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Tuesday
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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 330

RIN 3206–AI69

Positions Restricted to Preference Eligibles

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations covering competitive service positions that are restricted to preference eligibles. These regulations update the responsibilities of both individual agencies and OPM to provide career transition assistance to preference eligibles who are separated by reduction in force because their positions are contracted out to the private sector under authority of Office of Management and Budget Circular A–76.

DATES: These interim regulations are effective July 27, 1999. Written comments will be considered if received no later than September 27, 1999.

ADDRESSES: Send written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Jacqueline R. Yeatman, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION:

Background

Section 5 U.S.C. 3310 limits entrance examinations for the positions of custodian, elevator operator, guard, and messenger only to preference eligibles, provided that preference eligibles are available for these positions.

In final regulations published on September 30, 1985, at 50 FR 39876, OPM provided special career transition benefits for preference eligible employees who hold restricted positions that are contracted out to the private sector under authority of OMB Circular A–76. These regulations were revised on June 27, 1994, at 59 FR 32873, to include changes in OPM's programs for displaced employees.

OPM is now revising this subpart to reflect subsequent changes in available placement programs, including the Career Transition Assistance Plan authorized by 5 CFR part 330, subpart F, and the Interagency Career Transition Assistance Plan authorized by 5 CFR part 330, subpart G.

Updated Provisions Applicable to Preference Eligibles Displaced From Restricted Positions

Revised 5 CFR 330.404 affirms that both individual agencies and OPM have additional responsibilities when the agency, under authority of Office of Management and Budget Circular A–76, contracts out the work of a preference eligible who holds a restricted position.

Revised § 330.405 affirms that, if a preference eligible is separated from a restricted position by reduction in force because the agency contracts out the veteran's work under OMB Circular A–76, the agency must provide the employee with transition services and selection priority authorized under the Career Transition Assistance Plan and the Interagency Career Transition Assistance Plan. The agency is also responsible for applying OMB's policy directives on the preference eligible's right of first refusal for positions that are contracted out to the private sector. Finally, the agency is required to cooperate with State dislocated worker units in retraining the displaced preference eligible for other continuing positions.

Revised 5 CFR 330.406 updates OPM's responsibilities under 5 CFR part 330, subpart D. OPM's responsibilities for preference eligibles displaced from restricted positions as the result of contracting out include requiring agencies to provide the veterans with both internal selection priority (e.g., the Career Transition Assistance Plan), and with interagency selection priority (e.g., the Interagency Career Transition Assistance Plan). Other OPM responsibilities include encouraging cooperation between local Federal activities to assist these displaced preference eligibles in obtaining other Federal positions, including positions with the U.S. Postal Service, and monitoring these placement efforts.

Revised 5 CFR 330.407 provides that preference eligibles who are separated from restricted positions by reduction in force because their work is contracted out have interagency selection priority under the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force. Other Federal employees have this interagency selection priority for 1 year following reduction in force separation.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits provided by law. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the effective date and make this amendment effective in less than 30 days in order to provide eligible displaced preference eligibles with special selection priority at the earliest practicable date.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 330

Armed Forces reserves, Government employees.

U.S. Office of Personnel Management,

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 330 of title 5, Code of Federal Regulations, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218;

§ 330.102 also issued under 5 U.S.C 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310, subpart I also issued under sec. 4432 of Pub. L. 102–484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 738; subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

2. Subpart D of part 330 is revised to read as follows:

Subpart D—Positions Restricted to Preference Eligibles

Sec.
330.401 Competitive examination.
330.402 Direct recruitment.
330.403 Noncompetitive actions.
330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.
330.405 Agency placement assistance.
330.406 OPM placement assistance.
330.407 Eligibility for the Interagency Career Transition Assistance Plan.

Subpart D—Positions Restricted To Preference Eligibles

§ 330.401 Competitive examination.

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger (referred to in this subpart as *restricted positions*), OPM shall restrict competition to preference eligibles as long as preference eligibles are available.

§ 330.402 Direct recruitment.

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

§ 330.403 Noncompetitive actions.

An agency may fill a restricted position by the appointment by noncompetitive action of a nonpreference eligible only when authorized by OPM.

§ 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.

An individual agency and OPM both have additional responsibilities when the agency decides, in accordance with the Office of Management and Budget (OMB) Circular A–76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities are applicable if a preference eligible holds a competitive service position that is:

(a) A restricted position as designated in 5 U.S.C. 3310 and § 330.401; and

(b) In retention tenure group tenure I or II, as defined in §§ 351.501(b) (1) and (2) of this chapter.

§ 330.405 Agency placement assistance.

