | 0.0% |
| * | 1702.90.40 | Dominican Republic.. | 0 | 0.0% |
| * | 1703.10.30 | Dominican Republic.. | 411,132 | 21.0% |
| * | 1806.10.65 | Brazil..... | 0 | 0.0% |
| * D | 1806.32.55 | Colombia..... | 110,400 | 52.4% |
| 2 | 2002.90.40 | Turkey..... | 0 | 0.0% |
| * D | 2004.10.40 | Colombia..... | 9,774 | 49.8% |
| * | 2007.99.48 | Argentina..... | 29,272 | 11.2% |
| * | 2007.99.50 | Brazil..... | 480,724 | 5.2% |
| * D | 2008.30.10 | Dominican Republic.. | 134,510 | 64.8% |
| * | 2008.50.20 | Argentina..... | 8,881 | 17.5% |
| * D | 2008.99.13 | Costa Rica..... | 3,525,470 | 56.7% |
| * D | 2008.99.23 | Dominican Republic.. | 237,356 | 89.9% |
| 2 | 2009.30.10 | Honduras..... | 54,000 | 17.8% |
| 2 D | 2106.90.06 | Colombia..... | 5,194 | 100.0% |
| * | 2106.90.12 | Dominican Republic.. | 0 | 0.0% |
| * | 2202.90.36 | Dominican Republic.. | 11,904 | 2.1% |
| 2 D | 2208.90.05 | Trinidad and Tobago. | 2,820,769 | 95.7% |
| 2 | 2401.20.57 | Indonesia..... | 0 | 0.0% |
| 2 D | 2516.90.00 | Republic of South Af | 2,410,459 | 46.4% |
| * | 2603.00.00 | Indonesia..... | 24,531,564 | 15.5% |
| * | 2608.00.00 | Peru..... | 11,078,656 | 57.8% |
| * | 2804.69.10 | Brazil..... | 4,212,883 | 6.8% |
| * | 2805.40.00 | Argentina..... | 0 | 0.0% |
| * | 2813.90.50 | Argentina..... | 12,400 | 0.9% |
| 2 D | 2825.30.00 | Republic of South Af | 12,488,249 | 99.1% |
| * | 2832.30.10 | Argentina..... | 54,517 | 20.0% |
| * | 2839.90.00 | Argentina..... | 745,101 | 11.2% |
| 2 D | 2840.11.00 | Turkey..... | 69,203 | 70.6% |
| 2 D | 2840.19.00 | Turkey..... | 4,989,172 | 99.5% |
| * | 2841.30.00 | Argentina..... | 250,556 | 4.2% |
| * | 2841.50.00 | Argentina..... | 0 | 0.0% |
| 2 D | 2841.90.10 | Republic of South Af | 777,548 | 67.5% |
| 2 | 2843.30.00 | Colombia..... | 27,742,540 | 94.5% |
| * | 2843.30.00 | Chile..... | 0 | 0.0% |
| * | 2843.30.00 | Argentina..... | 0 | 0.0% |
| * | 2849.10.00 | Argentina..... | 202,432 | 12.4% |
| 2 | 2849.90.50 | Republic of South Af | 25,767,044 | 61.3% |
| * | 2850.00.50 | Argentina..... | 0 | 0.0% |
| 2 | 2901.29.50 | Republic of South Af | 20,345,103 | 89.6% |
| * D | 2902.11.00 | Argentina..... | 2,912,769 | 95.7% |
| * | 2905.11.20 | Trinidad and Tobago. | 48,937,846 | 34.8% |
| * | 2905.12.00 | Argentina..... | 1,652,459 | 5.5% |
| * | 2905.13.00 | Argentina..... | 0 | 0.0% |
| * | 2905.22.50 | Argentina..... | 4,950 | 0.0% |
| * | 2906.11.00 | Brazil..... | 2,114,265 | 7.6% |
| * | 2906.14.00 | Argentina..... | 0 | 0.0% |
| * | 2907.23.00 | Brazil..... | 185,637 | 1.8% |
| 2 D | 2907.29.25 | Republic of South Af | 213,602 | 66.3% |
| * D | 2909.50.40 | Indonesia..... | 3,550,214 | 63.4% |
| * | 2914.12.00 | Argentina..... | 548,705 | 10.2% |
| * | 2914.13.00 | Argentina..... | 299,278 | 3.5% |
| * | 2915.31.00 | Brazil..... | 0 | 0.0% |

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| * | 2915.70.00 | Argentina..... | 49,875 | 0.1% |
| * | 2917.14.50 | Argentina..... | 0 | 0.0% |
| * | 2918.21.50 | Argentina..... | 0 | 0.0% |
| * | 2918.22.10 | Argentina..... | 1,245,018 | 20.1% |
| * | 2918.22.10 | Turkey..... | 0 | 0.0% |
| * | 2918.22.50 | Argentina..... | 0 | 0.0% |
| * | 2921.42.23 | Guatemala..... | 0 | 0.0% |
| * | 2929.10.15 | Argentina..... | 0 | 0.0% |
| * | 2932.99.90 | Argentina..... | 38,538 | 0.0% |
| * | 2933.40.30 | Argentina..... | 0 | 0.0% |
| * | 2933.90.55 | Argentina..... | 0 | 0.0% |
| * | 2934.90.15 | Brazil..... | 1,151,607 | 4.1% |
| 2 | 3204.12.20 | Argentina..... | 117,803 | 0.6% |
| 2 | 3204.12.30 | Argentina..... | 0 | 0.0% |
| 2 | 3204.12.45 | Argentina..... | 125,302 | 0.6% |
| 2 | 3204.12.50 | Argentina..... | 2,205 | 0.0% |
| * | 3209.90.00 | Argentina..... | 320,686 | 0.8% |
| * | 3301.12.00 | Brazil..... | 14,966,509 | 75.1% |
| * | 3301.19.10 | Argentina..... | 58,408 | 3.7% |
| * | 3301.90.10 | Argentina..... | 0 | 0.0% |
| * | 3302.10.10 | Argentina..... | 53,528 | 0.1% |
| * | 3302.10.20 | Argentina..... | 97,112 | 1.4% |
| * | 3302.90.10 | Argentina..... | 0 | 0.0% |
| * | 3303.00.30 | Argentina..... | 35,788 | 0.0% |
| * | 3304.20.00 | Argentina..... | 0 | 0.0% |
| * | 3304.99.50 | Argentina..... | 57,924 | 0.0% |
| * | 3305.10.00 | Argentina..... | 14,302 | 0.0% |
| * | 3305.90.00 | Argentina..... | 70,364 | 0.1% |
| * | 3307.20.00 | Argentina..... | 0 | 0.0% |
| * | 3307.49.00 | Argentina..... | 0 | 0.0% |
| * | 3401.11.10 | Argentina..... | 0 | 0.0% |
| * | 3504.00.50 | Argentina..... | 0 | 0.0% |
| * | 3506.99.00 | Argentina..... | 0 | 0.0% |
| * | 3701.10.00 | Argentina..... | 99,604 | 0.0% |
| * | 3702.10.00 | Argentina..... | 0 | 0.0% |
| * | 3706.10.30 | Argentina..... | 0 | 0.0% |
| * | 3707.90.32 | Argentina..... | 0 | 0.0% |
| * | 3806.30.00 | Argentina..... | 0 | 0.0% |
| 2 | 3817.10.50 | Indonesia..... | 858,694 | 7.4% |
| * | 3822.00.50 | Argentina..... | 30,000 | 0.0% |
| * | 3824.60.00 | Indonesia..... | 0 | 0.0% |
| * | 3824.90.40 | Brazil..... | 982,835 | 2.3% |
| * | 3901.90.90 | Argentina..... | 0 | 0.0% |
| * | 3902.10.00 | Argentina..... | 0 | 0.0% |
| * | 3902.20.50 | Argentina..... | 2,807,631 | 27.9% |
| * | 3902.90.00 | Argentina..... | 1,598,162 | 3.7% |
| * | 3903.90.50 | Argentina..... | 0 | 0.0% |
| * | 3904.21.00 | Brazil..... | 0 | 0.0% |
| * | 3904.40.00 | Argentina..... | 0 | 0.0% |
| * | 3906.10.00 | Argentina..... | 0 | 0.0% |
| * | 3906.90.50 | Argentina..... | 0 | 0.0% |
| * | 3907.30.00 | Argentina..... | 0 | 0.0% |
| * | 3907.60.00 | Argentina..... | 0 | 0.0% |
| * | 3907.99.00 | Argentina..... | 410 | 0.0% |
| * | 3909.10.00 | Argentina..... | 0 | 0.0% |
| * | 3909.50.50 | Argentina..... | 0 | 0.0% |
| * | 3913.90.20 | Argentina..... | 971,972 | 1.3% |
| * D | 3920.59.80 | Dominican Republic.. | 732,523 | 62.6% |
| * | 3921.90.50 | Argentina..... | 194,235 | 0.2% |
| * | 3923.90.00 | Argentina..... | 122,255 | 0.0% |
| * | 3926.20.30 | Pakistan..... | 667,810 | 18.6% |
| * | 4006.10.00 | Brazil..... | 69,081 | 19.2% |
| * | 4011.10.10 | Brazil..... | 58,531,025 | 4.6% |
| * | 4011.10.10 | Argentina..... | 6,307,887 | 0.4% |
| * | 4011.10.50 | Brazil..... | 776,980 | 2.0% |
| * | 4011.20.10 | Brazil..... | 67,298,079 | 5.3% |
| * | 4011.20.50 | Brazil..... | 19,985 | 0.0% |
| * | 4016.99.30 | Thailand..... | 469,663 | 2.5% |
| * | 4016.99.35 | Thailand..... | 5,334,205 | 31.3% |
| * | 4104.21.00 | Argentina..... | 3,520,662 | 14.5% |
| * | 4104.22.00 | Brazil..... | 977,175 | 9.4% |
| * | 4104.22.00 | Argentina..... | 1,484,097 | 14.3% |
| * | 4104.29.50 | Argentina..... | 41,768 | 2.5% |
| * | 4104.29.90 | Argentina..... | 7,700 | 0.0% |
| * | 4104.31.40 | Argentina..... | 43,266,638 | 18.3% |
| * | 4104.31.50 | Argentina..... | 498,875 | 1.3% |
| * | 4104.31.60 | Argentina..... | 422,315 | 1.5% |
| * | 4104.31.80 | Argentina..... | 8,841,357 | 9.4% |
| * | 4104.39.50 | Argentina..... | 4,154 | 0.1% |
| * | 4104.39.60 | Argentina..... | 2,828,717 | 29.6% |
| * | 4104.39.80 | Argentina..... | 3,572,291 | 7.7% |
| * | 4105.20.60 | Argentina..... | 34,089 | 0.1% |
| * | 4106.12.00 | India..... | 85,131 | 7.9% |
| 2 D | 4106.12.00 | Pakistan..... | 843,279 | 78.7% |
| * | 4106.19.30 | Pakistan..... | 37,699 | 11.5% |
| * | 4106.20.30 | India..... | 864,065 | 28.4% |
| * | 4106.20.60 | India..... | 2,313,857 | 26.9% |
| * D | 4106.20.60 | Pakistan..... | 5,363,049 | 62.3% |
| * | 4107.21.00 | Argentina..... | 0 | 0.0% |
| * | 4107.29.30 | Argentina..... | 170,798 | 4.7% |
| * | 4107.29.60 | Argentina..... | 199,741 | 2.5% |
| * | 4107.90.60 | Argentina..... | 23,019 | 0.1% |
| * | 4109.00.70 | Argentina..... | 0 | 0.0% |
| * | 4201.00.60 | Argentina..... | 3,022,248 | 5.3% |
| * | 4203.21.20 | Pakistan..... | 412,219 | 2.2% |
| * | 4203.21.55 | Pakistan..... | 337,202 | 19.1% |
| * | 4203.21.60 | Pakistan..... | 975,507 | 17.4% |
| * | 4203.21.80 | Pakistan..... | 5,965,257 | 7.1% |
| * | 4205.00.60 | Argentina..... | 2,800 | 0.4% |
| * | 4303.10.00 | Argentina..... | 546,151 | 0.5% |
| * | 4303.90.00 | Argentina..... | 12,885 | 0.0% |
| * | 4410.11.00 | Argentina..... | 0 | 0.0% |

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| * | 4410.19.00 | Argentina..... | 127,173 | 0.0% |
| * | 4411.11.00 | Brazil..... | 21,943,490 | 40.5% |
| * | 4411.11.00 | Argentina..... | 1,568,003 | 2.8% |
| * D | 4411.19.20 | Brazil..... | 4,202,723 | 49.2% |
| * | 4411.21.00 | Brazil..... | 22,602 | 0.0% |
| * | 4411.29.60 | Brazil..... | 0 | 0.0% |
| * | 4411.29.90 | Brazil..... | 0 | 0.0% |
| * D | 4412.13.05 | Indonesia..... | 7,436,501 | 60.5% |
| * | 4412.13.25 | Indonesia..... | 50,048 | 1.5% |
| * | 4412.14.30 | Brazil..... | 8,438,247 | 8.4% |
| * | 4412.14.30 | Indonesia..... | 30,307,476 | 30.4% |
| * | 4412.14.55 | Brazil..... | 17,251 | 0.0% |
| * | 4412.14.55 | Indonesia..... | 612,306 | 3.5% |
| * D | 4412.22.40 | Colombia..... | 194,777 | 61.3% |
| * | 4412.22.40 | Brazil..... | 0 | 0.0% |
| 2 | 4412.22.50 | Indonesia..... | 1,210,956 | 31.6% |
| 2 D | 4412.29.45 | Ecuador..... | 1,086,182 | 52.4% |
| * | 4412.92.50 | Indonesia..... | 0 | 0.0% |
| * | 4412.99.55 | Colombia..... | 0 | 0.0% |
| * | 4421.90.50 | Brazil..... | 0 | 0.0% |
| * | 4602.10.23 | Indonesia..... | 2,281 | 38.7% |
| * | 4802.52.10 | Argentina..... | 0 | 0.0% |
| 2 | 4809.10.20 | Guatemala..... | 0 | 0.0% |
| * | 4823.20.10 | Brazil..... | 0 | 0.0% |
| * D | 4823.90.20 | Philippines..... | 7,539,477 | 60.8% |
| * D | 5701.10.13 | Pakistan..... | 215,103 | 59.3% |
| * | 5702.10.10 | Pakistan..... | 3,312 | 0.6% |
| * D | 5702.49.15 | India..... | 952,870 | 62.1% |
| * | 5702.91.20 | Pakistan..... | 35,751 | 13.4% |
| * | 5805.00.20 | Pakistan..... | 0 | 0.0% |
| * | 6304.99.10 | Pakistan..... | 0 | 0.0% |
| * | 6304.99.40 | Pakistan..... | 0 | 0.0% |
| * | 6406.10.65 | Brazil..... | 807,489 | 0.2% |
| * | 6406.99.60 | Argentina..... | 3,259,604 | 16.8% |
| 2 | 6501.00.60 | Colombia..... | 0 | 0.0% |
| * | 6908.10.20 | Thailand..... | 362,897 | 4.2% |
| * | 6910.10.00 | Brazil..... | 731,072 | 1.5% |
| * | 6910.90.00 | Brazil..... | 1,446 | 0.0% |
| * | 6910.90.00 | Argentina..... | 570,758 | 0.3% |
| * | 6911.90.00 | Brazil..... | 107,938 | 0.6% |
| * | 6912.00.44 | Brazil..... | 2,932 | 0.0% |
| * | 7007.11.00 | Argentina..... | 0 | 0.0% |
| * | 7106.92.50 | Chile..... | 0 | 0.0% |
| * D | 7109.00.00 | Peru..... | 4,595,305 | 90.8% |
| * | 7113.19.21 | Peru..... | 4,579,444 | 15.0% |
| * | 7114.11.60 | Argentina..... | 0 | 0.0% |
| * | 7115.90.30 | Argentina..... | 0 | 0.0% |
| * | 7115.90.40 | Argentina..... | 0 | 0.0% |
| * | 7116.10.10 | Thailand..... | 17,622 | 2.1% |
| * | 7116.20.05 | Thailand..... | 5,373,907 | 27.8% |
| * | 7116.20.15 | Thailand..... | 1,032,203 | 6.7% |
| 2 D | 7117.90.55 | Peru..... | 2,680,396 | 63.4% |
| * | 7202.21.50 | Argentina..... | 0 | 0.0% |
| * | 7202.30.00 | Argentina..... | 6,776,089 | 4.9% |
| * | 7202.30.00 | Brazil..... | 0 | 0.0% |
| 2 | 7202.50.00 | Russia..... | 2,914,775 | 23.9% |
| 2 | 7206.90.00 | Trinidad and Tobago. | 0 | 0.0% |
| 2 D | 7307.91.30 | Brazil..... | 3,672,182 | 54.0% |
| * | 7308.90.95 | Argentina..... | 209,592 | 0.1% |
| * | 7315.90.00 | Argentina..... | 178,300 | 1.1% |
| * | 7402.00.00 | Chile..... | 35,740,021 | 11.5% |
| * | 7403.12.00 | Peru..... | 610,673 | 3.4% |
| * | 7403.12.00 | Chile..... | 0 | 0.0% |
| * | 7403.13.00 | Chile..... | 235,480 | 2.2% |
| * | 7403.19.00 | Chile..... | 29,591,242 | 35.5% |
| * | 7403.21.00 | Chile..... | 0 | 0.0% |
| * | 7403.22.00 | Chile..... | 0 | 0.0% |
| * | 7403.23.00 | Chile..... | 0 | 0.0% |
| * | 7403.29.00 | Chile..... | 0 | 0.0% |
| * | 7407.21.90 | Brazil..... | 1,258,188 | 1.5% |
| 2 | 7407.22.30 | Russia..... | 83,791 | 32.0% |
| * | 7409.11.50 | Argentina..... | 92,860 | 0.1% |
| * | 7409.21.00 | Argentina..... | 158,363 | 0.5% |
| 2 | 7409.39.50 | Hungary..... | 0 | 0.0% |
| 2 | 7411.21.50 | Trinidad and Tobago. | 0 | 0.0% |
| * | 7419.99.50 | Argentina..... | 105,187 | 0.0% |
| * | 7604.29.30 | Venezuela..... | 0 | 0.0% |
| * | 7605.11.00 | Venezuela..... | 0 | 0.0% |
| 2 D | 7614.90.20 | Venezuela..... | 5,670,423 | 46.9% |
| * | 7614.90.50 | Venezuela..... | 0 | 0.0% |
| * | 7901.11.00 | Argentina..... | 4,235,583 | 0.7% |
| * | 7901.12.50 | Argentina..... | 0 | 0.0% |
| 2 | 7904.00.00 | Republic of South Af | 680,503 | 27.0% |
| * D | 7905.00.00 | Peru..... | 10,505,481 | 82.7% |
| * | 8104.11.00 | Russia..... | 30,021,168 | 48.2% |
| * | 8112.30.60 | Russia..... | 950,962 | 34.3% |
| * | 8207.20.00 | Argentina..... | 0 | 0.0% |
| * D | 8211.92.60 | Pakistan..... | 2,070,883 | 49.7% |
| * | 8408.20.20 | Brazil..... | 19,322,429 | 11.2% |
| * | 8408.20.90 | Brazil..... | 12,666 | 0.0% |
| * | 8409.91.50 | Brazil..... | 25,795,339 | 2.1% |
| * | 8409.91.50 | Argentina..... | 3,937,525 | 0.3% |
| * | 8409.91.99 | Argentina..... | 1,659,846 | 0.5% |
| * | 8409.99.91 | Argentina..... | 1,990,084 | 0.6% |
| * | 8412.10.00 | Russia..... | 0 | 0.0% |
| * | 8413.30.10 | Brazil..... | 12,382,811 | 5.7% |
| * | 8413.91.90 | Argentina..... | 1,191,998 | 0.2% |
| * | 8414.30.80 | Brazil..... | 25,624,323 | 6.6% |
| * | 8419.90.20 | Brazil..... | 282,186 | 1.5% |
| * | 8422.30.90 | Argentina..... | 844,783 | 0.2% |
| * | 8429.11.00 | Brazil..... | 31,558,897 | 16.3% |
| * | 8429.20.00 | Brazil..... | 54,251,507 | 50.9% |

FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

LIST IV : POSSIBLE REDESIGNATION ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

| FLAGS | HTSUS | PARTNER | IMPORTS | SHARE |
|---|---|---|---|---|
| * | 8429.30.00 | Brazil..... | 14,332,646 | 64.1% |
| * | 8431.49.10 | Argentina..... | 13,804 | 0.0% |
| * | 8431.49.90 | Brazil..... | 49,749,374 | 4.9% |
| * | 8471.49.29 | Thailand..... | 48,815 | 0.8% |
| * | 8471.60.45 | Thailand..... | 135,723 | 0.0% |
| * | 8477.51.00 | Argentina..... | 0 | 0.0% |
| * | 8479.20.00 | Argentina..... | 47,858 | 1.3% |
| * | 8480.30.00 | Argentina..... | 1,650 | 0.0% |
| * | 8481.30.20 | Argentina..... | 0 | 0.0% |
| * | 8481.80.30 | Argentina..... | 637,876 | 0.1% |
| * | 8481.80.90 | Argentina..... | 1,261,464 | 0.1% |
| * | 8481.90.30 | Argentina..... | 74,420 | 0.1% |
| * | 8503.00.65 | Argentina..... | 15,282 | 0.0% |
| * | 8517.80.10 | Indonesia..... | 6,812,717 | 2.8% |
| * | 8521.10.60 | Thailand..... | 82,533,027 | 4.0% |
| * | 8524.31.00 | Argentina..... | 45,674 | 0.0% |
| * | 8524.32.00 | Argentina..... | 536,006 | 0.2% |
| * | 8524.52.10 | Argentina..... | 12,755 | 0.1% |
| * | 8524.60.00 | Argentina..... | 0 | 0.0% |
| * | 8524.91.00 | Argentina..... | 9,900 | 0.0% |
| * | 8524.99.60 | Argentina..... | 0 | 0.0% |
| * | 8524.99.90 | Argentina..... | 29,491 | 0.0% |
| 2 | 8525.20.05 | Philippines..... | 2,389,138 | 15.0% |
| * | 8528.12.04 | Indonesia..... | 82,286,632 | 98.5% |
| 2 | 8528.12.16 | Thailand..... | 72,888,866 | 32.8% |
| * | 8531.20.00 | Thailand..... | 41,576,425 | 5.0% |
| 2 | 8531.20.00 | Philippines..... | 50,783,349 | 6.2% |
| 2 | 8534.00.00 | Thailand..... | 60,378,139 | 3.5% |
| * | 8535.40.00 | Dominican Republic.. | 425,004 | 0.8% |
| * | 8536.90.40 | Argentina..... | 0 | 0.0% |
| * | 8536.90.80 | Argentina..... | 0 | 0.0% |
| * | 8538.90.80 | Argentina..... | 3,500 | 0.0% |
| * | 8708.39.50 | Brazil..... | 68,688,914 | 4.6% |
| 2 | 8708.40.50 | Brazil..... | 13,053 | 0.0% |
| * | 8708.60.80 | Argentina..... | 68,414 | 0.0% |
| * | 8708.70.60 | Argentina..... | 0 | 0.0% |
| * | 8708.99.80 | Argentina..... | 3,517,063 | 0.1% |
| * | 8716.90.50 | Argentina..... | 6,000 | 0.0% |
| 2 | 9001.30.00 | Indonesia..... | 69,032,477 | 58.7% |
| * | 9003.90.00 | Argentina..... | 0 | 0.0% |
| * D | 9006.62.00 | Thailand..... | 10,806,277 | 91.8% |
| * | 9018.11.60 | Argentina..... | 0 | 0.0% |
| * D | 9018.90.10 | Argentina..... | 802,328 | 54.5% |
| * | 9018.90.80 | Pakistan..... | 18,736,524 | 2.1% |
| * D | 9025.11.20 | India..... | 1,126,810 | 44.0% |
| * | 9105.19.10 | Brazil..... | 0 | 0.0% |
| * | 9105.19.40 | Brazil..... | 26,189 | 0.4% |
| * | 9113.10.00 | Argentina..... | 0 | 0.0% |
| * | 9113.20.60 | Argentina..... | 0 | 0.0% |
| * | 9401.30.40 | Croatia..... | 0 | 0.0% |
| * | 9401.30.40 | Slovenia..... | 0 | 0.0% |
| * | 9401.69.40 | Indonesia..... | 11,322,693 | 59.9% |
| * | 9403.20.00 | Argentina..... | 214,018 | 0.0% |
| * | 9403.50.90 | Argentina..... | 665,139 | 0.0% |
| * | 9403.60.80 | Argentina..... | 2,491,938 | 0.1% |
| * | 9405.30.00 | Thailand..... | 13,926,705 | 3.1% |
| * D | 9506.61.00 | Philippines..... | 4,932,328 | 60.1% |
| * | 9506.62.80 | Pakistan..... | 1,522,612 | 2.0% |
| * | 9506.91.00 | Pakistan..... | 287,478 | 0.0% |
| 2 D | 9614.20.60 | Turkey..... | 71,325 | 87.4% |

LIST IV : POSSIBLE REDESIGNATION ITEMS

1998 U.S. IMPORTS - JANUARY THROUGH OCTOBER

TOTALS BY PARTNER

| PARTNER | IMPORTS | COUNT |
|---|---|---|
| Argentina..... | 213,189,475 | 160 |
| Belize..... | 0 | 1 |
| Brazil..... | 495,482,664 | 55 |
| Chile..... | 71,670,051 | 14 |
| Colombia..... | 28,062,685 | 7 |
| Costa Rica..... | 26,406,454 | 5 |
| Croatia..... | 0 | 1 |
| Dominican Republic.. | 5,234,911 | 9 |
| Ecuador..... | 1,601,266 | 4 |
| Guatemala..... | 16,508,251 | 7 |
| Honduras..... | 54,000 | 1 |
| Hungary..... | 0 | 1 |
| India..... | 6,182,323 | 6 |
| Indonesia..... | 240,320,280 | 19 |
| Jamaica..... | 0 | 1 |
| Pakistan..... | 37,473,685 | 18 |
| Peru..... | 39,422,238 | 8 |
| Philippines..... | 65,644,292 | 4 |
| Republic of South Af | 62,682,508 | 7 |
| Russia..... | 33,970,696 | 5 |
| Slovenia..... | 0 | 1 |
| Thailand..... | 295,256,825 | 15 |
| Trinidad and Tobago. | 51,758,615 | 4 |
| Turkey..... | 31,466,485 | 9 |
| Venezuela..... | 5,670,423 | 4 |
| TOTAL..... | 1,728,058,127 | 366 |



FLAGS: '*'=Excluded full year; '2'=Excluded July/December; 'D'=De minimis;

[FR Doc. 99–2071 Filed 1–28–99; 8:45 am]

BILLING CODE 3190–01–C

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Docket OST–1998–4538; Order 99–1–13]**

### Application of National Airlines, Inc. for Certificate Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 99–1–13 ) Docket OST–1998–4538.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding National Airlines, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

**DATES:** Persons wishing to file objections should do so no later than February 10, 1999.

**ADDRESSES:** Objections and answers to objections should be filed in Docket OST–1998–4538 and addressed to Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Rm. PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carol Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–2340.

Dated: January 26, 1999.

**Patrick V. Murphy,**

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 99–2214 Filed 1–28–99; 8:45 am]

**BILLING CODE 4910–62–U**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. MC–F–20941]**

### Groendyke Transport, Inc., Manfredi Motor Transit Co., Miller Transporters, Inc., Superior Carriers, Incorporated, and Trimac Transportation, Inc.—Pooling Agreement

**AGENCY:** Surface Transportation Board.

**ACTION:** Request for comments from interested parties and order of suspension.

**SUMMARY:** Pursuant to 49 U.S.C. 14302(c)(3), we are (1) requesting public comments on an application filed by nine motor carriers of bulk commodities to pool some of their services, traffic, and revenues and (2) suspending operation of the pooling agreement pending a final decision on the application.

**DATES:** Comments must be filed by March 1, 1999. Applicant's reply to the comments is due by March 22, 1999.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20941 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representative: James A. Calderwood, Zuckert, Scoutt & Rasenberger, 888 17th Street, N.W., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1609. [TDD for the hearing impaired: (202) 565–1695.]

**SUPPLEMENTARY INFORMATION:** By application filed on November 20, 1998, nine motor carriers [1] seek authority to pool some of their services, traffic, and revenues pursuant to 49 U.S.C. 14302 and our regulations to implement this provision at 49 CFR 1184. The carriers are all licensed by the United States Department of Transportation (DOT) to carry bulk commodities that are often classified as ''hazardous materials'' by DOT. In general, the bulk commodities transported by applicants are chemical products that cannot be mixed with other cargo in the same load and require specialized equipment and handling procedures. The equipment must usually be cleaned after each delivery.

By their pooling agreement, applicants plan to establish a ''joint venture corporation'' (JVC) that will (1) coordinate their operations so as to avoid traffic imbalances and empty mileage and (2) share and coordinate their acquisition, use, and cleaning of the specialized cleaning equipment required for their operations. The pooling agreement has no expiration date. Each of the five owners of the JVC will have a 20% equity interest in it, and representation on the JVC's Board of Directors will be equal among the five owners.[2] Each of the five owners will make an initial contribution to the JVC to cover expenses associated with its formation and initial operations. The JVC's board will hire its own staff.

The operations of the JVC can be summarized in their essential aspects as follows:

1. *Load Balancing.* Each carrier will regularly notify the JVC about the points where it will have empty equipment or need loads and the points where it cannot handle the loads offered to it. The JVC will endeavor to reconcile available equipment with needs ''in a fair and equitable manner.'' Not less than monthly, the JVC will report to its carrier members as to ''the number of loads transported under the joint venture corporation arrangement along with the volumes and points served.''

2. *Cleaning equipment.* The carrier members will assist each other in the provision of cleaning equipment, make cleaning facilities available on an equal basis, establish procedures for the use and cleaning of such equipment, and share information and compile records concerning such use. In addition, ''[m]ember carriers owning or controlling particular cleaning facilities will be responsible for the safe and efficient operation of such facilities * * *''

3. *Funding.* The JVC may establish charges to its member carriers to fund its operations.

4. *Participation.* A carrier member may terminate its participation by giving 30 days notice, subject to fulfillment of its prior obligations, and, if its permit is revoked by DOT, its operational participation will be automatically suspended.

5. *Shippers.* The carriers certify that the rates set under the agreement do not contravene the restrictions on collective ratemaking in 49 U.S.C. Subtitle IV and our regulations.[3] Each carrier member will deal separately with shippers as to rates, contracts, and service. Rates will not be set by the JVC or its staff and will not be subject to discussion or agreements between JVC members.

Under the pooling agreement, carriers will sometimes have to collect charges from their customers for services that will actually be performed by other carriers. The particular carrier member responsible for contractual

[1] The nine motor carriers are: Groendyke Transport, Inc.; Manfredi Motor Transit Co.; Miller Transporters, Inc.; Superior Carriers, Inc., and Central Transport, Inc., both wholly owned subsidiaries of Superior Carriers, Incorporated, a noncarrier; and Liquid Transporters, Inc., Quality Services Tanklines, Inc., Trimac Transportation Services (Western), Inc., and Universal Transport, Inc., all four of which are wholly owned subsidiaries of Trimac Transportation, Inc., a noncarrier.

[2] The parent owners will act on behalf of their subsidiary regulated carriers: see n.1 herein.

[3] The last sentence of numbered paragraph 7 of the pooling agreement provides: ''The joint venture corporation will establish a uniform rate structure applicable to transportation services rendered through the joint venture corporation.'' We presume that this provision concerns payment for services that the carriers will render to each other and would not allow the JVC to provide regulated transportation services to be billed to shippers. Applicants should notify us if we are incorrect in this presumption.

arrangements with a particular shipper will collect charges from the shipper and compensate the carriers that actually perform the services. The JVC will facilitate such compensation, acting as a clearinghouse and record keeper.

On January 7, 1999, Schneider National Bulk Carriers, Inc. (Schneider) filed a letter reply in opposition to the agreement, urging us to set the matter for hearing. Schneider asserts that the agreement is too vague; that it would unduly concentrate the market; that it would allow the participants to function as a de facto rate bureau; that it would permit improper ''signals'' of price movements; that uniform equipment costs could improperly influence carrier rates; and that the agreement would improperly allow division of the market. Interested persons may obtain a copy of Schneider's letter reply by contacting counsel for Schneider, Mr. Stephen M. Ferris, Esq., who may be reached at (920) 592–3896.

On January 15, 1999, Liquid Transport Corporation (LTC) filed a petition urging us to reject the agreement or to request comments from the public. LTC asserts that the proposal, which it concludes is not a pooling agreement but is instead a ''Return Loads Bureau'' and equipment cleaning service, is of major transportation importance because it will adversely affect the ability of other carriers to compete for this traffic; that the proposal will restrain competition and effectively constitute collective ratemaking; and that any benefits it may produce will not justify the harm it will cause. Interested persons may obtain a copy of LTC's petition by contacting counsel for LTC, Mr. Terry G. Fewell, Esq., who may be reached at (317) 637–1777.

Under 49 U.S.C. 14302(c)(2), the Board must determine whether the proposed pool is of major transportation importance and whether there is a substantial likelihood that the agreement will unduly restrain competition. If we determine that neither of these two factors exists, we are required to approve the agreement without a hearing. Before we attempt to make those determinations, we will seek public comments on the application and on the issues raised by Schneider and LTC.

So that we may issue a final decision on the application after the comments are analyzed, commenters should also address whether, even if the agreement is of major transportation importance or there is a substantial likelihood that the agreement will unduly restrain competition, the agreement should nevertheless be approved under 49 U.S.C. 14302(c)(3) because it would foster better service to the public or operational economies.

Because the applicant carriers bear the burden of proof, we will allow them to respond to the public comments.

Under 49 U.S.C. 14302(c)(3), we are required to suspend operation of the proposed agreement pending a final decision, and we hereby do so.

Board decisions and notices are available at our website at ''WWW.STB.DOT.GOV.''

This notice and order will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. A hearing on the pooling application is commenced as described in this notice.

2. Effective on the date of publication, the operation of the proposed pooling agreement is suspended pending completion of this hearing and issuance of a final decision.

3. A copy of this notice will be served on the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: January 25, 1999.

By the Board, Chairman Morgan and Vice Chairman Clyburn.

**Vernon A. Williams.**

*Secretary.*

[FR Doc. 99–2224 Filed 1–28–99; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Ex Parte No. 290 (Sub-No. 4)]**

### Railroad Cost Recovery Procedures—Productivity Adjustment

**AGENCY:** Surface Transportation Board, Transportation.

**ACTION:** Proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

**SUMMARY:** The Surface Transportation Board proposes to adopt 1.057 (5.7%) as the measure of average growth in railroad productivity for the 1993–1997 (5-year) period. The current value of 9.7% was developed for the 1992 to 1996 period.

**DATES:** Comments are due by February 16, 1999.

**EFFECTIVE DATE:** The proposed productivity adjustment is effective February 28, 1999.

**ADDRESSES:** Send comments (an original and 10 copies) referring to STB Ex Parte No. 290 (Sub-No. 4) to: Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, DC 20423–0001. Parties should submit all pleading and attachments on a 3.5-inch diskette in WordPerfect 6.0 or 6.1 compatible format.

**FOR FURTHER INFORMATION CONTACT:** H. Jeff Warren, (202) 565–1549. TDD for the hearing impaired: (202) 565–1695.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423–0001, telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: January 22, 1999.

By the Board, Chairman Morgan and Vice Chairman Clyburn.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99–2225 Filed 1–28–99; 8:45 am]

BILLING CODE 4915–00–P

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition Determinations: ''Collecting Impressionism''

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit, ''Collecting Impressionism,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the High Museum of Art in Atlanta, Georgia from February 27 through May 16, 1999, at the Seattle Art Museum in Seattle, Washington from

June 12 through August 29, 1999, and at the Denver Art Museum in Denver, Colorado from September 25 through December 12, 1999, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the list of exhibit objects or for further information contact Lorie Nierenberg, Assistant General Counsel, Office of the General Counsel, 202/619–6084, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: January 22, 1999.

[FR Doc. 99–2152 Filed 1–28–99; 8:45 am]

BILLING CODE 8230–01–M

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0047]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed by the agency when a purchaser assumes a veteran's home in release of liability cases.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Financial Statement, VA Form 26–6807.

*OMB Control Number:* 2900–0047.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* This form provides information needed by the agency when a purchaser assumes a veteran's home in release of liability cases.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 30,000 hours.

*Estimated Average Burden Per Respondent:* 45 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 40,000.

Dated: December 2, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2119 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0320]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to allow veterans to gain occupancy of property even though exterior improvements must be postponed because of bad weather.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0320'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

*OMB Control Number:* 2900–0320.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The data collected is used to allow a veteran to gain occupancy of a property when specified exterior onsite

improvements must be postponed because of delays such as bad weather.

*Affected Public:* Individuals or households and business or other for-profit.

*Estimated Annual Burden:* 1 hour.

*Estimated Average Burden Per Respondent:* 30 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 10,000.

Dated: December 2, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2120 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0507]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0507.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Medical Information for Reinstatement, VA Form Letter 29–762.

*OMB Control Number:* 2900–0507.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The form letter is used by the veteran's attending physician to supply medical information that is required to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision. The information on the form is required by 38 CFR 8.12.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 24, 1998, 1998 at page 34503.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 240 hours.

*Estimated Average Burden Per Respondent:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 480.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0507'' in any correspondence.

Dated: November 23, 1998.

By direction of the Secretary.

**Genie McCully,**

*Program Analyst, Information Management Service.*

[FR Doc. 99–2118 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0362]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information which is essential to VA determinations concerning the amount owed the holder when there is a default on a VA guaranteed home loan.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0362'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Claim under Loan Guaranty and Supplemental Claim Form—Adjustable Rate Mortgages, VA Form 26–1874 and VA Form 26–1874a.

*OMB Control Number:* 2900–0362.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The data collected is essential to VA determinations concerning the amount owed the holder under the guaranty.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 26,139 hours.

*Estimated Average Burden Per Respondent:* 59 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 26,806.

Dated: December 2, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2121 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0383]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information necessary to determine eligibility for and entitlement to Educational Assistance Test Program benefits.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0383'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Application for Educational Assistance Test Program Benefits, VA Form 22–8889.

*OMB Control Number:* 2900–0383.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The data collected is used to determine eligibility for and entitlement to Educational Assistance Test Program benefits.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 100 hours.

*Estimated Average Burden Per Respondent:* 30 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 200.

Dated: December 3, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2122 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0405]**

## Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to confirm the continued entitlement of a beneficiary under the Restored Entitlement Program for Survivors (REPS) program.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0405'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* REPS Annual Eligibility Report, VA Form 21–8941.

*OMB Control Number:* 2900–0405.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The form is used to confirm the continued entitlement of a beneficiary under the REPS program.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 550 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 2,200.

By direction of the Secretary.

Dated: December 3, 1998.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2123 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0408]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine claim payment to holders of terminated VA guaranteed manufactured home unit loans.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0408'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title and Form Numbers:* Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only) and Manufactured Home Loan Claim Under Loan Guaranty (Combination Loan—Manufactured Home Unit and Lot or Lot Only), VA Form 26–8629 and VA Form 26–8630.

*OMB Control Number:* 2900–0408.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* This notice solicits comments for information needed to determine claim payment to holders of terminated VA guaranteed manufactured home unit loans.

*Affected Public:* Business or other for-profit, and Individuals or households.

*Estimated Annual Burden:* 36 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* Generally one time.

*Estimated Number of Respondents:* 110.

By direction of the Secretary.

Dated: December 2, 1998.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2124 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0509]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine whether the applicant meets the health requirements for granting Veterans Mortgage Life Insurance.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 1999.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0509'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title and Form Numbers:* Veterans Mortgage Life Insurance Health Statement, VA Form 29–0562.

*OMB Control Number:* 2900–0509.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The form is used by VA to obtain health information from veterans applying for Veterans Mortgage Life Insurance. The information requested is required by law, Title 38, U.S.C., Section 2106, and is used by VA in determining whether the applicant meets the health requirements for granting Veterans Mortgage Life Insurance.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 20 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 240.

Dated: December 2, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2125 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0043]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0043.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Declaration of Status of Dependents, VA Form 21–686c.

*OMB Control Number:* 2900–0043.

*Type of Review:* Reinstatement, without change, for a previously approved collection for which approval has expired.

*Abstract:* The form is used to obtain the necessary information to confirm marital status and existence of any dependent child(ren). The information is used by VA to determine eligibility to benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 28, 1998 at page 51637.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 56,500 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 226,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0043'' in any correspondence.

Dated: November 23, 1998.

By direction of the Secretary.

**Genie McCully,**

*Program Analyst, Information Management Service.*

[FR Doc. 99–2112 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0060]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0060.''

**SUPPLEMENTARY INFORMATION:**

### Titles and Form Numbers

a. Claim for Life Insurance Proceeds (NSLI & USGLI), VA Form 29–4125.

b. Claim for Monthly Installments (NSLI), VA Form 29–4125a.

c. Claim for One Sum Payment (NSLI & USGLI),VA Form 29–4125b.

d. Claim for Monthly Installments (USGLI), VA Form 29–4125k.

e. Invitation and Claim for One Sum Payment (NSLI & USGLI), VA Form Letter 29–764.

*OMB Control Number:* 2900–0060.

*Type of Review:* Reinstatement, with change, of a previously approved collection for which approval has expired.

*Abstract:* The forms and form letter are used by beneficiaries applying for proceeds of Government Insurance policies. The information is used by VA to process the beneficiaries claim for payment of the insurance proceeds.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 13, 1998 at page 37625.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 8,938 hours.

a. VA Form 29–4125—8,200 hours.
b. VA Form 29–4125a—463 hours.
c. VA Form 29–4125b—50 hours.
d. VA Form 29–4125k—125 hours.
e. FL 29–764—100 hours.

### Estimated Average Burden Per Respondent

a. VA Form 29–4125—6 minutes.
b. VA Form 29–4125a—15 minutes.
c. VA Form 29–4125b—6 minutes.
d. VA Form 29–4125k—15 minutes.
e. FL 29–764—6 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 85,850.

a. VA Form 29–4125—82,000
b. VA Form 29–4125a—1,850
c. VA Form 29–4125b—500
d. VA Form 29–4125k—500
e. FL 29–764—1,000

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0060'' in any correspondence.

Dated: November 3, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2113 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0094]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0094.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Supplement to VA Forms 21–526, 21–534, and 21–535 (For Philippine Claims), VA Form 21–4169.

*OMB Control Number:* 2900–0094.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* Title 38, U.S.C., sections 101 and 6104 requires VA to ascertain from certain applicants service information, place of residence, evidence held by the applicant to prove service, and whether the applicant was a member of pro-Japanese, pro-German, or anti-American Filipino organizations. The information collected is used in determining eligibility for benefits based on Commonwealth Army or recognized guerrilla service.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 11, 1998 at page 48787.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 250 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* One time for most beneficiaries.

*Estimated Number of Respondents:* 1,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0094'' in any correspondence.

Dated: November 18, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2114 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0111]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0111.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Number:* Statement of Purchaser or Owner Assuming Seller's Loan, VA Form 26–6382.

*OMB Control Number:* 2900–0111.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* VA Form 26–6382 is completed by purchasers who are assuming veterans' guaranteed, insured, and direct home loans. The data furnished on the form is essential to determinations for release of liability and substitution of entitlement in accordance with Title 38, U.S.C., sections 7313(a) (release of liability) and 3702(b)(2) (substitution of entitlement).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49157.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 3,000 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 9,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0111'' in any correspondence.

Dated: November 23, 1998.

By direction of the Secretary.

**Genie McCully,**

*Program Analyst, Information Management Service.*

[FR Doc. 99–2115 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0148]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and

its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0148.''

**SUPPLEMENTARY INFORMATION:**

*Title and Form Numbers:* Notice of Past Due Payment, VA Form 29–389e.

*OMB Control Number:* 2900–0148.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The form is used by veterans who have applied for National Service Life Insurance as a temporary measure to restore continuous protection until a final decision is made by VA to establish the insured's eligibility.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49157.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 484 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 1,936.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0148'' in any correspondence.

Dated: November 23, 1998.

By direction of the Secretary.

**Genie McCully,**

*Program Analyst, Information Management Service.*

[FR Doc. 99–2116 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0188]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 1, 1999.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0188.''

**SUPPLEMENTARY INFORMATION:**

*Title:* Prescription, Authorization, Application, Procurement, Repair and Loan of Prosthetic Items.

### Form Numbers

a. VA Form 10–2421, Prosthetic Authorization for Items or Service.

b. VA Form 10–2520, Prosthetic Service Card Invoice.

c. VA Form 10–2914, Prescription and Authorization for Eyeglasses.

d. Form Letter 10–90, Request to Submit Estimate.

e. Form Letter 10–426, Loan Follow-up Letter.

f. VA Form 10–1394, Loan Follow-up Letter.

g. VA Form 10–0103, Application for Assistance in Acquiring Home Improvement and Structural Alterations.

*OMB Control Number:* 2900–0188.

*Type of Review:* Reinstatement, with change, of a previously approved collection for which approval has expired.

### Abstract

a. VA Form 10–2421 is used for the direct procurement of new prosthetic appliances and/or services and standardizes the direct procurement authorization process. The form eliminates the need for separate purchase orders, expedites patient treatment and improves the delivery of prosthetic services. Without this form the delivery time for prosthetic appliances and services would be drastically increased.

b. VA Form 10–2520 is used by the commercial vendors, after completing repairs authorized for veterans, to request payment by VA. The use of the form standardizes repair/treatment invoices for prosthetic services rendered and standardizes the verification of these invoices. The veteran certifies that the repairs were necessary and satisfactory. This form is furnished to vendors upon request.

c. VA Form 10–2914 is used as a combination prescription, authorization and invoice. It allows veterans to purchase their eyeglasses directly. If the form is not used, the provisions of providing eyeglasses to eligible veterans may be delayed.

d. Form Letter 10–90 is issued to a contractor of the veteran's choice in order to solicit a price quote for a prosthetic device.

e. Form Letter 10–426 is used for the issuance of prosthetic devices that are loaned to eligible veterans. If the information is not collected or maintained, VA would have no information regarding equipment loaned to veterans; i.e., status, recovery, replacement and disposition.

f. VA Form 10–1394 is used to determine eligibility/entitlement and reimbursement of individual claims for automotive adaptive equipment.

g. VA Form 10–0103 is used to determine eligibility/entitlement and reimbursement of individual claims for home improvement and structural alterations.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 31, 1997 at page 68359.

*Affected Public:* Business or other for-profit—Individuals or households.

*Estimated Total Annual Burden:* 37,079 hours.

a. VA Form 10–2421—16,667 hours.

b. VA Form 10–2520—3,334 hours.

c. VA Form 10–2914—11,667 hours.

d. Form Letter 10–90—1,875 hours.

e. Form Letter 10–426—242 hours.

f. VA Form 10–1394—2,711 hours.

g. VA Form 10–0103—583 hours.

**Estimated Average Burden Per Respondent**

a. VA Form 10–2421—4 minutes.
b. VA Form 10–2520—5 minutes.
c. VA Form 10–2914—4 minutes.
d. Form Letter 10–90—5 minutes.
e. Form Letter 10–426—1 minute.
f. VA Form 10–1394—15 minutes.
g. VA Form 10–0103—5 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 519,844.

a. VA Form 10–2421—250,000.
b. VA Form 10–2520—40,000.
c. VA Form 10–2914—175,000.
d. Form Letter 10–90—22,500.
e. Form Letter 10–426—14,500.
f. VA Form 10–1394—10,844.
g. VA Form 10–0103—7,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0188'' in any correspondence.

Dated: November 3, 1998.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 99–2117 Filed 1–28–99; 8:45 am]

BILLING CODE 8320–01–P

federal register

Friday
January 29, 1999

# Part II

# Department of the Treasury

## Community Development Financial Institutions Fund

## Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Technical Assistance Component; Notice

## DEPARTMENT OF THE TREASURY

## Community Development Financial Institutions Fund

**[No. 982–0154]**

## Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Technical Assistance Component

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of Funds Availability (NOFA) inviting applications.

**SUMMARY:** The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the ''Act'') authorizes the Community Development Financial Institutions Fund (the ''Fund'') to select and provide assistance to eligible applicants under the Community Development Financial Institutions (''CDFI'') Program. Such assistance may include financial assistance and technical assistance. Technical assistance (''TA'') may be used for activities that enhance the capacity of both CDFIs and entities proposing to become CDFIs, such as the training of management and other personnel, the use of consulting services for the development of programs, loan or investment products, improving financial management and internal operations, enhancing a CDFI's community impact, the acquisition of technology to increase operating efficiencies and other activities deemed appropriate by the Fund.

Since the advent of the CDFI Program, the Fund has issued NOFAs inviting applications for both TA and financial assistance. This NOFA is for a TA only component (''TA Component'') of the CDFI Program to enable the Fund to address more effectively the unmet capacity needs of CDFIs and entities proposing to become CDFIs. This NOFA is intended to award grants to eligible applicants with capacity needs and potential for increasing their community development impact if such capacity needs are addressed. This NOFA provides guidance on the contents of the necessary application materials and program requirements. Subject to funding availability, the Fund intends to award up to $5 million in appropriated funds under this NOFA. The Fund reserves the right to award in excess of $5 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. It is anticipated that 80 to 100 awards will be made under this NOFA. The anticipated maximum award amount per applicant is $50,000. However, the Fund in its sole discretion, reserves the right to award amounts in excess of $50,000 if an applicant demonstrates, to the satisfaction of the Fund, the need for such additional amounts and the added potential community development impact resulting from such additional amounts.

**DATES:** The original and three copies of the application may be submitted at any time following January 29, 1999. The deadline for receipt of the original and three copies of the application for TA Component funds is 6 p.m. EST on April 27, 1999. Applications received in the Fund's office after that date and time will be rejected and returned to the sender.

**ADDRESSES:** Applications must be sent to: Awards Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th St., NW., Suite 200 South, Washington, DC 20005. Applications sent electronically or by facsimile will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** If you have any questions about the programmatic requirements of the TA Component contact the Technical Assistance Program Manager. If you wish to request an application package or have questions regarding application procedures, contact the Awards Manager. They can be reached by phone at (202) 622–8662, by facsimile at (202) 622–7754 or by mail at CDFI Fund, U.S. Department of the Treasury, 601 13th St., NW., Suite 200 South, Washington, DC 20005. (The phone and facsimile numbers are not toll free.) Allow at least one to two weeks for the receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's website at http://www.treas.gov/cdfi.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Credit and investment capital are essential ingredients for creating and retaining jobs, developing affordable housing, starting or expanding businesses, revitalizing neighborhoods, and empowering people. As a key urban and rural policy initiative, the CDFI Program is fostering the creation of a national network of financial institutions that are specifically dedicated to community development. CDFIs make loans, investments and provide development services to economically distressed investment areas and disadvantaged targeted populations. In order to facilitate the development of a national network of CDFIs, the Fund is seeking to support the efforts of such entities to build their organizational capacity to make loans and investments and provide development services. In order to use the TA funds strategically, it is the Fund's intention to target such funds to CDFIs and entities proposing to become CDFIs that have demonstrated capacity needs and possess significant potential for increasing their community development impact with the assistance of a limited amount of TA. The anticipated maximum award per applicant under this NOFA is $50,000. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of $50,000 if an applicant demonstrates, to the satisfaction of the Fund, the need for such additional amounts and the added potential community development impact resulting from such additional amounts.

On October 26, 1998, the Fund published in the **Federal Register** a NOFA for financial assistance under the CDFI Program Intermediary Component and a NOFA for financial assistance and TA under the CDFI Program Core Component. Under the Intermediary Component NOFA, the Fund is making available up to $7.5 million in appropriated funds to CDFIs that provide financing primarily to other CDFIs or to support the formation of CDFIs. Under the Core Component NOFA, the Fund is making available up to $50 million in appropriated funds to CDFIs that serve their target markets directly. Applicants under that Core Component NOFA may apply for both financial assistance and TA. All applications for financial assistance, TA or both under the Core Component will be evaluated separately and apart from the applications under this TA Component. Moreover, the application requirements and the selection criteria under the Core Component NOFA differ from those contained in this TA Component NOFA, because the TA Component NOFA is singularly focused on providing TA to enhance the capacity of CDFIs and entities proposing to become CDFIs. Interested applicants are encouraged to apply for TA under one NOFA or the other; however, applicants are not prohibited from applying for TA under both NOFAs.

### II. Eligibility

The Act and the interim rule governing the CDFI Program (12 CFR part 1805), which was published in the **Federal Register** on April 4, 1997 (62 FR 16444), specify the requirements that

each applicant must meet to be eligible to apply for TA. At the time an entity submits its application, the entity must meet or propose to meet the CDFI certification requirements under § 1805.200. In general, a CDFI must have a primary mission of promoting community development, provide loans or development investments, serve an investment area or a targeted population, provide development services, maintain community accountability, and be a nongovernment entity. At the time an entity submits its application, the entity must be duly organized and validly existing under the laws of the jurisdiction in which it is incorporated or otherwise established. The details regarding these requirements and other program requirements are described in the interim rule and the application packet.

**III. Form of Assistance**

An applicant under this NOFA may only submit an application for a TA grant.