An agency that separates a preference eligible from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 must, consistent with § 330.602, advise the employee of the opportunity to participate in available career transition programs. The agency is also responsible for:

(a) Applying OMB's policy directives on the preference eligibles' right of first refusal for positions that are contracted out to the private sector; and

(b) Cooperating with State dislocated worker units, as designated or created under title III of the Job Training Partnership Act, to retrain displaced preference eligibles for other continuing positions.

§ 330.406 OPM placement assistance.

OPM's responsibilities include:

(a) Assisting agencies in operating positive placement programs, such as the Career Transition Assistance Plan, which is authorized by subpart F of this part;

(b) Providing interagency selection priority through the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part; and

(c) Encouraging cooperation between local Federal activities to assist these displaced preference eligibles in applying for other Federal positions, including positions with the U.S. Postal Service.

§ 330.407 Eligibility for the Interagency Career Transition Assistance Plan.

(a) A preference eligible who is separated from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 has interagency selection priority under the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part. Section 330.704 covers the general eligibility requirements for the Interagency Career Transition Assistance Plan.

(b) A preference eligible covered by this subpart is eligible for the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force from a restricted position.

[FR Doc. 99–19045 Filed 7–26–99; 8:45 am]

BILLING CODE 6325–01–U

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI39

Career Transition Assistance for Surplus and Displaced Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to extend current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing. In 1995 these programs were implemented as a temporary replacement for the Interagency Placement Program, with a sunset date of September 30, 1999. These interim regulations extend the sunset date for an additional 2 years. These regulations also make several technical changes and clarifications in the career transition programs.

DATES: Interim rule effective July 27, 1999; comments must be received on or before September 27, 1999.

ADDRESSES: Comments may be mailed to the Workforce Restructuring Office, Employment Service, Room 6500, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–9700, or delivered to Room 6500, U.S. Office of Personnel Management, Washington, DC, between 8 a.m. and 4:30 p.m., or faxed to (202) 606–2329.

FOR FURTHER INFORMATION, CONTACT: Jacqueline Yeatman on (202) 606–0960, FAX (202) 606–2329, TDD (202) 606–0023, email: jryeatma@opm.gov .

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1995, the President issued a memorandum entitled, ''Career Transition Assistance for Federal Employees,'' that directs Federal Executive agencies to establish career transition assistance programs to help surplus and displaced workers find other jobs as the Federal Government undergoes downsizing and restructuring. As set forth in the memorandum, such programs are to be developed in partnership with labor and management, in accordance with guidance and regulations provided by the Office of Personnel Management (OPM).

OPM issued interim regulations on December 29, 1995, at 60 FR 67281, which were developed in cooperation

with representatives from the Interagency Advisory Group of Personnel Directors and employee unions. Those regulations provided the framework for implementing the President's directive, the purpose of which is to maximize employment opportunities for displaced workers, both within and outside the Federal Government. Those regulations also suspended, through September 30, 1999, the operation of the Interagency Placement Program, the then-existing program to assist displaced workers.

In place of 5 CFR part 330 subpart C, Interagency Placement Program, OPM established subpart F in part 330, Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees, and subpart G in part 330, Interagency Career Transition Assistance Plan (ICTAP) for Displaced Employees.

Career Transition Assistance

The programs set up in 1995 under these regulations incorporated a new concept in career transition assistance for displaced workers. Instead of having OPM attempt to place surplus workers in new jobs from a centralized inventory (the traditional government-wide approach used to assist displaced Federal employees under the old Interagency Placement Program in subpart C of part 330), the new career transition program empowers individual workers to find, apply for, and exercise selection priority for specific vacancies in which they are interested. It seeks to motivate and reinforce an employee's self-interest in finding work opportunities by giving displaced workers the resources and hiring priority necessary to support their transition to other employment.

Career transition assistance consists of four components:

- Programs to provide career transition services to the agency's surplus and displaced employees;
- Policies for retraining displaced employees for new career opportunities;
- Policies that require the selection of a well-qualified surplus or displaced internal agency employee who applies for a vacant position in the commuting area, before selecting any other candidate from either within or outside the agency; and
- Policies that require the selection of a well-qualified displaced employee from another agency who applies for a vacant position in the commuting area before selecting any other candidate from outside the agency.

Federal agencies are required to implement Career Transition Assistance Plans to provide career transition services to their surplus and displaced employees, and give special selection priority to these workers. These regulations set minimum standards for the plans, which can be supplemented at the agency's discretion.

At the time of the issuance of the President's directive, the Department of Defense (DOD) already operated an effective program, the Priority Placement Program, which provides selection priority to surplus and displaced employees within the Department. This continuing program is not subject to the special selection requirement affecting employees under the Career Transition Assistance Plan. The Department of Defense is subject to the other elements of these regulations and its employees are eligible for the benefits provided by these programs.