**IV. Application Packet**

Section 1805.701 of the interim rule provides that unless otherwise specified in an applicable NOFA, each application must contain the information specified in the application packet, including the items described in §§ 1805.701(a)–(j). For purposes of this NOFA, the Fund is specially tailoring the collection of information requirements. Specifically, applicants need only submit the information required by the TA Component application packet. The TA Component application packet requires the submission of the following information:

(a) Applicant Information. The applicant's name, address and name and telephone number of the applicant's authorized representative and contact person.

(b) Award Request. The dollar amount of the TA grant requested by the applicant.

(c) Eligibility Verification. If the Fund has not certified an applicant as a CDFI and an applicant does not have an application for certification pending with the Fund, the applicant must provide information necessary to establish that it is, or will be, a CDFI. An applicant must demonstrate whether it meets the CDFI eligibility requirements by providing the information described in §§ 1805.701(b)(1)–(8). If an applicant is currently certified by the Fund as a CDFI, it may submit a copy of the Fund's letter of certification and the Certification of Material Changes form contained within the application in lieu of the information described in §§ 1805.701(b)(1)–(8). However, an applicant may include in its application for a TA grant information that it believes is otherwise relevant to the Fund's evaluation of the application under the criteria set forth in this NOFA. An entity that proposes to become a CDFI is eligible to apply for a TA grant if the Fund determines that such entity's application materials provide a realistic course of action to ensure that it will meet the requirements described in §§ 1805.200(b)–(h) within two years of entering into an Assistance Agreement with the Fund.

(d) Comprehensive Business Plan. An applicant must submit a five-year Comprehensive Business Plan that addresses the items described in this paragraph (d) (the TA Component Comprehensive Business Plan is an abbreviated version of what is required under the Core Component NOFA). The Comprehensive Business Plan should, to the maximum extent practical, be limited to ten pages or less (applicants may provide attachments, including supplemental documents, as appropriate, on items referenced in the Comprehensive Business Plan).

(1) Management capacity. An applicant must provide a narrative description of its current management capacity, including detailed information on the background and capacity of the applicant's management team, key personnel and governing board members as appropriate.

(2) Track Record and Historical Financial Performance. An applicant must provide information on its historical and current financial condition, including a copy of audited financial statements, financial statements that have been reviewed by a certified public accountant, or financial statements that have been reviewed by the applicant's Appropriate Federal Banking Agency (its Federal regulator) for the last three completed fiscal years, and the most recent internal financial statements since the beginning of the applicant's current fiscal year. The applicant must also provide information on its loans and Development Investments for the three most recent fiscal years, including information on the total number and dollar amount of such loans and Development Investments during each fiscal year during this time frame. If an applicant has been in operation for less than three years, the applicant must describe such activities for each fiscal year since inception. The applicant must provide information necessary to assess trends in its financial and operating performance (such as, portfolio delinquencies, defaults and charge-offs).

(3) Market Analysis and Strategy. An applicant must provide an analysis of its target markets, including a description of the needs of the Investment Area(s) and Targeted Population(s), as applicable. An applicant must also describe its five-year strategy for meeting the demand for loans or Development Investments generated by the needs of its target market(s) through its products and services. The strategy description may include plans for growth of lending volume and lending products, expansion of Development Services, staffing and management appropriate to meet such growth and growth of the operating budget. Projected changes in overall capital structure (asset and liability composition) may also be described. The narrative discussion may be supplemented with quantitative projections.

(4) Coordination Strategy. An applicant must describe:

(i) Its plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs and private sector resources;

(ii) How its proposed activities are consistent with existing economic, community, and housing development plans adopted for an Investment Area(s) or Targeted Population(s); and

(iii) How it will coordinate with community organizations, financial institutions, and Community Partners (if applicable) that will provide loans, equity investments, secondary markets, or other services to an Investment Area(s) or a Targeted Population(s).

(5) Funding Sources. An applicant must provide information:

(i) On its current and projected sources of capital and other financial support. Such projections must relate to and be consistent with the strategy description provided under paragraph (3); and

(ii) To demonstrate that it has a plan for achieving or maintaining financial viability within the five-year period. Such information must demonstrate that the applicant will not be dependent on future awards of assistance from the Fund for its continued viability.

(6) Community Partnership. In the case of an applicant submitting an application with a Community Partner, the applicant must include in its application the information described in § 1805.701(d)(12).

(e) Technical Assistance Proposal. An applicant must provide a Technical

Assistance Proposal (''TAP'') that includes information on the TA needed to enhance the capacity of the organization to carry out its Comprehensive Business Plan. Such information must include the items described in this paragraph (e). The TAP should, to the maximum extent practicable, be limited to ten pages or less (applicants may provide attachments, including supplemental documents, as appropriate, on items referenced in the TAP). An applicant must provide:

(1) An evaluation of its capacity needs (this may be a self-evaluation);

(2) A detailed description of the type(s) of TA needed to meet the identified capacity needs. Eligible types of TA may include, but need not be limited to, the following: (i) consulting services; (ii) technology items; and (iii) training for staff or management. The Fund will not consider requests under this NOFA for expenses that, in the interpretation of the Fund, are deemed to be ongoing operating expenses rather than non-recurring expenses (for example, the cost of design of marketing materials for a loan product through a consulting contract is a non-recurring expense but the cost of production or distribution of printed marketing materials is an ongoing expense; salary expenses for staff are ongoing but the cost of a consulting contract for a discrete scope of services is a non-recurring expense);

(3) A detailed description of the strategy for obtaining such TA, including proposed providers of TA and their qualifications or the specific technology items to be acquired. If an applicant cannot identify specific providers of TA in its application, it must identify the requisite qualifications that it will seek for such TA providers;

(4) An estimate of the cost to obtain the TA for each year that will include use of TA funds. This cost estimate must include expense projections for each of the specific activities to be funded with TA funds; and

(5) A projection of the benefits expected to be created within its Investment Area(s) or for its Targeted Population(s) with the enhanced capacity resulting from the TA.

(f) Conflict of Interest. An applicant must submit a copy of its conflict of interest policies, consistent with the requirements of § 1805.906.

(g) Lobbying Disclosure Act of 1995. An applicant must identify whether the Internal Revenue Service (IRS) has recognized it as exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

(h) Miscellaneous. An applicant must indicate and describe the circumstances underlying any back taxes due to the IRS, any delinquent debts owed to Federal, State or local governments, and whether it has ever filed for bankruptcy.

(i) Environmental Information. An applicant must review and complete the Environmental Review Form contained in the application.

(j) Applicant Certification. An applicant and Community Partner (if applicable) must review and complete the assurances and certifications form contained in Appendix A of the application.

(k) Previous Awardees. In the case of an applicant that has previously received assistance under the CDFI Program, the applicant must demonstrate that it:

(1) Has substantially met its performance goals and other requirements described in its previous Assistance Agreement(s); and

(2) Will expand its operations into a new Investment Area(s), serve a new Targeted Population(s), offer more products or services, or increase the volume of its activities.

(l) Previous History. In the case of an applicant with a prior history of serving Investment Area(s) or Targeted Population(s), the applicant must demonstrate that it:

(1) Has a record of success in serving Investment Area(s) or Targeted Population(s); and

(2) Will expand its operations into a new Investment Area(s), serve a new Targeted Population(s), offer more products or services, or increase the volume of its activities.

## V. Evaluation and Selection

In evaluating and selecting applicants, the Fund will use the evaluation criteria found in § 1805.802(b), except that the Fund will not consider the evaluation criteria relating to matching funds in §§ 1805.802(b)(2)(i), (ii) and (iv). Under the Act, the Fund has express authority to consider evaluation criteria in addition to those set forth in 12 U.S.C. 4706 and 1805.802(b). The Fund also has broad discretion in evaluating the relative importance of each such criterion. For purposes of this TA Component NOFA, the Fund has added as an additional evaluation criterion the extent of the applicant's demonstrated capacity needs.

In conducting its substantive review of applications, the Fund will initially evaluate applications using a 100 point maximum point scale. In selecting applicants for TA grant awards, the Fund will accord predominant weight to the following two evaluation criteria:

(a) The extent of the applicant's demonstrated capacity needs, 30 points; and

(b) The extent and nature of the potential community development impact that will be achieved by the applicant with the assistance of the Fund's TA, relative to the amount of TA to be provided by the Fund, 30 points.

The Fund will continue to evaluate applications using the remaining applicable criteria set forth in § 1805.802(b) described below; however, such evaluation criteria will receive less weight than the two criteria set forth above:

(a) The capacity, skills and experience of the applicant's management team and other key personnel (overall organizational structure, lending/investing activities, community development involvement), 14 points for established applicants and 24 points for start-ups;

(b) The applicant's track record, financial strength and current operations (including its general financial operations and lending/investment operations), 10 points for established applicants and no points for start-ups;

(c) The market analysis, strategy and (if applicable) Community Partnerships, 12 points;

(d) Coordination strategy, 2 points; and

(e) Funding sources, 2 points.

As shown above, the Fund will utilize two different 100 point scales for the application evaluation, depending on whether an applicant is deemed by the Fund to be a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation for less than two years. The Fund will find an organization to be a start-up if it began incurring operating expenses after January 29, 1997, based on a review of submitted income and expense statements and/or other information by an applicant as part of its application. In evaluating applications of start-up organizations, the Fund will place greater emphasis on the experience, strength and background of an applicant's management team and key personnel than on the breadth and depth of its financial resources and its trends in operating performance.

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the application scores (standardized if deemed appropriate), the recommendations of the individuals performing the initial reviews and the amount of funds available. Applicants

selected for further review or a second stage evaluation may be contacted for purposes of obtaining clarifying or confirming information. A final review panel will consider the results of the initial and second stage evaluations and the geographic and institutional diversity of those applicants being considered for funding in accordance with 12 CFR 1805.801 and 1805.802(b)(5). The final review panel will make recommendations to the Fund's selecting official.

In assessing the extent of demonstrated capacity need, the Fund will consider the extent of funding previously awarded by the Fund to the applicant. While previous awardees are eligible to apply under this NOFA, given the focus on applicants with demonstrated unmet capacity building needs, it is the expectation of the Fund that a substantial majority of the funds awarded under this NOFA will be to applicants that are not previous awardees. On the other hand, success in a previous funding round will not prevent an applicant from receiving a TA grant under this NOFA provided that it is consistent with the Act and the interim rule governing the CDFI Program (12 CFR part 1805).

The Fund has exclusive discretion in the selection of applications for assistance. The anticipated maximum award per applicant under this NOFA is $50,000. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of $50,000 if it deems it appropriate.

## VI. Workshops

The Fund expects to host workshops during the period from March 1 to March 19, 1999, to disseminate information to organizations interested in applying for assistance under this NOFA. If you wish to be on the mailing list to receive information about such workshops, please fax your request to the Fund. Information about these workshops will also be available on the Fund's website at http://www.treas.gov/cdfi.

**Authority:** 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, 4717, 4718; 12 CFR part 1805.

Dated: January 22, 1999.

**Maurice A. Jones,**

*Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.*

[FR Doc. 99–2024 Filed 1–28–99; 8:45 am]

BILLING CODE 4810–70–P

federal register

Friday
January 29, 1999

# Part III

## Department of Defense
## General Services Administration
## National Aeronautics and Space Administration

**48 CFR Part 31**

**Federal Acquisition Regulation; Interest and Other Financial Costs; Proposed Rule**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 31**

**[FAR Case 98–006]**

**RIN 9000–AI24**

## Federal Acquisition Regulation; Interest and Other Financial Costs

**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 add interest charges or other amounts as a consequence of late contractor payments to the list of unallowable costs in the ''Interest and Other Financial Costs'' cost principle, and to make several editorial revisions.

**DATES:** Comments should be submitted on or before March 30, 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.98–006@gsa.gov.

Please cite FAR case 98–006 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 98–006.

**SUPPLEMENTARY INFORMATION:**

### A. Background

A ruling by the Court of Appeals for the Federal Circuit has raised a significant issue regarding the allowability of interest charges paid as a consequence of late contractor payments. In *Lockheed Corporation* v. *Secretary of the Air Force*, 113 F.3d 1225 (Fed. Cir. 1997), the court ruled that interest paid on an underpayment of State taxes is not ''interest on borrowings'' within the meaning of FAR 31.205–20, Interest and Other Financial Costs, and its predecessor provision, Defense Acquisition Regulation (DAR) 15–205.17, and, therefore, is an allowable cost.

It is Government policy to encourage contractors to pay their financial obligations on time. Government reimbursement of contractor interest charges for underpayment of taxes or other expenses resulting from late contractor payments of legal obligations is counter to this policy and an inappropriate expenditure of public funds. Therefore, the rule proposes to revise FAR 31.205–20, Interest and Other Financial Costs, to add interest charges or other amounts paid as a consequence of late contractor payments to the list of unallowable costs.

In addition, the rule proposes several editorial revisions, including the deletion of ''and directly associated costs.'' This phrase is unnecessary since FAR 31.201–6(a) indicates that when ''an unallowable cost is incurred, its directly associated costs are also unallowable.''

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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. 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 98–006), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Part 31

Government procurement.

Dated: January 21, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

## PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 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 31.205–20 is revised to read as follows:

**31.205–20 Interest and other financial costs.**

The following types of costs are unallowable—

(a) Interest on borrowings (however represented), bond discounts, costs of financing and refinancing capital (net worth plus long-term liabilities), legal and professional fees paid in connection with preparing prospectuses, costs of preparing and issuing stock rights (but see 31.205–28); and

(b) Interest charges and other amounts paid as a consequence of late contractor payments (except for interest assessed by State or local taxing authorities under the conditions specified in 31.205–41(a)(3)).

[FR Doc. 99–1997 Filed 1–28–99; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Friday
January 29, 1999

# Part IV

# Department of the Treasury

## Fiscal Service

**31 CFR Part 225**

**Acceptance of Bonds Secured By Government Obligations in Lieu of Bonds With Sureties; Final Rule**

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Part 225**

**RIN–1510–AA36**

## Acceptance of Bonds Secured By Government Obligations in Lieu of Bonds With Sureties

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Financial Management Service (Service) is issuing this final rule to revise 31 CFR Part 225, which governs the acceptance of bonds secured by Government obligations in lieu of bonds with sureties. This final rule specifically addresses the mechanics of pledging book-entry Government obligations, and clarifies existing requirements for accepting bonds secured with Government obligations. These revisions are intended to provide greater clarity and flexibility by replacing obsolete references and unnecessary requirements with current references and requirements. In addition, the rule expands the use to which the proceeds of pledged Government obligations may be applied in the event of a default in performance.

**EFFECTIVE DATE:** March 1, 1999.

**ADDRESSES:** Cash Management Policy and Planning Division, Financial Management Service, Room 420, 401 14th St., S.W., Washington, D.C. 20227.

**FOR FURTHER INFORMATION CONTACT:** Mary Bailey, Financial Program Specialist, at (202) 874–6749; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6590; or Marc I. Seldin, Principal Attorney, at (202) 874–6680. A copy of this final rule is available on the Service's web site at the following address: http://www.fms.treas.gov/regs.html.

**SUPPLEMENTARY INFORMATION:**

### Background

Persons required by Federal law to give an agency a surety bond instead may provide a bond secured by Government obligations. To assist agencies in reviewing and accepting such bonds, the Secretary of the Treasury (the Secretary) promulgated regulations codified at 31 CFR Part 225, which set forth requirements applicable to bonds secured by Government obligations.

The regulations originally covered bonds secured by Government obligations in definitive (paper) form. However, since the regulations were last revised, the form of newly issued Government obligations pledged under this part has changed from definitive to book-entry. This revision covers these newly issued book-entry Government obligations and updates, clarifies and simplifies the requirements dealing with existing definitive Government obligations.

In addition, this revision provides that in the event of a default, the proceeds from the sale of pledged Government obligations generally will be available to satisfy any claim of the United States. The current rule limits the application of the proceeds to damages arising out of the default.

On November 15, 1996, the Service published in the **Federal Register** a notice of proposed rulemaking (NPRM) addressing these changes (61 FR 58493). This final rule was delayed to allow coordination and ensure consistency with other provisions of Title 31, some of which were in the process of being revised.

In addition, the Bureau of the Public Debt (Public Debt), a component of the Department of the Treasury's Fiscal Service, has the regulatory and procedural responsibility for establishing acceptable collateral and determining the collateral valuation for all Fiscal Service collateral programs, including collateral acceptability and valuation for this part. Public Debt intends to issue a regulation as a new part in Title 31 addressing collateral eligibility and valuation matters which will directly impact the Government obligations eligible for use under this part. A subsection in this part (§ 225.3(e)) has been reserved to insert the appropriate references to the new Public Debt Part.

### Comments on the Proposed Rule

The Service received one comment letter on the NPRM from a component of a Federal agency questioning the NPRM's provision that in the event of a default, the proceeds from the sale of pledged Government obligations will be available to satisfy any claim of the United States against the obligor. The commenter stated that such a policy would conflict with its agency's authorities.

The NPRM provision is an expansion of the current rule, which limits the application of such proceeds to damages arising out of the default. The expansion is supported by Federal common law, the Debt Collection Act of 1982, as amended, and the Federal Claims Collection Standards, which provide the Government a right of offset. For example, upon default, in the event the bond official receives excess proceeds from the sale of pledged Government obligations, remittance of such proceeds to the obligor would constitute a Federal payment subject to administrative offset. In response to the commenter's concerns, however, the provision has been modified to apply only when not otherwise provided by law.

### Section-by-Section Analysis

Editorial changes have been made throughout the part. Substantive changes that were made to portions of §§ 225.2, 225.3, 225.4, and 225.5 are explained below.

*Section 225.2—Definitions*

Changes have been made in the Definitions section to standardize terms used throughout Title 31 of the Code of Federal Regulations.

In the definitions of ''*Bearer*'' and ''*Definitive*,'' the term ''Government'' has been inserted before the term ''obligation'' to mirror the underlying statutory definition contained in 31 U.S.C. 9301, as amended.

The definition for ''*Book-entry*'' now mirrors the definition of the same term in 31 CFR Part 356 at § 356.2 since the term is used in the same sense in both parts.

A definition for ''*Depositary*'' has been added since the term is used in this part.

The definition for ''*Government obligation*'' now mirrors the underlying statutory definition contained in 31 U.S.C. 9301, as amended.

A definition for ''*Person*'' has been added which mirrors the definition in the underlying statute, 31 U.S.C. 9301, as amended.

The definition for ''*Pledge*'' has been updated to be consistent with related regulations, such as Public Debt's TRADES (Treasury/Reserve Automated Debt Entry System) regulations codified at 31 CFR Part 357.

*Section 225.3—Pledge of Government obligations in lieu of a bond with surety or sureties*

The first sentence of § 225.3(a) now refers to the underlying statute defining the term ''Government obligation,'' 31 U.S.C. 9301, as amended.

The statutes underlying this rule, 31 U.S.C. 9301 and 9303, as amended, define the characteristics of acceptable Government obligations without providing additional information. Further clarification has been added to the end of § 225.3(a) stating that the Secretary will designate classes of acceptable Government obligations. Such designation will occur in a

rulemaking to be published by Public Debt in a new part to Title 31.

The term ''par'' has been replaced in § 225.3(c) by a reference to the underlying statute, 31 U.S.C. 9303, as amended.

Subsection 225.3(e) has been reserved for reference to the new Public Debt regulations regarding collateral valuation.

*Section 225.4—Pledge of book-entry Government obligations*

The first sentence of § 225.4(a) has been modified for consistency with the Public Debt's TRADES regulations (*see* 31 CFR Part 357). Clarification is added by referring to a depositary (defined in § 225.2) since it is generally only depositaries that may have Government obligation accounts on the books of a Federal Reserve Bank.

In § 225.4(a), a phrase, ''or the bond official,'' has been added to the list of who shall arrange a pledge. This has been done to reflect account structures at the Federal Reserve. Section 225.4(b) has been modified for the same reason with the addition of the phrase ''or a depositary acting as agent or sub-agent for the obligor.''

In §§ 225.4(a), (b), and (c), the phrase ''make an appropriate entry in the records'' and similar phrases has been replaced with ''transfer Government obligations to an account for the benefit of the bond official'' and similar phrases. This change is made to reflect the operations of the Federal Reserve's Book-Entry System.

The reference in § 225.4(c) has been revised for consistency with Public Debt's TRADES regulations (*see, e.g.,* 31 CFR § 357.12).

*Section 225.5—Pledge of definitive Government obligations*

In § 225.5(e), the reference to the Public Debt regulation, Part 306, has been updated consistent with other conforming changes related to Public Debt's TRADES regulations.

**Rulemaking Analysis**

It has been determined that this regulation is not a significant regulatory action as defined in E.O. 12866. Therefore, a Regulatory Assessment is not required.

It is hereby certified pursuant to the Regulatory Flexibility Act that this revision will not have a significant economic impact on a substantial number of small entities. These regulations authorize persons to pledge bonds secured by Government obligations in lieu of bonds with sureties. Consequently, these regulations provide additional options to persons pledging collateral, as well as a flexible regulatory scheme. Accordingly, a Regulatory Flexibility Act analysis is not required.

**List of Subjects in 31 CFR Part 225**

Fiscal Service, Government obligations, Surety bonds.

For the reasons set forth in the preamble, 31 CFR Part 225 is revised to read as follows:

## Part 225—ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES.

Sec.

225.1 Scope.
225.2 Definitions.
225.3 Pledge of Government obligations in lieu of a bond with surety or sureties.
225.4 Pledge of book-entry Government obligations.
225.5 Pledge of definitive Government obligations.
225.6 Payment of interest.
225.7 Custodian duties and responsibilities.
225.8 Bond official duties and responsibilities.
225.9 Return of Government obligations to obligor.
225.10 Other agency practices and authorities.
225.11 Courts.

**Authority:** 12 U.S.C. 391; 31 U.S.C. 321; 31 U.S.C. 9301; 31 U.S.C. 9303.

### § 225.1 Scope.

The regulation in this part applies to Government agencies accepting bonds secured by Government obligations in lieu of bonds with sureties. The Financial Management Service (FMS) is the representative of the Secretary of the Treasury (Secretary) in all matters concerning this part unless otherwise specified. The Commissioner of the FMS may issue procedural instructions implementing this regulation.

### § 225.2 Definitions.

For purposes of this part:

*Agency* means a department, agency, or instrumentality of the United States Government.

*Authenticate instructions* means to verify that the instructions received are from a bond official.

*Bearer* means that ownership of a Government obligation is not recorded. Title to such an obligation passes by delivery without endorsement and without notice. A bearer obligation is payable on its face to the holder at either maturity or call.

*Bond* means an executed written instrument, which guarantees the fulfillment of an obligation to the United States and sets forth the terms, conditions, and stipulations of the obligation.

*Bond official* means an agency official having authority under Federal law or regulation to approve a bond with surety or sureties and to approve a bond secured by Government obligations.

*Book-entry* means that the issuance and maintenance of a Government obligation is represented by an accounting entry or electronic record and not by a certificate.

*Custodian* means a Federal Reserve Bank or an entity within the United States designated by such Federal Reserve Bank under terms and conditions prescribed by such Federal Reserve Bank, a depositary specifically designated by the Secretary of the Treasury for purposes of this part, or such other entities as the Secretary of the Treasury may designate for purposes of this part.

*Definitive* means that a Government obligation is issued in engraved or printed form.

*Depositary* includes, but is not limited to:

(1) Any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) Any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(3) Any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(4) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union which is eligible to make application to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(5) Any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) which is an insured depository institution (as defined in such Act) (12 U.S.C. 1811 *et seq.*) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*); and

(6) Any agency or branch of a foreign bank as defined in section 1(b) of the International Banking Act, as amended (12 U.S.C. 3101).

*Federal Reserve* means a Federal Reserve Bank and its branches.

*Government obligation* means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the United States Government.

*Obligor* includes, but is not limited to, an individual, a trust, an estate, a partnership, a corporation, and a sole proprietor.

*Officer authorized to certify assignment* means the individual identified as a certifying individual at part 306, subpart F of this title.

*Person* means an individual, a trust, an estate, a partnership, and a corporation.

*Pledge* means a transfer of security interest in a Government obligation to a bond official's agency as collateral in lieu of a bond with a surety or sureties.

*Procedural instructions* means the Treasury Financial Manual, as amended, published by the Financial Management Service.

*Registered* means that ownership of a definitive Government obligation is listed in the issuer's records, and that the obligation is payable at maturity or call to the person in whose name the obligation is inscribed or to that person's assignee.

*Secretary* means the Secretary of the Treasury.

**§ 225.3 Pledge of Government obligations in lieu of a bond with surety or sureties.**

(a) *General.* An obligor required by Federal law or regulation to furnish a bond with surety or sureties may give in lieu thereof to a bond official any security acceptable under 31 U.S.C. 9301, as amended. The Secretary will designate classes of Government obligations acceptable under this part.

(b) *Bond.* The bond, at a minimum, shall irrevocably authorize the bond official to collect, sell, assign, or transfer such Government obligations and any interest retained therefrom in the event of the obligor's default in performing any of the terms, conditions, or stipulations of such bond. Unless otherwise provided by law, the bond shall authorize the bond official to apply the proceeds from the sale, assignment, or transfer of such Government obligations, in whole or in part, to satisfy any costs incurred by the United States related to the default, and to apply any excess proceeds to satisfy any other claim of the United States against the obligor. The bond shall not include any obligations on custodians which are inconsistent with, or in addition to, the obligations in this part. The bond will provide that the bond official may retain any interest accruing upon any Government obligations, or direct that such interest be retained by the custodian.

(c) *Amount of Government obligations.* The obligor shall pledge to the bond official Government obligations valued as required by 31 U.S.C. 9303, as amended.

(d) *Avoiding frequent substitutions.* To avoid the frequent substitution of Government obligations, the bond official may reject Government obligations which mature, or are redeemable, within one year from the date they are pledged to the bond official.

(e) *Reserved.*

**§ 225.4 Pledge of book-entry Government obligations.**

(a) *General.* Except as otherwise provided by the Secretary in procedural instructions, an obligor, or a depositary acting as agent or sub-agent for the obligor, or the bond official, shall arrange a pledge pursuant to the prior agreement and approval of the bond official, of book-entry Government obligations. The Government obligations must be transferred to an account for the benefit of the bond official. The custodian holding the Government obligations is not required to establish that the agreement and approval of the bond official has been obtained prior to such a transfer.

(b) *Receipt.* Upon the transfer of Government obligations to an account for the benefit of the bond official, the custodian will promptly issue a receipt or an activity statement, or both, to the bond official and to the obligor or a depositary acting as agent or sub-agent for the obligor.

(c) *Effect of the transfer.* Book-entry Government obligations credited to an account for the benefit of the bond official shall have the effect as provided in part 357 of this title, or in other applicable regulations.

**§ 225.5 Pledge of definitive Government obligations.**

(a) *Type and assignment.* Definitive Government obligations may be in bearer or registered form, and shall be owned by the obligor.

(1) *Bearer Government obligations.* The obligor shall pledge bearer Government obligations to the bond official with all unmatured interest coupons attached.

(2) *Registered Government obligations; assignment.* The obligor shall pledge registered Government obligations in the obligor's name to the bond official by assignment in accordance with subpart F of part 306 of this title and other codified procedures for issuers that apply to assignment of the registered Government obligations, except that, when so authorized under such procedures, all assignments shall be made in blank.

(b) *Delivery to bond official; receipt.* All deliveries of definitive Government obligations from the obligor to the bond official under this part shall be made at the risk and expense of the obligor. Upon receipt of definitive Government obligations, the bond official will issue the obligor a receipt.

(c) *Risk of loss; safekeeping.* All definitive Government obligations held by the bond official will be held at the risk of the bond official. The bond official will keep safe all definitive Government obligations and may place them with a custodian.

(d) *Delivery to custodian; receipt.* If the bond official is in receipt of definitive Government obligations, and then places those obligations with a custodian, the expense and risk of loss in delivery will rest with the bond official. Upon the placement of definitive Government obligations with a custodian, the custodian will issue the bond official a receipt. All definitive Government obligations held by the custodian will be held at the risk of the custodian.

(e) *Conversion to book-entry.* (1) Treasury bonds, notes, certificates of indebtedness, or bills deposited with a Federal Reserve Bank under this part may be converted into book-entry Treasury obligations in accordance with part 306 of this title, and the pertinent provisions of that part shall apply to such Treasury obligations.

(2) When converting definitive Government obligations to book-entry form, a Federal Reserve Bank will act pursuant to, and in accordance with, book-entry procedures for issuers that apply to the definitive Government obligations pledged to the bond official's agency, including those set forth in part 306 of this title.

**§ 225.6 Payment of interest.**

(a) *General.* Except as otherwise provided in this section and § 225.7(b), interest accruing upon Government obligations pledged to a bond official's agency in accordance with this part will be remitted to the obligor or a depositary acting as agent or sub-agent for the obligor.

(b) *Default.* If the bond official determines that the obligor has defaulted, the bond official will retain any interest accruing upon Government obligations pledged to the bond official's agency or direct the custodian, in accordance with this part, to retain such interest. Unless otherwise

provided by law, such interest will be available to satisfy any costs incurred by the United States related to the default, and any excess proceeds will be available to satisfy any other claim of the United States against the obligor.

**§ 225.7 Custodian duties and responsibilities.**

(a) *General.* A custodian shall authenticate instructions received from a bond official and shall act in accordance with such authenticated instructions. The custodian assumes no liability and is without liability of any kind for acting in accordance with such authenticated instructions, except for the custodian's failure to exercise ordinary care. By providing a bond secured by Government obligations in lieu of a bond with surety or sureties, an obligor agrees not to hold either the custodian or the Secretary liable or responsible for the actions or inactions of a bond official or for carrying out a bond official's authenticated instructions.

(b) *Interest.* Absent authenticated instructions from the bond official to retain interest, interest received by the custodian on Government obligations pledged to the bond official's agency in accordance with this part will be remitted in the regular course of business to the obligor or to a depositary acting as agent or sub-agent for the obligor.

(c) *Principal.* Absent authenticated instructions from the bond official to retain the proceeds of matured Government obligations, a custodian will release to the obligor proceeds from matured Government obligations only if the obligor has deposited Government obligations acceptable under 31 U.S.C. 9301, as amended, in substitution for those which have matured.

(d) *Liquidation of Government obligations.* A custodian will collect, sell, assign, or transfer Government obligations, including any interest therefrom, only in accordance with a bond official's authenticated instructions.

(e) *Application of proceeds of liquidated Government obligations.* A custodian will apply the proceeds from the collection, sale, assignment, or transfer of Government obligations only in accordance with a bond official's authenticated instructions.

**§ 225.8 Bond official duties and responsibilities.**

The bond official's duties and responsibilities are as follows:

(a) Approving the bond secured by Government obligations after determining its sufficiency;

(b) Verifying ownership of any registered definitive Government obligations given, and ensuring that those Government obligations are properly assigned;

(c) Approving establishment of a book-entry account for the benefit of the bond official;

(d) Providing the custodian, when appropriate, with clear and concise instructions;

(e) Taking all reasonable and appropriate steps to ensure that all procedures or transactions conform with the provisions of this part; and

(f) Notifying the Secretary of the Treasury, or his designee, upon an obligor's default, and, unless otherwise provided by law, applying any part of the proceeds in excess of the amount required to assure payment of any costs incurred by the United States related to the default to satisfy any claim of the United States against the obligor.

**§ 225.9 Return of Government obligations to obligor.**

(a) *General.* Except as provided in paragraph (b) of this section or as otherwise provided in this part, the bond official will return the Government obligations, and any interest retained therefrom, to the obligor, without written application from the obligor, when the bond official determines that the Government obligations are no longer required under the terms of the bond.

(b) *Miller Act Payment Bonds.* The bond official will not return Government obligations to an obligor who has furnished to the bond official a payment bond if:

(1) A person, who supplied the obligor with labor or materials and whom the obligor has not paid, files with the United States Government the application and affidavit provided for in the Miller Act (Act), as amended (40 U.S.C. 270a–270d), and the time provided in the Act for the person to commence suit against the obligor on the payment bond has not expired; or

(2) A person commences a suit against the obligor within the time provided for in the Act, in which case the bond official will hold the Government obligations subject to the order of the court having jurisdiction of the suit; or

(3) The bond official has actual knowledge of a claim against the obligor on the basis of the payment bond, in which case the bond official may return the Government obligations to the obligor when the bond official deems it appropriate.

(c) *Claim of the United States unaffected.* Nothing in this section shall affect or impair the priority of any claim of the United States against Government obligations, or any right or remedy granted by the Miller Act or by this part to the United States in the event of an obligor's default on any term, condition, or stipulation of a bond.

(d) *Return of definitive Government obligations; risk of loss.* Definitive Government obligations to be returned to the obligor will be forwarded at the obligor's risk and expense, either by the bond official, or by a custodian upon receipt of a bond official's authenticated instructions.

**§ 225.10 Other agency practices and authorities.**

(a) *Agency practices.* Nothing in this part shall be construed as modifying the existing practices or duties of agencies in handling bonds, except to the extent made necessary under the terms of this part by reason of the acceptance of bonds secured by Government obligations.

(b) *Agency authorities.* Nothing contained in this part shall affect the authority of agencies to receive Government obligations for security in cases authorized by other provisions of law.

**§ 225.11 Courts.**

Nothing contained in this part shall affect the authority of a court over a Government obligation given as security in a civil action.

Dated: January 26, 1999.

**Richard L. Gregg,**

*Commissioner.*

[FR Doc. 99–2165 Filed 1–28–99; 8:45 am]

BILLING CODE 4810–35–U

federal register

Friday
January 29, 1999

# Part V

# Department of Housing and Urban Development

**24 CFR Parts 200 and 207**

**Electronic Submission of Required Data by Multifamily Mortgagees to Report Mortgage Delinquencies, Defaults, Reinstatements, Assignment Elections, and Withdrawals of Assignment Elections; Final Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Parts 200 and 207**

**[Docket No. FR–4303–F–02]**

**RIN 2502–AH11**

## Electronic Submission of Required Data by Multifamily Mortgagees To Report Mortgage Delinquencies, Defaults, Reinstatements, Assignment Elections, and Withdrawals of Assignment Elections

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule requires mortgagees that hold or service multifamily mortgages insured by HUD to submit certain data electronically to HUD in a HUD prescribed format. Electronic submission is necessary because the manual submission of HUD forms has become a burden to servicing mortgagees, as well as to HUD. This rule applies to all multifamily mortgagees in their responsibility to report mortgage delinquencies, mortgage defaults, mortgage reinstatements, elections to assign mortgages to HUD, and withdrawal of assignment elections.

**EFFECTIVE DATE:** March 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### I. Background

HUD obtains data regarding the status of delinquent insured mortgage loans on multifamily projects by using Form HUD–92426, *Multifamily Default Status Report.* HUD needs the information submitted on the form in order to monitor mortgage loans for which the mortgagees are experiencing payment or other difficulties. In accordance with the requirements of 24 CFR part 207, the mortgagee must prepare and sign this form under the specified circumstances and mail it to HUD. When HUD receives the form, it must sign it and return it to the mortgagee to acknowledge receipt of the form.

To replace this burdensome paperwork process, HUD has developed a method for mortgagees to submit the data currently collected on Form HUD–92426, as well as to report the date of the mortgagees' last physical inspection of the project, using the Internet. According to this new method, the mortgagee will electronically submit the data to HUD, after which an electronic receipt will automatically be returned. HUD will provide, at no cost to mortgagees, ''stand alone'' software and technical support for that software, which is designed to run on IBM-compatible personal computers (PCs). Mortgagees will, however, need to provide their own PCs and Internet connections. Mortgagees that do not choose to initiate Internet access for themselves may contract with another entity or individual to act on their behalf to report the data electronically. HUD believes that this is not likely to be necessary in most cases.

One of HUD's primary concerns is the costs mortgagees may incur in establishing Internet access if they have not already done so. For this reason, HUD has decided to allow for a staggered implementation of this rulemaking, under which smaller mortgagees will have more time to comply with the new electronic reporting requirements. HUD believes, however, that electronic tracking of the default and reinstatement data generally will reduce costs for mortgagees. HUD has field-tested electronic submission of this data on a voluntary pilot basis with a number of mortgagees, and has received generally favorable responses.