Program Results to Date

The interim regulations implementing the President's instructions were effective on February 29, 1996, at 60 FR 67281, and were issued in final form on June 9, 1997, at 62 FR 31315, with a minor correction issued on June 26, 1997, at 62 FR 34385. Under those regulations, each Executive Branch agency has established and maintains a Career Transition Assistance Plan for its surplus and displaced employees and accords selection priority for vacancies to those employees—first to its own surplus and displaced employees and then to displaced employees from other Federal agencies. During FY 1998, 909 non-Defense employees and 8,554 Defense employees facing possible reductions in force (RIF) were given career transition assistance. A total of 222 non-Defense and 4,050 surplus and displaced employees from Defense agencies were selected for other jobs within their agencies. A total of 183 displaced employees were rehired through their agency's reemployment priority list, another 273 displaced employees who were RIF-separated by one agency were selected for vacancies in different Federal agencies through the Interagency Career Transition Assistance Program.

The net result of the President's program in the past three years has been that 52,803 displaced employees facing RIF-separations have been given career transition assistance and selection priority for other jobs; 21,892 surplus and displaced Federal employees have been placed into other positions within their agencies; 1,921 displaced Federal employees have been rehired through the Reemployment Priority List by the agency from which they were separated; 1,066 displaced Federal employees who were RIF-separated by one agency have been selected for positions in other agencies. The latter figure, a result of the ''employee empowerment'' concept embodied in the Presidential directive, is over five times as many interagency selections as were made during the last three years that the old Interagency Placement Program was in operation, prior to the adoption of the career transition program.

During the same period, two Internet websites were set up to assist surplus and displaced Federal employees in finding other employment. OPM's USAJOBS Internet site (http://www.usajobs.opm.gov) provides information on Federal employment and complete vacancy listings which are updated daily. A joint website operated by the U.S. Department of Labor in partnership with the U.S. Office of Personnel Management, entitled ''Planning Your Future—A Federal Employee's Survival Guide'' (http://safetynet.doleta.gov), provides a wide range of critical information to Federal employees who are affected by downsizing and are attempting to make successful career transitions, especially to occupations in the private sector. (Additional information on these sites and other career transition resources is available from OPM's Workforce Restructuring Office at (202) 606–0960; (202) 606–2329, FAX.)

New Interim Regulations To Extend Career Transition Programs

The career transition regulations were originally scheduled to be in effect through September 30, 1999, as a temporary replacement for the Interagency Placement Program (IPP). Because of the success of the career transition program, general support for extending the current program rather than returning to the less successsful IPP, and the continuing need for effective assistance programs during ongoing restructuring, OPM is now issuing interim regulations that extend the September 30, 1999, sunset date that is found in §§ 330.603 and 330.702, for an additional 2 years, through September 30, 2001. At the same time, the Interagency Placement Program (subpart C of part 330) will remain suspended for this 2-year period. This 2-year extension will allow agencies and employees to continue benefitting from these successful placement programs during what we expect will be a period of continued restructuring, while also allowing OPM to gather additional data and input from stakeholders on the current career transition programs and determine if they should be made permanent, replaced, or modified in the future.

Technical Changes to the Career Transition Regulations

Major changes will not be made to these programs without consultation with management and labor. However, OPM is incorporating a number of technical changes to clarify the existing career transition program:

Eligibility for Special Selection Priority Under the Career Transition Assistance Program (CTAP)

Revised § 330.605(b) makes the criteria for eligibility for special selection priority as a surplus employee consistent with the definition of a surplus employee in § 330.604(i)(1).

Expiration of Special Selection Priority Under CTAP

This section clarifies under what conditions a surplus employee may lose his or her eligibility under § 330.605(c)(1).

Clarification of Posting Requirements Under CTAP

Section 330.607(b) clarifies long-standing policy that agencies need not post internal vacancies if they are able to determine and document that there are no agency CTAP eligibles in the particular local commuting area where the vacancy is located. Since most agencies track the number and locations of their CTAP eligibles, this allows them to continue this practice with appropriate documentation rather than posting vacancies for surplus or displaced employees in locations where they have no employees in this category.

Definition of a Displaced Employee Under the Interagency Career Transition Assistance Program (ICTAP)

This section adds a specific reference from § 353.110(b) to the definition of a displaced employee under § 330.703(b)(3).

Order of Selection for Filling Vacancies From Outside the Agency's Workforce Under ICTAP

Revised § 330.705(a)(3) clarifies that two groups of employees with statutory rights to selection priority are entitled to selection for Federal vacancies on the same basis as ICTAP eligible candidates: (1) Employees of the District of Columbia Department of Corrections who are separated from service as a result of the closure of the Lorton Correctional Complex and are eligible for selection priority under subpart K of part 330; and (2) displaced Panama Canal Zone employees eligible under subpart L of part 330.

Exceptions From CTAP and/or ICTAP When Filling Vacancies From Outside the Agency's Workforce

Revised §§ 330.606(d)(27) and 330.705(c)(8) clarify that situations may arise in which agencies are required to carry out certain movements of employees to one or more other agencies as a result of an interagency (1) Transfer of function; (2) mass transfer; or (3) reorganization. Because such actions are mandated by statute and do not involve creation of new vacancies, such actions can be carried out without regard to CTAP or ICTAP restrictions.

The new § 330.705(c)(17) clarifies that interagency details are not subject to ICTAP.

New § 330.705(c)(18) clarifies that the exception of job swaps from CTAP in § 330.606(d)(5) also applies to ICTAP under interagency job swap programs individually approved by OPM.

New § 330.705(c)(19) makes clear that persons who are fully eligible for ICTAP coverage may be selected by an agency without announcing or reporting the vacancy, generally as long as the new position has promotion potential no greater than the potential of the position the employee is leaving or previously held on a permanent basis in the competitive service. This policy was previously implied but was not explicit. This new section is consistent with the provisions and underlying intent of § 330.707(a) of this title which addresses reporting vacancies and parallels the discretionary actions provisions of § 335.103(c)(3)(v) of this title.

New § 330.606(d)(29) and § 330.705(c)(20) allow for the voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the arrangement.

New § 330.606(d)(30) allows agencies to move employees who are under established mobility agreements as part of a planned rotational program within the agency without regard to CTAP eligibles in the new location.

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Extending these career transition programs will provide continuity of the special selection programs for surplus and displaced Federal employees beyond the present expiration date of September 30, 1999. This change is necessary and critical to assist agencies' restructuring efforts through the remainder FY 1999 and beyond. Immediate elimination of the program's current September 30, 1999, expiration date will ensure that employees affected by reductions in force will receive the full year of career transition benefits, following separation, that they are entitled to under the regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Government employees.

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 330 of title 5, Code of Federal Regulations, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subparts F–G also issued under Presidential memorandum dated September 12, 1995, entitled ''Career Transition Assistance for Federal Employees'; subpart H also issued under 5 U.S.C. 8337(h) and 8457(b); subpart I also issued under 106 Stat. 2720, 5 U.S.C. 3301 note and sec. 4432 of Pub. L. 102–484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 251.

Subpart C—Placement Assistance Programs for Displaced Employees

2. In § 330.301, paragraph (b) is revised to read as follows:

§ 330.301 Coverage.

* * * * *

(b) The operation of this subpart will be suspended from February 29, 1996 through September 30, 2001. In the interim, placement assistance will be provided in accordance with subparts B, F, and G of this part. OPM may extend this date if it determines that the Federal Government is still

experiencing an emergency downsizing situation.

Subpart F—Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees

3. Section 330.603 is revised to read as follows:

§ 330.603 Duration.

This subpart will expire on September 30, 2001, unless the Office of Personnel Management extends the program based on its determination that the Federal Government is still experiencing an emergency downsizing situation.

4. In § 330.605, paragraphs (b) and (c)(1) are revised to read as follows.

§ 330.605 Eligibility.

* * * * *

(b) *Eligibility for special selection priority begins* on the date the agency issues the employee a reduction in force separation notice, certificate of expected separation, notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, or other official agency certification.

(c) * * *

(1) The RIF separation date, the date of the employee's resignation, retirement, or separation from the agency (including separation under adverse action procedures for declining a directed reassignment or transfer of function or similar relocation to another local commuting area).

* * * * *

5. In § 330.606, paragraph (d)(27) is revised to read as follows and paragraphs (d) (29) and (30) are added.

§ 330.606 Order of selection for filling vacancies from within the agency.

* * * * *

(d) * * *

(27) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer; and

* * * * *

(29) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

(30) The reassignment of an employee whose position description or other written mobility agreement provides for reassignments outside the commuting area as part of a planned rotational program within the agency.

6. In § 330.607, paragraph (b) is revised to read as follows.

§ 330.607 Notification of surplus and displaced employees.

* * * * *

(b) Agencies must take reasonable steps to ensure eligible employees are notified of all vacancies the agency is filling in locations where there are CTAP eligibles, and what is required for them to be determined well-qualified for the vacancies. If there are no CTAP eligibles in a local commuting area, the agency may document this fact as an alternative to posting the vacancy under the CTAP program.

* * * * *

Subpart G—Interagency Career Transition Assistance Plan for Displaced Employees

7. Section 330.702 is revised to read as follows:

§ 330.702 Duration.

This subpart will expire on September 30, 2001, unless the Office of Personnel Management extends the program based on its determination that the Federal Government is still experiencing an emergency downsizing situation.

8. In § 330.703, paragraph (b)(3) is revised to read as follows:

§ 330.703 Definitions.