While HUD hopes to begin implementing the electronic reporting requirements in this rule right away (in accordance with the staggered implementation schedule in § 200.121 of this rule), HUD encourages mortgagees to comply with these requirements voluntarily to the extent possible, in order for the mortgagees and HUD to realize an early advantage of cost savings.

### II. May 13, 1998 Proposed Rule

HUD published a proposed rule on May 13, 1998 (63 FR 26702) to solicit public comments on the electronic submission of required data by multifamily mortgagees, as described above. The deadline for public comments was July 13, 1998. HUD received no public comments in response to the proposed rule. This final rule adopts, therefore, the provisions of the proposed rule without change.

### III. Regulatory Amendments

This document amends the regulations in 24 CFR parts 200 and 207 related to multifamily housing mortgage insurance, in order to require mortgagees with insured multifamily mortgage loans to submit information reporting mortgage delinquencies, defaults, reinstatements, assignment elections, and withdrawals of assignment elections electronically, rather than in writing on Form HUD–92426. Specifically, this rule amends the regulations as follows:

(1) This rule adds a new subpart B to part 200, entitled ''Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages.'' The provision in this new subpart B requires multifamily mortgagees to submit the data electronically, and it provides the staggered schedule of effectiveness. As mentioned above, HUD will allow smaller mortgagees (i.e., those with fewer insured mortgage loans) more time to comply with the electronic submission requirements. This new subpart also provides for an exception to the electronic submission requirements, subject to HUD approval, for very small mortgagees for which compliance would represent a financial hardship.

(2) This document also makes several conforming changes to the current requirements in part 207. In § 207.256, which requires mortgagees to notify HUD of defaults, this document requires mortgagees to notify HUD in the manner prescribed in the new subpart B of part 200, rather than in writing. This document similarly amends § 207.256a, which requires mortgagees to notify HUD if a mortgage loan is reinstated, and § 207.258, which requires mortgagees to notify HUD if they elect to assign a mortgage to HUD or to acquire a property and convey title to HUD.

### IV. Other Matters

*Paperwork Burden*

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number *2502–0041*. 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.

*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies

that this rule will not have a significant economic impact on a substantial number of small entities. The electronic submission requirements in this rule should reduce burden and costs for all mortgagees. As stated above, HUD will also reduce the burden on mortgagees by providing the software and technical support necessary to facilitate the electronic submission requirements. HUD has determined, therefore, that this rule will not have a significant economic impact on a substantial number of small entities.

*Environmental Impact*

This rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321). The addition to part 200 of the new subpart B falls within the exclusion provided by 24 CFR 50.19(c)(1), in that it does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. The amendments to part 207 are categorically excluded under 24 CFR 50.19(c)(2), because they amend an existing document, and the existing document as a whole does not fall within the exclusion in 24 CFR 50.19(c)(1), but the amendments by themselves do so.

*Executive Order 12612, Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule relates only to the manner in which mortgagees submit required information to HUD, and it does not affect the federalism concerns addressed in the Order. As a result, this rule is not subject to review under the Order.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number is 14.155.

**List of Subjects**

*24 CFR Part 200*

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

*24 CFR Part 207*

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, 24 CFR Chapter II is amended as follows:

## PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

**Authority:** 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. In part 200, a new subpart B, consisting of §§ 200.120 through 200.121, is added to read as follows:

### Subpart B—Electronic Submission of Required Data for Mortgage Defaults and Mortgage Insurance Claims for Insured Multifamily Mortgages

Sec.
200.120 Purpose and applicability.
200.121 Requirements and effectiveness.

#### § 200.120 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart B is to require mortgagees of all multifamily projects whose mortgages are insured or coinsured by HUD to submit electronically information regarding mortgage delinquencies, defaults, reinstatements, elections to assign, and withdrawals of assignment elections, and related information, as that information is required by 24 CFR part 207 and Form HUD–92426 (which is available at the Department of Housing and Urban Development, HUD Customer Service Center, 451 7th Street, SW, Room B–100, Washington, DC 20410; telephone (800) 767–7468).

(b) *Applicability.* This subpart applies to all HUD multifamily mortgage insurance and coinsurance programs.

#### § 200.121 Requirements and effectiveness.

(a) Multifamily mortgagees, which are required by 24 CFR part 207 to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information, must submit this information electronically, over the Internet, in accordance with the following schedule of effectiveness:

(1) Mortgagees having 70 or more insured mortgage loans must comply with this section by no later than March 1, 1999;

(2) Mortgagees having from 26 to 69 insured mortgage loans must comply with this section by no later than January 1, 2000;

(3) Mortgagees having from 11 to 25 insured mortgage loans must comply with this section by no later than January 1, 2001;

(4) Mortgagees having 10 or fewer insured mortgage loans must comply with this section by no later than January 1, 2002.

(b) *Exception.* On or after January 1, 2002, mortgagees that hold or service fewer than 10 multifamily mortgages may continue to report mortgage delinquencies, defaults, reinstatements, assignment elections, withdrawals of assignment elections, and related information in writing on Form HUD–92426 only with specific HUD approval. HUD will grant such approval, upon application by the mortgagee, for reasons of hardship due to insufficient financial resources to purchase the required hardware and Internet access.

(c) HUD will not accept reports of information regarding defaults, reinstatements, assignment elections, and related information in a manner that is not in accordance with this section. Failure on the part of mortgagees to report this information as required by 24 CFR part 207 and this section may result in HUD's application of the sanctions and surcharges specified in 24 CFR part 207.

## PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

3. The authority citation for 24 CFR part 207 continues to read as follows:

**Authority:** 12 U.S.C. 1701z–11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

4. Section 207.256 is revised to read as follows:

#### § 207.256 Notice.

(a) If the default as defined in § 207.255 is not cured within the 30 days grace period, the mortgagee must, within 30 days thereafter, notify the Commissioner of such default, in the manner prescribed in 24 CFR part 200, subpart B.

(b) Notwithstanding § 207.255(a)(2), the mortgagee must give notice to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B, of the failure of the mortgagor to comply with such covenant, regardless of the fact the mortgagee may not have elected to accelerate the debt.

5. Section 207.256a is revised to read as follows:

**§ 207.256a Reinstatement of defaulted mortgage.**

If, after default and prior to the completion of foreclosure proceedings, the mortgagor cures the default, the insurance shall continue as if a default had not occurred, provided the mortgagee gives notice of reinstatement to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B.

6. Section 207.258 is amended by revising paragraphs (a) and (b)(1), to read as follows:

**§ 207.258 Insurance claim requirements.**

(a) *Alternative election by mortgagee.* When the mortgagee becomes eligible to receive mortgage insurance benefits pursuant to § 207.255(c), it must, within 45 days thereafter, give the Commissioner notice, in the manner prescribed in 24 CFR part 200, subpart B, of its intention to file an insurance claim and of its election either to assign the mortgage to the Commissioner, as provided in paragraph (b) of this section, or to acquire and convey title to the Commissioner, as provided in paragraph (c) of this section.

(b) * * *

(1) *Notice of assignment.* On the date the assignment of the mortgage is filed for record, the mortgagee must notify the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B, of such assignment, and must also notify the FHA Comptroller by telegram of such recordation.

* * * * *

Dated: January 22, 1999.

**William C. Apgar,**

*Assistant Secretary for Housing—Federal Housing Commissioner*

[FR Doc. 99–2182 Filed 1–28–99; 8:45 am]

BILLING CODE 4210–27–P

federal register

Friday
January 29, 1999

# Part VI

# Department of Transportation

## Federal Transit Administration

## Urban Magnetic Levitation Transit Technology Development Program; Notice

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Urban Magnetic Levitation Transit Technology Development Program

**AGENCY:** Federal Transit Administration (FTA).

**ACTION:** Notice and solicitation of proposals.

**SUMMARY:** This Notice announces establishment of a new urban magnetic levitation transit technology development program (''Urban Maglev Program'') in the Federal Transit Administration (FTA), describes the statutory bases of the program, solicits proposals from eligible entities, and solicits comments on the overall program design. Sections 1218 and 3015(c) of the Transportation Equity Act for the 21st Century (''TEA–21''), signed into law by President Clinton on June 9, 1998, create two new sections in Titles 23 and 49 of the United States Code (322 and 3015, respectively) authorizing the FTA to support further development of magnetic levitation technologies for potential application in the U.S. mass transit industry. Section 1218 authorizes a total of $5 million dollars over the six year life of TEA–21 to research and develop low speed superconductive Maglev technology. Subsection 3015(c) authorizes $5 million per year for the 6 years to carry out a broad Maglev technology development program. [Note that TEA–21 also adds provisions in 23 U.S.C. Section 1218 for a high speed Maglev program, which is being managed by the Federal Railroad Administration (FRA).]

**DATES:** Proposals (8 copies) must be received by March 15, 1999.

**ADDRESSES:** Proposals shall be submitted to: Office of Research, Demonstration, and Innovation (TRI–1), Federal Transit Administration, 400 Seventh Street, SW, Room 9401, Washington, DC 20590, Attn: Edward Thomas, Associate Administrator, and shall reference Urban Maglev.

**PUBLIC MEETING:** A public meeting will be held, open to all interested parties, to discuss and comment on the FTA's Urban Maglev Program. The purpose of the meeting is to outline the Urban Maglev Program, to receive comments and suggestions on the program from meeting attendees, and to answer questions. The meeting will take place on February 3, 1999, from 9 a.m. to 12 noon. The meeting will be held in room 2201 at the Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Dr. Tony Yen, Deputy Associate Administrator, Office of Research, Demonstration, and Innovation, (TRI–2), at (202) 366–4047, or Timothy J. Johnson, Office of Technology, (TRI–20) at (202) 366–0212.

The public is invited to submit written comments on this notice. Written comments should refer to the docket number appearing at the top of this notice and be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. All comments received will be available at the above address. Docket hours at the Nassif Building are Monday through Friday, 10 a.m. to 5 p.m., excluding Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the univeral resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communication software from Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://access.gpo.gov/nara.

**Contents**

I. Introduction
II. Background
III. TEA–21 Authorized Projects
IV. Vision, Goals and Technical Objectives
V. Program Description
VI. Applications
VII. Selection Process
VIII. Funding
IX. Joint Partnership Program

### I. Introduction

The overall objective of the program is to develop magnetic levitation technology that is a cost effective, reliable, and environmentally sound transit option for urban mass transportation in the United States. It is expected that Federal funding would be used to develop U.S. components and technology. It is envisioned that funded projects will include the design of an Urban Maglev system and the development and demonstration of advanced hardware subsystems to verify advanced technology aspects of proposed system concepts. The system design can be derived from integrating existing subsystem technologies (to create a new system) or by improving an existing system using advanced technologies. Foreign technology transfer from abroad is permitted, if it ultimately results in a U.S. technology system. FTA views a total Maglev system as composed of six principal subsystems, namely: levitation, propulsion, power collection, communications & control, guideway design, and vehicle design. While funded projects must retain a research and development purpose to overcome critical technology gaps, the emphasis is on funding deployable technologies, including the ultimate participation of an end-user.

FTA's Urban Maglev Program will combine the two statutory provisions into a single program to consider all applicable Maglev technologies. The program will be undertaken in phases to ensure that proposed system concepts have been thoroughly evaluated before further FTA financial support for system development and deployment phases is committed. Any deployment activity will be consistent with the Metro Planning Process as stated in 49 U.S.C. 5303–5 and 23 CFR 450.

The Urban Maglev Program will be organized, funded, and undertaken in discrete phases which consist of: (1) Evaluation of Proposed System Concept, (2) Prototype Subsystems Development, and (3) System Integration and Deployment Planning. After the completion of each project phase, FTA will conduct an evaluation to ensure that all milestones and deliverables stated by the funding recipient have been met and that the project remains consistent with the overall objectives of FTA's Urban Maglev Program. To the maximum extent practicable, evaluations will involve peer review, including staff from potential end users. Given the different state of Maglev technology development of potential offerors, the amount of time needed to complete each phase of the program may vary. The current funding level is estimated to be sufficient to accomplish phases 1, 2 and 3. However, an adjustment to the requirements of the program phases may need to be made depending on the offeror's proposal, the number of projects funded, and future funding appropriations. Decisions to proceed with phases 2 and 3 will be based on successful completion of phase 1 project milestones, availability of program funds, and approval by the FTA Administrator (see section VI for

proposal requirements for phases 1, 2, and 3).

## II. Background

Magnetic Levitation (Maglev) is an advanced transport technology in which magnetic forces lift, propel, and guide a vehicle over a specially designed guideway. Maglev systems reduce the need for many mechanical parts, thereby minimizing maintenance costs, reducing noise, and improving reliability. Further, since the vehicle does not physically touch the guideway, Maglev systems appear to have the potential to perform well in areas where snow and icy conditions occur. In these conditions, Maglev systems may be able to negotiate steeper grades than a conventional type of fixed guideway system. These performance characteristics enable Maglev to provide safe, efficient, and environmentally sound mass transit services in areas where conventional technology may not perform as well.

Many Maglev concepts exist. Design options exist for most of the critical subsystems including: levitation, propulsion, power systems, guideway structure, vehicle structure, and communication and control subsystems. The two principal means of levitation are electromagnetic suspension (EMS), which uses attractive magnetic forces to hold the vehicle close to the underside of its guideway, and electrodynamic suspension (EDS), which uses repulsive magnetic forces to hold the vehicle just above its guideway. EMS systems have virtually no magnetic flux radiation, whereas EDS systems have more due to the higher magnetic field strengths needed for the ''repulsive'' levitation approach. Among these two means of levitation, there are several design choices, which include: type of magnet (superconductive, permanent magnet, or resistive electromagnets), magnet core material (air vs. iron), and type of current excitation of coil (DC vs. AC).

Maglev system concepts have undergone varying degrees of research and development both in the United States and abroad with most research focusing on high speed applications. Several high speed technologies appear ready for deployment. While there are no high or low speed systems currently operating in the United States, it appears that several viable technologies exist in this country. The existence of these technologies, coupled with the need to relieve congestion in highly populated urban and surrounding metropolitan areas, appears to offer significant partnership opportunities for both the private and public sectors.

## III. TEA–21 Authorized Projects

*Low Speed Project*

Section 1218 of TEA–21 (as amended by section 9003 of the TEA–21 Restoration Act) establishes a ''Low Speed Project'' in subsection 322(i) of Title 23 U.S.C. (Highways), focusing on low-speed technology development. Subsection 322(i) authorizes $5 million in funding to be made available for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits. In addition, 322(i)(2)(A) states: ''there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.''

*Advanced Technology Pilot Project*

Section 3015 of TEA–21 (as amended by section 9009 of the TEA–21 Restoration Act) defines a project similar to the low-speed project defined above. The main difference is that superconductivity need not be used, but is not excluded. TEA–21 makes available for Fiscal Years 1998 through 2003, $5,000,000 per fiscal year to develop low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

FTA intends to combine these two statutory efforts into a comprehensive Urban Maglev Program that includes research, development and assessment of applicable Maglev technologies.

## IV. Program Vision, Goal, and Objectives

*Vision*

Develop American magnetic levitation technology to improve urban mass transportation.

*Strategic Goals*

Develop an advanced technology Urban Maglev system that will advance mobility and accessibility strengthen America's economic growth and trade.

In support of this strategic goal, specific outcome goals of the Urban Maglev Program include: encouraging regional and local development through joint activity, and developing the latest technology for the Nation's transit systems.

*Technical Objectives*

(1) Develop a base of knowledge on Urban Maglev low speed technology supportive of eventual deployment, including a full system design and advanced technology hardware development and demonstration;

(2) Enhance one or more of the following critical Maglev subsystems using advanced technologies:

- Levitation
- Propulsion
- Power Supply and Delivery
- Communication & Control
- Guideway design
- Vehicle design
- Other critical vehicle and/or guideway subsystems as identified

(3) Integration of a Maglev system design, including fleet operations, safety, inter-vehicle communication and control systems, and subsystems integration;

(4) Evaluate and optimize a full scale demonstration system design with respect to:

- Cost (both construction and operation)
- System Reliability
- Maintenance and other operational requirements
- Safety Benefits and Congestion Mitigation Potential
- Energy efficiency
- Other critical evaluation criteria as identified

(5) Demonstrate low speed magnetic levitation technologies:

- Demonstrate the feasibility of a low speed Urban Maglev system
- Application identification and end user participation
- Deployment Site Identification/ Planning

## V. Program Description

*Project Phases*

The Urban Maglev program is a deployment-oriented technology development program. The emphasis will be on funding a project or projects that incorporate advanced technologies in a Maglev system design, but yet retain the attractive characteristics needed for deployment including low cost, high reliability, energy efficiency, congestion mitigation, and safety.

It is envisioned that the majority of effort for funded project groups would be spent in phases 2 and/or 3. Phase 1 is intended to be a concept evaluation phase and should take no more than one year to complete. Note however, that decisions to proceed with subsequent phases is at the option of the FTA, and will be based on successful completion of project milestones, availability of program funds, and approval of the FTA Administrator.

The amount of time spent on phase 2 and 3 activities is expected to be

significant, probably on the order of 2 to 3 years for each phase. Exactly how much time is spent in phase 2 versus phase 3 will depend on the scope of work of the funded proposal(s). For groups upgrading an existing system concept with advanced technologies, more time may be spent in phase 2—Prototype Subsystem(s) Development. For a project attempting to integrate existing advanced technology subsystems, more time might be spent in phase 3, System Integration. FTA's intent is to design a program that is flexible enough to accommodate various approaches to designing, developing, and demonstrating Maglev system technologies.

Phase 1: Evaluation of Proposed System Concept

In phase 1, funding recipients will perform further development of their proposed Maglev system such that the proposed system concept can be fully evaluated by the FTA. Note that the phrase ''proposed Maglev system'' means the complete full-scale demonstration system concept that is planned for development by the funding recipient, not just the improved advanced technology portions. The emphasis in this phase would be to bring the proposed Maglev system concept to the point where it could be presented, studied and assessed by FTA and others involved in the program such as a peer review group. In addition, an end-user would be identified.

It is envisioned that phase 1 activities would include:

- A projection of overall system performance and a preliminary design for the proposed full scale demonstration system concept. System performance is to be estimated in the areas of: energy efficiency, safety, congestion mitigation, reliability, maintainability, power requirements, total system cost (design and construction), and other critical performance measures as defined. The preliminary design should include the guideway and vehicle systems, and other subsystems as defined. It is envisioned that computer modeling and simulation would be used by the funding recipient to estimate and project overall system performance and to present the preliminary design for the overall system.
- Documentation (for evaluation purposes) of all assumptions and methodology used to project and estimate the system performance and in forming the preliminary design for the proposed system concept.
- Identification and analysis of key risk elements (technical) associated with the proposed project.
- Provide a ''letter of interest'' from end-user(s)

Phase 2: Prototype Subsystem(s) Development

In phase 2, funding recipients will complete the development of proposed advanced technology portions of the overall Maglev system design. For example, if the funding recipient proposed an improved Maglev system using superconductive technology, the principal subsystem and all other subsystems affected by this new advanced technology would be developed during this Phase of the program. Appropriate demonstration hardware would be completed during this program phase. In addition, a Commercialization Plan explaining the proposed application and market for the overall system will be required.

Key activities of this phase would include:

- Completion of a functional specification of the prototype advanced technology subsystem(s)
- Completion of advanced technology hardware subsystem(s) where improvements are proposed and warrant prototypes for testing and verification
- Demonstration of advanced hardware subsystem(s) technology
- Commercialization Plan with potential end-user(s) involvements

Phase 3: System Integration and Deployment Planning

In phase 3, funding recipients will integrate the completed advanced technology portions of their proposed design to form an overall Maglev system. In addition, deployment planning activities would commence in this phase. A specific deployment site would be identified and environmental assessment activities would be initiated. It is envisioned that the end-user, identified in phase 1, would take an active role, working with funding recipients to further advance the project in these areas.

Key activities for phase 3 include:

- Completion of functional specifications for a full-scale demonstration system whereby a potential user can commit itself to procure the system
- Full-scale computer modeling and simulation to demonstrate and verify system operations
- Identification of a specific deployment site
- Environmental Assessment

Potential Future Program Activities: Demonstration System Deployment. The end-user would continue working with a funding recipient to further advance the project. The designated operator/user would oversee efforts to advance the selected project, complete detailed engineering designs, complete site-specific deployment and planning activities, finance, equip, and construct a full-scale project.

*Additional Program Activities*

Technology Assessment

FTA will conduct a technology assessment of existing Maglev technologies. The results of the assessment will be used by FTA to guide its program and as an aid in evaluating technologies. The assessment will review the critical subsystems, assessing their state of development as well as evaluating these subsystems as to their applicability for low speed applications. There are many possible systems that can be conceptualized. The technologies of interest for this program are those that are partially or fully developed, such that a demonstration system could be initiated within the timeframe covered by TEA–21.

Generic technologies will be assessed with certain urban applications in mind, i.e., it is envisioned that the system designed will either be a short distance automated type intra-city shuttle, edge city or intra-suburban shuttle, or a larger scale suburban to downtown city center type system. The technologies and associated applications that have the greatest potential to demonstrate energy efficiency, safety benefits, congestion mitigation, high reliability, environmental benefits, and cost effectiveness, within the context of these applications, will be strong candidates for further development funding.

## VI. Applications

*1. Eligibility Requirements*

The applicant must consist of a for-profit U.S. company and may include one or more of the following:

(a) A public or private educational or research organization located in the United States, and/or

(b) A state or local public body eligible to receive FTA assistance, and/or

(c) A non-U.S company, educational or research organization.

The above entities may enter into a consortium or other type of joint venture suitable for the FTA Joint Partnership Program as stated in Section 3015 of TEA–21.

*2. Content of Proposals*

Each proposal should contain information detailing the Management, Technical, and Financial aspects needed to accomplish *phase 1* of the proposed project. For phases 2 and 3, the proposal should provide a detailed summary of work activities proposed for these phases. The proposal should be a comprehensive, accurate, and effective presentation. Eight (8) copies of the proposal shall be submitted. No more than 50 pages (using 12 point font or larger), each numbered at the bottom, shall be contained within the proposal. Proposals containing more than the stated number of pages may be rejected by the FTA. The proposal should be spiral bound along the left long side, without unnecessary frills, and organized in the following fashion using tabbed, numbered separators for each section. Note: No promotional literature, brochures, etc., should be included. The proposal should clearly delineate project activities occurring in phase 1. All phase 1 milestones should be clearly stated and linked to a Payment Schedule keyed to these payable milestones.

Suggested Contents of Proposal

- Cover: Containing the Project Title and Proposer's name and Address
- Executive Summary of Proposal
- Overview of Proposer
- Transportation experience record of all entities involved in the project
- Phase 1 Project Work Plan
  —Project Plan
  —Technical Approach
  —Statement of Work
  —Schedule, including clearly defined payable milestones and deliverables for Phase 1 (keyed to a payment schedule)
  —Flow Chart (explaining the sequencing and interrelationships of the work tasks graphically for all work tasks of the project)
  —Staffing Table (including total staff hours for the proposer and its subcontractors anticipated for each work task)
- Phase 1 Project Organization and Management Plan
  —Identification of Project Manager and key personnel associated with each work task for the entire project.
  —Staff Chart graphically depicting Organization and Management Plan
  —Resumes of key project management personnel such as Project Director, Deputy Director, Project Manager, Task Leaders, etc.
- Phase 1 Financial Information
  —Total Cost of Project
  —Detailed information of the percentage of Federal and non-Federal cost share for the entire project. For the non-Federal share include the percentage of cash versus in-kind contributions. All in-kind contributions must be described in detail, including source(s)
  —Provide a cost proposal for phase 1 (see Section V for phase 1 description)
- Phase 1 Milestone Payment Schedule (keyed to milestones in the project work plan for phase 1)
- Summary of work proposed for phases 2 and 3, including an estimate of the total cost for phase 2 and 3

## VII. Selection Process

*Evaluation*

FTA anticipates multiple awards resulting from this solicitation. In selecting projects, FTA will employ the following criteria (order of criteria does not designate priority):

a. Amount and quality of non-Federal Share: (see Section VIII, Funding)

b. The correlation between the proposal and the vision, goals, technical objectives, and overall program description articulated by FTA in this notice.

c. Management capability; the applicant must demonstrate both past experience in the transportation industry, and the capability to manage the planning, designing, testing, refinement, etc. of a Maglev system.

d. The applicant must be part of a team with demonstrated capabilities in the area of mass transportation, and meet the technical requirements stated in this notice and possess experience in managing large dollar value transportation projects.

e. Demonstrate that the proposed Low Speed Urban Maglev System is feasible for deployment in an urbanized area and that the proposed Urban Maglev System will fulfill a useful public transportation need.

f. Demonstrate that all major subsystems of the proposed Urban Maglev System concept are practical to develop, particularly from a cost perspective.

## VIII. Funding

*(a) Non-Federal Cost Share*

FTA is seeking a 50% matching cost share for projects funded under this program. The matching share provided by the performer (Federal funding recipient) may consist of a cash and/or in-kind match, cash being considered as higher quality match.

The performer pays for all of the costs of each project. The performer is reimbursed in part by the Government. The portion not reimbursed by the Government is referred to as cost share. The Government expects to share in the costs of all tasks of a project. The Government evaluates the quality of cost share in the following terms:

*(b) Quality of Non-Federal Cost Share*

High Quality Cost Share

These are financial resources that will be expended by the award recipients on the proposed project's Statement of Work (SOW) and will be subject to the direction of the project management team. This means the funds the non-Federal participants will spend for man-hours, materials, new equipment (prorated if appropriate), subcontractor efforts expended on the project's SOW, and restocking the parts and materials consumed. High quality cost share can include new independent research and development efforts, but only if those funds are offered by the proposers to be spent on the SOW and subject to the direction of the project management team.

Low Quality Cost Share

These are non-financial resources that will be expended on the proposed project's SOW and will be subject to the direction of the project management team. This is typically wear-and-tear on in-place capital assets like machinery or the prorated value of space used for the project.

Unacceptable Cost Share

This is a resource that either: (1) will not be expended on the proposed project's SOW, or (2) will not be subject to the direction of the management team as discussed above. Unacceptable cost share will be subtracted from the proposer's claimed total cost for the project, and the required industry cost share recalculated. Unacceptable Cost Share examples include:

—Sunk costs, i.e., costs incurred before the start of the proposed project;
—Foregone fees or profits;
—Foregone general and administrative costs or cost of money applied to a base of independent research and development;
—Bid and proposal costs;
—Value claimed for intellectual property or prior research;
—Parallel research or investment, i.e. research or other investments that might be related to the proposed project, but which will not be part of the SOW or subject to the direction of the project management team.

Typically, these activities will be undertaken regardless of whether the proposed project proceeds;

—Off-budget resources, i.e., resources that will not be risked by the proposer on the SOW, and should not be considered when evaluating cost share.

Joint Partnership Program (JPP)

Section 3015 of TEA–21 authorizes a new Joint Partnership Program for Deployment of Innovation (JPP). Projects determined eligible for funding under the Urban Maglev Program that meet the requirements of Section 3015 and FTA's JPP guidelines, may also be considered for inclusion under that program. For further details on the JPP see the related Federal Register Notice published October 2, 1998, Vol. 63 page 53266.

Issued on: January 26, 1999.

**Gordon J. Linton,**

*Administrator.*

[FR Doc. 99–2213 Filed 1–28–99; 8:45 am]

BILLING CODE 4910–57–P

# Reader Aids

**Federal Register**

Vol. 64, No. 19

Friday, January 29, 1999

## CUSTOMER SERVICE AND INFORMATION

**Federal Register/Code of Federal Regulations**

| | |
|---|---|
| General Information, indexes and other finding aids | **202–523–5227** |
| **Laws** | **523–5227** |
| **Presidential Documents** | |
| Executive orders and proclamations | **523–5227** |
| **The United States Government Manual** | **523–5227** |
| **Other Services** | |
| Electronic and on-line services (voice) | **523–4534** |
| Privacy Act Compilation | **523–3187** |
| Public Laws Update Service (numbers, dates, etc.) | **523–6641** |
| TTY for the deaf-and-hard-of-hearing | **523–5229** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications:

**http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

**http://www.nara.gov/fedreg**

### E-mail

**PENS** (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

**listproc@lucky.fed.gov**

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

**Reference questions.** Send questions and comments about the Federal Register system to:

**info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATES, JANUARY

1–384 ..... 4
385–730 ..... 5
731–984 ..... 6
985–1096 ..... 7
1097–1500 ..... 8
1501–1714 .....11
1715–2114 .....12
2115–2418 .....13
2419–2544 .....14
2545–2798 .....15
2799–2988 .....19
2989–3200 .....20
3201–3392 .....21
3393–3620 .....22
3621–3806 .....25
3807–4028 .....26
4029–4284 .....27
4285–4516 .....28
4517–4776 .....29

## CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
7162 .....2989
7163 .....2991
**Executive Orders:**
11348 (See EO 13111) .....2793
12543 (See Notice of Dec. 30, 1998) .....383
12544 (See Notice of Dec. 30, 1998) .....383
12947 (See Notice of Jan. 20, 1999) .....3393
13099 (See Notice of Jan. 20, 1999) .....3393
13110 .....2419
13111 .....2793
**Administrative Orders:**
Presidential Determinations:
No. 99–9 of December 24, 1998 .....983
Notices:
December 30, 1998 .....383
January 20, 1999 .....3393

**5 CFR**

550 .....1501, 4517
2634 .....2421
2635 .....2421
2636 .....2421
**Proposed Rules:**
731 .....4336

**7 CFR**

1 .....3395
254 .....1097
301 .....385, 4285
319 .....2993
353 .....1098
801 .....731
905 .....3807
930 .....387
932 .....4286
982 .....2422
985 .....2799
989 .....2425
993 .....3621
1260 .....3814
1464 .....2802
1788 .....1
1951 .....392
**Proposed Rules:**
47 .....4342
300 .....2151
319 .....2151, 3049, 4347
782 .....2152
932 .....4350
981 .....430
993 .....3660
1307 .....4353
1308 .....4353

**9 CFR**

Ch. III .....2803, 3340
50 .....3340
52 .....2545
77 .....3340
78 .....5, 394
91 .....3340
301 .....732
317 .....732
318 .....732
320 .....732
381 .....732
**Proposed Rules:**
1 .....4356
3 .....4356
93 .....2449

**10 CFR**

600 .....4029
**Proposed Rules:**
30 .....3789
31 .....3052
32 .....3052
40 .....3789
50 .....57, 432, 3790, 3791
70 .....1542, 3790
72 .....1542
430 .....1272, 1545

**12 CFR**

563 .....2805
563b .....2805
960 .....2550
**Proposed Rules:**
701 .....58, 776
713 .....58
715 .....776
741 .....58, 776

**13 CFR**

120 .....2115
**Proposed Rules:**
121 .....2153
125 .....2153
134 .....3454
140 .....3454

**14 CFR**

25 .....3201
39 ...5, 395, 749, 751, 985, 987, 989, 1106, 1108, 1110, 1112, 1114, 1116, 1118, 1502, 1715, 1716, 1994, 2016, 2038, 2061, 2428, 2551, 2552, 2555, 2556, 2558, 2559, 2560, 2810, 2813, 2816, 2817, 2819, 2821, 3202, 3204, 3816, 3817, 3819, 3821, 3823, 3826, 4029, 4288, 4290, 4291, 4521, 4523, 4525
71 .....8, 9, 10, 11, 12, 13, 1716,

2119, 2120, 2562, 2563, 2565, 2823, 2824, 2825, 2827, 3009, 3010, 3206, 3207, 3208, 3210, 3396, 3397, 3396, 3397, 3590, 3591, 3828, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 4527
73.....3623, 4534
91.....1076
97 .....1717, 1724, 2828, 2830
121 .....958, 1076, 3836
125.....1076
135 .....958, 1076, 3836
145.....958, 3836
201.....3211
212.....3212

**Proposed Rules:**
39 .....435, 438, 441, 443, 445, 785, 787, 1545, 1549, 1552, 2157, 2161, 2863, 3052, 3226, 4061, 4367, 4370, 4372
71 ...60, 447, 1142, 1554, 1555, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 2449, 2450, 2452, 2453, 2605, 2864, 2866, 3228, 3664, 3665, 3666
93.....2086, 3055
234.....3883
389.....3229

**15 CFR**

740.....2429
742.....2429, 3213
743.....3213
744.....1120
748.....2429
772.....1120
902 .....13, 3624, 4030

**Proposed Rules:**
806.....2454

**16 CFR**

4.....3011
305.....926
1615.....2832, 2833
1616.....2832, 2833

**Proposed Rules:**
Ch. 1 .....3668
308.....61
1213.....3456
1500.....3456
1513.....3456
1615.....2867
1616.....2867

**17 CFR**

1.....16, 3340
3.....1725
145.....24
147.....24
210.....1728
229.....1728
232.....2843
240.....1728, 2843
249.....1728, 2843
275.....2566
279.....2120
405.....1735

**Proposed Rules:**
30.....1566

**18 CFR**

1301.....4044

**Proposed Rules:**
161.....789
250.....789
284.....789
430.....1763

**19 CFR**

123.....27
142.....27
162.....1122
178.....27

**20 CFR**

**Proposed Rules:**
655.....628
656.....628

**21 CFR**

2.....396
3.....396
5.....396
10.....396
12.....396
16.....396
20.....396
25.....396
50.....396
54.....396
56.....396
58.....396
60.....396
70.....396
71.....396
172.....1758
173.....1758
175.....2567, 4535
178 .....34, 2854, 4535
184.....404, 1758
200.....396
201.....396
202.....396
206.....396
207.....396
210.....396
211.....396
299.....396
300.....396
310.....396, 4535
312.....396
314.....396
316.....396
320.....396
333.....396
369.....396
510.....396
514.....396
520 .....396, 1503, 1761, 2121, 4540
522.....396
524.....396
529.....396
556.....1503
558.....991, 2855
564.....4293
800.....396
801.....396
807.....396, 1762
809.....396
812.....396
860.....396
862.....1123
892.....1123
1308.....4050

**Proposed Rules:**
2.....448
3.....448
5.....448
10.....448
12.....448
16.....448
20.....448
25.....448
50.....448
54.....448
56.....448
58.....448
60.....448
70.....448
71.....448
101.....1765, 3250
200.....448
201.....448
202.....448
206.....448
207.....448
210.....448
211.....448
216.....996
299.....448
300.....448
310.....448
312.....448
314.....448
315.....457
316.....448
320.....448
333.....448
369.....448
510.....448
514.....448
520.....448
522.....448
524.....448
529.....448
601.....457
800.....448
801.....448, 3255
807.....448
809.....448
812.....448
860.....448
876.....62

**22 CFR**

41.....35

**Proposed Rules:**
171.....789

**24 CFR**

5.....1504
6.....3796
180.....3796
200.....4768
206.....2984
207.....4768
570.....3796
1000.....3014

**25 CFR**

542.....590

**26 CFR**

1.....1125, 1505
31.....4540, 4542
301 .....2568, 3398, 3405, 3631, 3837
602.....4542

**Proposed Rules:**
1 .....790, 794, 805, 1143, 1148, 1571, 2164, 3257, 3457, 4374
301 .....1148, 2606, 3461, 3462, 3669, 3886
801.....457

**27 CFR**

4.....753, 2122
5.....2122
7.....2122
9.....3015
13.....2122
19.....2122

**Proposed Rules:**
4.....813

**28 CFR**

0.....4294

**Proposed Rules:**
302.....1082

**29 CFR**

1910.....204
4044.....2569

**Proposed Rules:**
2520.....4506
2510.....3463
2560.....65

**30 CFR**

913.....3413
926.....3603, 3611
934.....1127
936.....3420

**Proposed Rules:**
204.....3361
208.....1930, 3262
241.....1930, 3262
242.....1930, 3262
243.....1930, 3262
250.....1930, 3262
290.....1930, 3262
917 .....816, 3670, 4604