* * * * *

(b) * * *

(3) A former career or career-conditional employee who was separated because of a compensable injury or illness as provided under the provisions of subchapter I of chapter 81 of title 5, United States Code, whose compensation has been terminated and whose former agency is unable to place the individual as required by § 353.110(b) of this chapter;

* * * * *

9. In § 330.705, paragraph (a)(3) is revised, paragraph (c)(8) is revised, and paragraphs (c)(17), (c)(18), (c)(19) and (c)(20) are added to read as follows:

§ 330.705 Order of selection in filling vacancies from outside the agency's workforce.

(a) * * *

(3) Any of the following three conditions:

(i) Current or former Federal employees displaced from other agencies under this subpart;

(ii) Current or former employees displaced from the District of Columbia Department of Corrections eligible under subpart K of this part, or

(iii) Displaced Panama Canal Zone employees eligible under subpart L of this part.

* * * * *

(c) * * *

(8) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer;

* * * * *

(17) Interagency details;

(18) Exchange of employees between agencies to avoid involuntary separations, under plans approved by OPM (i.e., interagency job swaps); and

(19) Transfer, reassignment, or reinstatement of an individual who meets the eligibility requirements of § 330.704 to a position having promotion potential no greater than the potential of a position the individual currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.

(20) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

[FR Doc. 99–19103 Filed 7–26–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–042–1]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth regulations by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list of generally infested areas. As a result of this action, the interstate movement of certain articles from those areas will be restricted. This action is necessary to prevent the artificial spread of the gypsy moth to noninfested States.

DATES: This interim rule is effective July 27, 1999. We invite you to comment on this docket. We will consider all comments that we receive by September 27, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–042–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–042–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Ms. Coanne E. O'Hern, Operations Officer, Invasive Species and Pest Management Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247; or e-mail: Coanne.E.O'Hern@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45–12 and referred to below as the regulations) quarantine certain States because of the gypsy moth and restrict the interstate movement of certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In accordance with § 301.45–2 of the regulations, generally infested areas are, with certain exceptions, those States or portions of States in which a gypsy moth general infestation has been found by an inspector or each portion of a State that the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of such articles; and (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Designation of Areas as Generally Infested Areas

Section 301.45–3 lists generally infested areas in the quarantined States. We are amending § 301.45–3(a) of the regulations by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list of generally infested areas. As a result of this rule, the interstate movement of regulated articles from these areas will be restricted.

We are taking this action because, in cooperation with the States, the United States Department of Agriculture conducted surveys that detected all life stages of the gypsy moth in these areas. Based on these surveys, we determined that reproducing populations exist at significant levels in these areas. Eradication of these populations is not considered feasible because these areas are immediately adjacent to areas currently recognized as generally infested and are, therefore, subject to reinfestation.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary because of the possibility that the gypsy moth could be artificially spread to noninfested areas of the United States, where it could cause economic losses due to the defoliation of susceptible forest and shade trees.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.45–3, paragraph (a) is amended by adding areas to the entries for Indiana, Michigan, Ohio, Virginia, and Wisconsin, in alphabetical order, to read as follows:

§ 301.45–3 Generally infested areas.

(a) * * *

* * * * *

Indiana

Allen County. The entire county.
Elkhart County. The entire county.
LaGrange County. The entire county.
Porter County. The entire county.

* * * * *

Michigan

* * * * *

Alger County. The entire county.

* * * * *

Delta County. The entire county.
Dickinson County. The entire county.
* * * * *
Marquette County. The entire county.
* * * * *
Menominee County. The entire county.
* * * * *
Schoolcraft County. The entire county.
* * * * *

Ohio

Ashland County. The entire county.
* * * * *
Defiance County. The entire county.
Erie County. The entire county.
Fulton County. The entire county.
* * * * *
Henry County. The entire county.
* * * * *
Licking County. The entire county.
* * * * *
Muskingum County. The entire county.
Noble County. The entire county.
* * * * *
Sandusky County. The entire county.
* * * * *
Williams County. The entire county.
Wood County. The entire county.
* * * * *

Virginia

* * * * *
City of Bedford. The entire city.
* * * * *
City of Danville. The entire city.
* * * * *
City of Lynchburg. The entire city.
* * * * *
City of South Boston. The entire city.
* * * * *
Alleghany County. The entire county.
* * * * *
Bedford County. The entire county.
Botetourt County. The entire county.
* * * * *

Wisconsin

* * * * *
Dodge County. The entire county.
* * * * *
Fond du Lac. The entire county.
* * * * *

Done in Washington, DC, this 21st day of July 1999.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–19139 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV99–930–3 IFR]

Tart Cherries Grown in the States of Michigan, et al.; Decreased Assessment Rates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound. It also decreases the assessment rate for cherries utilized for juice, juice concentrate, or puree from $0.00125 to $0.001125 per pound. Both assessment rates are established for the Cherry Industry Administrative Board (Board) under Marketing Order No. 930 for the 1999–2000 and subsequent fiscal periods. The Board is responsible for local administration of the marketing order which regulates the handling of tart cherries grown in the production area. Authorization to assess tart cherry handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 28, 1999. Comments received by September 27, 1999, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2530-S, PO Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720–2491; Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, tart cherry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable tart cherries beginning July 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the

district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Board for the 1999–2000 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound of cherries. The assessment rate for cherries utilized for juice, juice concentrate, or puree is decreased from $0.00125 to $0.001125 per pound.

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

For the 1997–98 fiscal period, the Board recommended, and the Department approved, assessment rates that would continue in effect from fiscal period to fiscal period unless modified, suspended or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on March 18–19, 1999, and unanimously recommended 1999–2000 expenditures of $487,780 and an assessment rate of $0.00225 per pound for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree, and an assessment rate of $0.001125 per pound for cherries utilized for juice, juice concentrate, or puree. In comparison, last year's budgeted expenditures were $540,000. Decreased assessment rates have been recommended by the Board because the cherry industry has experienced record high crops for the past two seasons, and anticipates another large crop in 1999–2000. In addition, the Board wants to reduce handler costs and keep its monetary reserve within the authorized maximum of approximately one year's operational expenses specified in § 930.42(a). The decreased rates are expected to generate enough income to meet the Board's reduced operating expenses in 1999–2000.

The major expenditures recommended by the Board for the 1999–2000 fiscal period include $222,780 for personnel, $100,000 for Board meetings, and $100,000 for compliance. Budgeted expenses for these items in 1998–99 were $150,000 for personnel, $80,000 for Board meetings, and $175,000 for compliance.

The order provides that when an assessment rate based on the number of pounds of tart cherries handled is established, it should provide for differences in relative market values for various cherry products. The discussion of this provision in the order's promulgation record indicates that proponents testified that cherries utilized in high value products such as frozen, canned, or dried cherries should be assessed one rate while cherries used to make low value products such as juice concentrate or puree should be assessed at one-half that rate.

Data from the National Agricultural Statistics Service (NASS) states that for 1998, tart cherry utilization for juice, wine, or brined uses was 28.3 million pounds for all districts covered under the order. The total processed amount of tart cherries for 1998 was 303.8 million pounds. Juice, wine, and brined tart cherries represented less than 10 percent of the total processed crop, and about 8 percent over the last three seasons (1996 through 1998).

In deriving the recommended assessment rates, the Board estimated assessable tart cherry production for the crop year at 260 million pounds. It further estimated that about 204.5 million pounds of the assessable poundage would be utilized in the production of high-valued products, like frozen, canned, or dried cherries, and that about 55.5 million pounds would be utilized in the production of low-valued products, like juice, juice concentrate, or puree. Potential assessment income from the high valued products would be approximately $460,125 (204.5 million pounds × $0.00225 per pound). The potential income from tart cherries utilized for juice, juice concentrate, or puree would be $62,500 (55.5 million pounds × $0.001125 per pound). Therefore, total assessment income for 1999–2000 is estimated at $522,625, which will be adequate to cover budgeted expenses. Funds in the reserve (currently $225,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 930.42(a)).

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

Although the assessment rates are effective for an indefinite period, the Board will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rates. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modifications of the assessment rates are needed. Further rulemaking will be undertaken as necessary. The Board's 1999–2000 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) allows AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opts for such certification, but rather performs regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the order and

approximately 900 producers of tart cherries in the regulated area. The number of reported tart cherry producers in the regulated area has been reduced from 1,220 to 900 based on more recent information received by the Board. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $5,000,000, and small agricultural producers are those whose annual receipts are less than $500,000. The majority of tart cherry handlers and producers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 1999–2000 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound, and the assessment rate for cherries utilized for juice, juice concentrate, or puree from $0.00125 to $0.001125 per pound. The Board unanimously recommended 1999–2000 expenditures of $487,780 and the reduced assessment rates. The quantity of assessable tart cherries expected to be produced during the 1999–2000 crop year is estimated at 260 million pounds. Assessment income, based on this crop, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Board for the 1999–2000 fiscal period include $222,780 for personnel, $100,000 for Board meetings, and $100,000 for compliance. Budgeted expenses for these items in 1998–99 were $150,000 for personnel, $80,000 for Board meetings, and $175,000 for compliance.

The Executive Committee of the Board, after discussing a proposed budget and assessment rates in executive session, recommended the continuation of the current rates. It concluded that it was prudent for the Board to have approximately one year's budget amount in the operating reserve.

However, after considerable discussion, the Board concluded it should reduce handlers' assessment costs and that the reserve should not exceed one-half year's budget amount. Also, the cherry industry has experienced record large crops for the past two seasons, and anticipates a large crop for the upcoming season. Further, the amount budgeted for Board compliance costs has been reduced. The Board discussed the alternative of continuing the existing assessment rates, but concluded that would cause the amount in the operating reserve to exceed what is actually needed.