**31 CFR**

225.....4762
356.....3632

**Proposed Rules:**
Ch. II .....1149
1.....1152
100.....4063

**32 CFR**

290.....1130
706 .....2571, 2572, 3423

**33 CFR**

1.....2868
2.....2868
3.....2868
4.....2868
5.....2868
6.....2868
7.....2868
8.....2868
9.....2868
10.....2868
11.....2868
12.....2868
13.....2868
14.....2868
15.....2868
16.....2868
17.....2868
18.....2868
19.....2868
20.....2868
21.....2868

22 ....2868
23 ....2868
24 ....2868
25 ....2868
26 ....2868
27 ....2868
28 ....2868
29 ....2868
30 ....2868
31 ....2868
32 ....2868
33 ....2868
34 ....2868
35 ....2868
36 ....2868
37 ....2868
38 ....2868
39 ....2868
40 ....2868
41 ....2868
42 ....2868
43 ....2868
44 ....2868
45 ....2868
46 ....2868
47 ....2868
48 ....2868
49 ....2868
50 ....2868
51 ....2868
52 ....2868
53 ....2868
54 ....2868
55 ....2868
56 ....2868
57 ....2868
58 ....2868
59 ....2868
60 ....2868
61 ....2868
62 ....2868
63 ....2868
64 ....2868
65 ....2868
66 ....2868
67 ....2868
68 ....2868
69 ....2868
70 ....2868
71 ....2868
72 ....2868
73 ....2868
74 ....2868
75 ....2868
76 ....2868
77 ....2868
78 ....2868
79 ....2868
80 ....2868
81 ....2868
82 ....2868
83 ....2868
84 ....2868
85 ....2868
86 ....2868
87 ....2868
88 ....2868
89 ....2868
90 ....2868
91 ....2868
92 ....2868
93 ....2868
94 ....2868
95 ....2868
96 ....2868
97 ....2868
98 ....2868
99 ....2868
100 ....2868, 3840
101 ....2868
102 ....2868
103 ....2868
104 ....2868
105 ....2868
106 ....2868
107 ....2868
108 ....2868
109 ....2868
110 ....2868
111 ....2868
112 ....2868
113 ....2868
114 ....2868
115 ....2868
116 ....2868
117 ....35, 405, 406, 1516, 2868, 3424
118 ....2868
119 ....2868
120 ....2868
121 ....2868
122 ....2868
123 ....2868
124 ....2868
165 ....2431, 4052, 4053

**Proposed Rules:**

100 ....66
110 ....3888, 3889
117 ....1155, 3464
126 ....1770

**34 CFR**

650 ....3197

**36 CFR**

223 ....406
242 ....1276

**Proposed Rules:**

13 ....1573
242 ....4604
1001 ....2870
1002 ....2870
1003 ....2870
1004 ....2870
1005 ....2870
1006 ....2870

**37 CFR**

**Proposed Rules:**

251 ....3055, 3746

**38 CFR**

3 ....1131
20 ....2134

**39 CFR**

20 ....2855
111 ....36, 2141
3001 ....1392, 4493

**40 CFR**

9 ....3026
52 ....413, 415, 754, 756, 926, 992, 1517, 2141, 2573, 2575, 2577, 2581, 3214, 3216, 3425, 3841, 3850, 3852, 3855, 4296, 4568
58 ....3028, 3030
63 ....4298, 4570
68 ....964
81 ....992, 3216, 3855
82 ....1092, 3861, 3865
141 ....1494
180 ....41, 418, 759, 1132, 3037, 2995, 3003, 3427, 3428, 4301, 4308, 4572, 4577, 4584
185 ....3044
239 ....4311
261 ....3869, 4590
262 ....3381
264 ....3381
265 ....3381
271 ....4596
272 ....2144
300 ....2942
761 ....3026

**Proposed Rules:**

51 ....3890
52 ....67, 464, 465, 818, 820, 1003, 1573, 1770, 2165, 2416, 2455, 2610, 2611, 3263, 3271, 3272, 3465, 3890, 3891, 3896, 3901, 3906, 3908, 4379, 4605
58 ....3056
60 ....2460
61 ....2460
63 ....1780, 1880, 2460, 2611, 4379
65 ....2460
81 ....1003, 3272, 3908
82 ....3272
97 ....2416
98 ....2416
141 ....1499, 2538
180 ....1157
239 ....4379
271 ....4605
272 ....2166
300 ....2950
302 ....1780
372 ....688
437 ....2280
721 ....4605
745 ....2460

**41 CFR**

101–11 ....2857
101–42 ....1139
101–43 ....1139
300–2 ....2432
300–3 ....2432
303–70 ....2432

**42 CFR**

409 ....3647
410 ....3647
424 ....3647
484 ....3747, 3764
488 ....3747

**Proposed Rules:**

Ch. IV ....69
405 ....3474
409 ....1784
410 ....1784
411 ....1784
412 ....1784
413 ....1784
416 ....1785
419 ....1784
488 ....1785
498 ....1784
1003 ....1784

**43 CFR**

**Proposed Rules:**

4 ....1930, 3262
428 ....2870
3100 ....2166
3106 ....2166
3130 ....2166
3160 ....2166

**44 CFR**

65 ....1521, 3045
67 ....1523, 3046

**Proposed rules:**

61 ....3909
67 ....1573, 3056
206 ....3910

**45 CFR**

2506 ....4315

**Proposed Rules:**

400 ....1159
401 ....1159

**46 CFR**

**Proposed Rules:**

249 ....1175
381 ....4382
401 ....1585
520 ....2615

**47 CFR**

0 ....2149
1 ....4054
2 ....2585
21 ....4054
25 ....2585
54 ....2591
68 ....3048
73 ....995, 2858, 3650, 3873, 3874, 4322
74 ....4054, 4322
76 ....2595
90 ....3048

**Proposed Rules:**

0 ....2461
1 ....1
2 ....1786, 2462
20 ....3478
25 ....1786
73 ....2461, 3913
76 ....2461
90 ....1003, 3480

**48 CFR**

52 ....3195
204 ....2595
208 ....2595
216 ....2595
217 ....2595
219 ....2595
223 ....2595
225 ....2595, 2599
237 ....2595
242 ....2595
246 ....2595
247 ....2595
252 ....2436, 2595, 2599
253 ....2595, 2600
1201 ....2436
1205 ....2436
1206 ....2436
1211 ....2436
1213 ....2436, 2595
1215 ....2436
1237 ....2436
1253 ....2436
1516 ....3875
1552 ....3875

1804 ....1528
1871 ....1529
5315 ....995

**Proposed Rules:**

Ch. 3 ....1344
14 ....4258
15 ....4258
17 ....3617
31 ....3379, 4760
52 ....3617, 3785, 4258
204 ....2617
212 ....2617
213 ....2617
252 ....2617
253 ....2617
829 ....4607
1537 ....3060
1552 ....3060

**49 CFR**

1 ....2150, 3876
555 ....2858
571 ....2446
581 ....2858
653 ....425
654 ....425

**Proposed Rules:**

171 ....70, 1789
177 ....70
178 ....70
180 ....70
229 ....3273
230 ....1791
231 ....3273
232 ....3273
572 ....4385

**50 CFR**

18 ....1529, 4328
23 ....769
100 ....1276
229 ....3431
300 ....13
600 ....1316, 4030, 4599
622 ....3624, 3650
630 ....4055
648 ....427, 1139, 2600, 2601, 4059
660 ....45, 1316
679 ....46, 50, 427, 428, 1539, 3435, 3437, 3446, 3453, 3651, 3653, 3658, 3877, 4602

**Proposed Rules:**

17 ....821, 2167, 3913, 3915, 3923, 4607
20 ....821, 822
21 ....822
100 ....4604
227 ....465
285 ....3153
600 ....3153
622 ....2620
630 ....3153
635 ....3153
644 ....3153
648 ....471, 823, 2466, 3480, 4065
649 ....2708
660 ....823, 1341, 2467, 4065
678 ....3153
679 ....2870
697 ....2708

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT JANUARY 29, 1999

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Olives grown in—
- California; published 1-28-99

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

User fees:
- Veterinary services; embryo collection center approval fees; published 12-30-98

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Committees; establishment, renewal, termination, etc.:
- Regional Fishery Management Councils; published 1-29-99

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - South Atlantic snapper-grouper; published 12-30-98

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution, hazardous; national emission standards:
- Secondary lead smelters, new and existing; compliance date extension, etc.; published 1-29-99

Hazardous waste:
- Identification and listing—
  - Exclusions; published 1-29-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Azoxystrobin; published 1-29-99
- Fenbuconazole; published 1-29-99
- Lambda-cyhalothrin; published 1-29-99

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Human drugs:
- Laxative products (OTC)—
  - Danthron and phenolphthalein; reclassification; tentative final monograph; published 1-29-99

**JUSTICE DEPARTMENT**

**Immigration and Naturalization Service**

Immigration:
- Visa waiver pilot program—
  - Andora et al.; published 12-30-98

**NUCLEAR REGULATORY COMMISSION**

Practice rules:
- Domestic licensing proceedings—
  - High-level radioactive waste disposal at geologic repository; published 12-30-98

**PRESIDIO TRUST**

Presidio management; general provisions, etc.; published 12-30-98

**TRANSPORTATION DEPARTMENT**

**Coast Guard**

Ports and waterways safety:
- First Coast Guard District; regulated navigation area; published 12-30-98

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:
- British Aerospace (Operations) Ltd.; published 12-18-98
- First Technology Fire & Safety Ltd.; published 11-30-98
- Relative Workshop; published 1-6-99

**TRANSPORTATION DEPARTMENT**

**Federal Highway Administration**

Engineering and traffic operations:
- Truck size and weight—
  - National Network for Commercial Vehicles; route addition in North Dakota; published 12-30-98

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Employment taxes and collection of income taxes at source:
- Federal Insurance Contributions Act (FICA); taxation of amounts under employee benefit plans; published 1-29-99
- Federal Unemployment Tax Act (FUTA); taxation of amounts under employee benefit plans; published 1-29-99

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Federal Seed Act:
- Noxious-weed seeds; prohibition of shipment of agricultural and vegetable seeds containing them; comments due by 2-4-99; published 12-24-98

Organization, functions, and authority delegations:
- Transfer of regulations under Egg Products Inspection Act to FSIS; comments due by 2-1-99; published 12-31-98
- Transfer of regulations under Egg Products Inspection Act to FSIS; correction; comments due by 2-1-99; published 1-21-99

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Noxious weed lists:
- Update; comments due by 2-2-99; published 12-4-98

**AGRICULTURE DEPARTMENT**

**Food Safety and Inspection Service**

Organization, functions, and authority delegations:
- Agency responsibilities, organization, terminology and transfer of regulations under Egg Products Inspection Act from AMS; comments due by 2-1-99; published 12-31-98
- Transfer of regulations under Egg Products Inspection Act from AMS; correction; comments due by 2-1-99; published 1-21-99

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:
- Alaska fisheries of Exclusive Economic Zone—
  - Crab and scallop fisheries; maximum sustainable and optimum yield; comments due by 2-1-99; published 12-1-98
- Northeastern United States fisheries—
  - Atlantic sea scallop; comments due by 2-1-99; published 12-1-98
  - Northeast multispecies; comments due by 2-1-99; published 1-6-99
  - Northeast multispecies and monkfish; comments due by 2-1-99; published 12-2-98
  - Northeast multispecies, Atlantic sea scallop, and Atlantic salmon; comments due by 2-1-99; published 12-7-98
- West Coast States and Western Pacific fisheries—
  - Pacific groundfish; comments due by 2-1-99; published 12-1-98

**ENERGY DEPARTMENT**

**Energy Efficiency and Renewable Energy Office**

Consumer products; energy conservation program:
- Clothes washers, energy conservation standards; comments due by 2-3-99; published 11-19-98
- Clothes washers, energy conservation standards; correction; comments due by 2-3-99; published 1-8-99

Energy conservation:
- Distribution transformers; test procedures; comments due by 2-5-99; published 11-12-98

**ENVIRONMENTAL PROTECTION AGENCY**

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 2-1-99; published 12-31-98
- Illinois; comments due by 2-5-99; published 1-6-99
- Kentucky; comments due by 2-4-99; published 1-5-99
- Louisiana; comments due by 2-4-99; published 1-5-99
- North Carolina; comments due by 2-1-99; published 12-31-98
- Tennessee; comments due by 2-1-99; published 12-31-98

Hazardous waste:
- Identification and listing—
  - Exclusions; comments due by 2-4-99; published 12-21-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Cymoxanil; comments due by 2-1-99; published 12-2-98

Imidacloprid; comments due by 2-1-99; published 12-2-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities

Metolachlor; comments due by 2-1-99; published 12-2-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Myclobutanil; comments due by 2-2-99; published 12-4-98

Primisulfuron-methyl; comments due by 2-1-99; published 12-2-98

Tebuconazole; comments due by 2-1-99; published 12-2-98

Thiabendazole; comments due by 2-2-99; published 12-4-98

Triasulfuron; comments due by 2-1-99; published 12-2-98

**FEDERAL COMMUNICATIONS COMMISSION**

Common carrier services:

Commercial mobile radio services—

Wireless services compatibility with enhanced 911 services; Automatic Location Identification requirements; waiver guidelines; comments due by 2-4-99; published 1-22-99

Radio stations; table of assignments:

Arkansas; comments due by 2-1-99; published 12-17-98

New Mexico; comments due by 2-1-99; published 12-17-98

North Dakota; comments due by 2-1-99; published 12-17-98

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Insured State banks and savings associations; activities; comments due by 2-1-99; published 12-1-98

**FEDERAL ELECTION COMMISSION**

Contribution and expenditure limitations and prohibitions:

Corporate and labor organizations—

Membership association member; definition; comments due by 2-1-99; published 12-16-98

Limited liability companies; treatment; comments due by 2-1-99; published 12-18-98

Presidential primary and general election candidates; public financing:

Eligibility requirements and funding expenditure and repayment procedures; comments due by 2-1-99; published 12-16-98

**FEDERAL RESERVE SYSTEM**

Availability of funds and collection of checks (Regulation CC):

Software changes related to merger; implementation time; comments due by 2-1-99; published 12-31-98

**GENERAL SERVICES ADMINISTRATION**

Federal property management:

Telecommunications resources management and use—

Network registration services; user fees; comments due by 2-1-99; published 12-1-98

**GOVERNMENT ETHICS OFFICE**

Freedom of Information Act; implementation; comments due by 2-1-99; published 12-3-98

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Administrative practice and procedure:

Clinical investigators; financial disclosure; comments due by 2-1-99; published 12-31-98

Human drugs and biological products:

Postmarketing adverse drug reactions; electronic reporting; comments due by 2-3-99; published 11-5-98

Human drugs:

Abbreviated new drug applications; approval effective date; comments due by 2-3-99; published 11-5-98

Bioavailability and bioequivalence requirements; abbreviated applications; comments due by 2-2-99; published 11-19-98

Medical devices:

General hospital and personal use devices—

Liquid chemical sterilants and general purpose disinfectants; classification; comments due by 2-4-99; published 11-6-98

**INTERIOR DEPARTMENT**

**Land Management Bureau**

Minerals management:

Oil and gas leasing—

Federal oil and gas resources; protection against drainage by operations on nearby lands that would result in lower royalties from Federal leases; comments due by 2-1-99; published 12-3-98

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

Preble's meadow jumping mouse; comments due by 2-1-99; published 12-3-98

**INTERIOR DEPARTMENT**

**National Park Service**

National Park System:

Glacier Bay National Park, AK; commercial fishing activities; comments due by 2-1-99; published 1-11-99

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:

Kentucky; comments due by 2-5-99; published 1-6-99

**JUSTICE DEPARTMENT**

**Immigration and Naturalization Service**

Nonimmigrant classes:

Aliens coming temporarily to U.S. to perform agricultural labor or services; H-2A classification petitions; adjudication delegated to Labor Department; comments due by 2-5-99; published 12-7-98

**LABOR DEPARTMENT**

**Employment and Training Administration**

North American Free Trade Agreement (NAFTA):

Nonimmigrants on H-1B visas employed in specialty occupations and as fashion models; labor condition applications and employer requirements; comments due by 2-4-99; published 1-5-99

**NATIONAL CREDIT UNION ADMINISTRATION**

Credit unions:

Organization and operations—

Directors and senior officers; prior notice of appointment or employment; comments due by 2-3-99; published 11-5-98

**NUCLEAR REGULATORY COMMISSION**

Byproduct material; domestic licensing:

Generally licensed industrial devices containing byproduct material; comments due by 2-5-99; published 12-31-98

**POSTAL RATE COMMISSION**

Practice and procedure:

Library reference rule; comments due by 2-1-99; published 12-24-98

**SECURITIES AND EXCHANGE COMMISSION**

Investment companies:

Deregistration of registered investment companies; electronic filing requirements; comments due by 2-5-99; published 12-16-98

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:

Aerospatiale; comments due by 2-4-99; published 1-5-99

AlliedSignal, Inc.; comments due by 2-1-99; published 12-3-98

Avions Pierre Robin; comments due by 2-5-99; published 12-31-98

Boeing; comments due by 2-1-99; published 12-17-98

British Aerospace; comments due by 2-4-99; published 1-5-99

Industrie Aeronautiche e Meccaniche; comments due by 2-1-99; published 12-30-98

International Aero Engines; comments due by 2-5-99; published 1-6-99

McDonnell Douglas; comments due by 2-1-99; published 12-2-98

MT-Propeller Entwicklung GmbH; comments due by 2-1-99; published 12-1-98

Pilatus Aircraft Ltd.; comments due by 2-1-99; published 12-30-98

Pratt & Whitney; comments due by 2-1-99; published 12-2-98

Class E airspace; comments due by 2-1-99; published 12-16-98

Class E airspace; correction; comments due by 2-4-99; published 1-22-99