After the discussion, the Board voted unanimously to decrease the assessment rates. In deriving the recommended assessment rates, the Board estimated assessable tart cherry production for the crop year at 260 million pounds. It further estimated that about 204.5 million pounds of the assessable poundage would be utilized in the production of high-valued products, like frozen, canned, or dried cherries, and that about 55.5 million pounds would be utilized in the production of low-valued products, like juice, juice concentrate, or puree. Potential assessment income from the high valued products would be approximately $460,125 (204.5 million pounds × $0.00225 per pound). The potential income from the tart cherries utilized for juice, juice concentrate, or puree would be $62,500 (55.5 million pounds × $0.001125 per pound). Therefore, total assessment income for 1999–2000 is estimated at $522,625, which will be adequate to cover budgeted expenses. Funds in the reserve (currently $225,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 930.42(a)).

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, the assessment rate decreases reduce the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the March 18–19, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 fiscal period began on July 1, 1999, and the marketing order requires that the rates of assessment for each fiscal period apply to all assessable tart cherries handled during such fiscal period; (2) this action decreases the assessment rates for assessable tart cherries beginning on July 1, 1999; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 930.200 is revised to read as follows:

§ 930.200 Handler assessment rates.

On and after July 1, 1999, the assessment rate imposed on handlers shall be $0.00225 per pound for tart cherries grown in the production area and utilized in the production of tart cherry products other than juice, juice concentrate, or puree. The assessment rate for tart cherries grown in the production area and utilized in the production of juice, juice concentrate, or puree products shall be $0.001125 per pound. The assessment due date shall be October 1 of each crop year.

Dated: July 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–19062 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–155–AD; Amendment 39–11229; AD 99–15–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–600 series airplanes. This action requires revising the Airplane Flight Manual (AFM) to prohibit operation of the airplane under certain conditions; repetitive inspections of the tab mast fittings of the elevator tab assemblies to detect cracking; an elevator tab freeplay check; and corrective actions, if necessary. This AD also requires installing an additional fastener on the elevator tab mast fitting, which terminates the AFM revision and extends certain repetitive inspections. This AD also requires replacement of the elevator tab mast fitting with a new, improved fitting, which constitutes terminating action for the requirements of this AD. This amendment is prompted by a report of a severe vibration incident on a Boeing Model 737–800 series airplane; inspection revealed fracturing of the elevator tab mast fitting and excessive freeplay in the elevator tab. The actions specified in this AD are intended to prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab.

DATES: Effective August 11, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 11, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–155–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory L. Schneider, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On June 2, 1999, the FAA received a report of a severe vibration incident on a Boeing Model 737–800 series airplane, which had accumulated 3,517 total flight hours and 1,284 total flight cycles. The airplane was involved in a high-speed descent with speed brakes extended while operating at an airspeed of 320 knots. During the descent, severe vibration occurred at 250 knots. At 230 knots, the speed brakes were retracted and the vibration stopped. The landing was uneventful.

Inspection of the airplane revealed that the upper flange of the right elevator tab mast fitting, to which the elevator tab push rods are attached, was found fractured. The lower flange of the fitting was not damaged. In addition, excessive freeplay in the elevator tab also was observed and measured during the inspection.

Further analysis confirmed that the damage to the fitting was aggravated by speed-brake-induced airframe vibration. Such vibration could lead to damage of the elevator tab mast fitting, excessive freeplay in the tab, and consequent separation of the tab mast fitting from the tab. Excessive freeplay in the tab could result in severe airframe vibration and consequent damage to the tab, elevator, and horizontal stabilizer. Separation of the elevator tab mast fitting will result in a free tab. These conditions, if not corrected, could result in loss of controllability of the airplane.

In light of this information, on June 10, 1999, the FAA issued telegraphic AD T99–13–51, which is applicable to certain Boeing Model 737–700 and –800 series airplanes. In addition, the FAA has received information indicating that Boeing Model 737–600 series airplanes also are subject to the unsafe condition identified in telegraphic AD T99–13–51. Therefore, the FAA has determined that rulemaking action is necessary to address that unsafe condition on Model 737–600 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, which describes procedures for repetitive high frequency eddy current (HFEC) and detailed visual inspections of the tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect excessive freeplay of the elevator tabs; and corrective actions, if necessary. The alert service bulletin also describes procedures for installing an additional high-strength fastener on the elevator tab mast fitting (time-limited modification).

The FAA also has reviewed and approved Boeing Service Bulletin 737–55–1063, dated July 1, 1999, which describes procedures for replacing a cracked elevator tab mast fitting with a new, improved fitting. Such replacement eliminates the need for repetitive inspections of the elevator tab mast fittings.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab. This AD requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to prohibit operation of the airplane at certain airspeeds with the speed brakes extended, and at certain altitudes.

This AD also requires repetitive HFEC and detailed visual inspections of the tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect excessive freeplay of the elevator tab; and corrective actions, if necessary.

Additionally, this AD requires installing an additional high-strength fastener on the elevator tab mast fitting (time-limited modification). Such installation terminates the AFM revision and allows extension of the repetitive interval for accomplishment of the HFEC and detailed visual inspections.

This AD also requires replacement of the elevator tab mast fittings with new, improved fittings, which constitutes

terminating action for the requirements of this AD.

Certain inspections and checks are required to be accomplished in accordance with Boeing Alert Service Bulletin 737–55A1068, Revision 1. Replacement actions are required to be accomplished in accordance with Boeing Service Bulletin 737–55–1063, dated July 1, 1999.

It should be noted that, except as otherwise provided for in the AFM emergency procedures, this AD prohibits the deployment of the spoilers at speeds in excess of 310 knots indicated airspeed (IAS) with speed brakes extended. This AD also prohibits operation of the airplane above FL 390. The FAA recognizes that under emergency circumstances, as specified in the AFM, it might become necessary to deploy spoilers in excess of 310 knots IAS. In that event, this AD requires accomplishment of the HFEC and detailed visual inspections of the elevator tab mast fittings and of the check of the tabs for freeplay, prior to further flight after landing.

Cost Impact

None of the Model 737–600 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future:

It would require approximately 2 work hours to accomplish the inspection and check, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the inspection and check required by this AD would be $120 per airplane.

It would require approximately 3 work hours to accomplish the time-limited modification, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the time-limited modification required by this AD would be $180 per airplane.

It would require approximately 8 work hours to accomplish the replacement action, at an average labor rate of $60 per work hour. Required parts would cost approximately $5,149 per airplane. Based on these figures, the cost impact of the replacement required by this AD would be $5,629 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 99–NM–155–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.

For the reasons discussed above, I certify that this action (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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

99–15–09 Boeing: Amendment 39–11229. Docket 99–NM–155–AD.

Applicability: Model 737–600 series airplanes having line numbers 1 through 190, certificated in any category.

Note 1: This AD applies to each airplane 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 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 prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab, accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 24 clock hours after the effective date of this AD, revise the Limitations Section of the FAA-approved AFM to include the following information.

This may be accomplished by inserting a copy of this AD into the AFM.

Except as otherwise provided for in the AFM emergency procedures, do not operate the airplane at speeds in excess of 310 knots indicated airspeed (IAS) with speed brakes extended. Do not operate the airplane above FL 390.

(b) In the event of deployment of the speed brakes at speeds in excess of 310 knots indicated airspeed (IAS), prior to further flight after landing, accomplish the requirements of paragraph (c) of this AD.

Inspections and Check

Note 2: Accomplishment of the inspections and check required by this AD, prior to the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, is considered acceptable for compliance with the repetitive inspections and checks required by paragraphs (c) and (d) of this AD.

(c) Within 10 days after the effective date of this AD, perform a high frequency eddy current (HFEC) inspection, and a detailed visual inspection of the elevator tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect freeplay of the elevator tabs, in accordance with Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no cracking is found in any elevator tab mast fitting, repeat the HFEC and detailed visual inspections thereafter at intervals not to exceed 15 days, until accomplishment of the actions required by paragraph (d) of this AD.

(2) If any cracking is found in any elevator tab mast fitting, prior to further flight, accomplish the requirements of paragraph (e) of this AD.

(3) If any freeplay is found in any elevator tab, which is outside the limits specified in the alert service bulletin, prior to further flight, perform corrective actions in accordance with the alert service bulletin.

Note 4: Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, references Boeing Model 737–600/−700/−800 Maintenance Manual (AMM), Subjects 27–09–91, 27–31–00, and 51–21–99; 737 Nondestructive Test (NDT) Manual D6–37239, Part 6, Subject 55–00–00; 737 Structural Repair Manual (SRM) Subject 51–20–81; and Operations Manual Service Bulletin D6–27370–TBC (''Elevator Tab Operational Limitations''), dated June 10, 1999; as additional sources of service information to accomplish certain requirements of this AD.

Time-Limited Modification

(d) Within 90 days after the effective date of this AD, install an additional high-strength fastener on the elevator tab mast fitting in accordance with Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (b) of this AD. Following accomplishment of the installation, the AFM revision required by paragraph (a) of this AD may be removed from the AFM. Following accomplishment of the installation, repeat the HFEC and detailed visual inspections required by paragraph (c) of this AD thereafter at intervals not to exceed 90 days until accomplishment of paragraph (e) of this AD.

Terminating Action

(e) Within 4,000 flight cycles or 18 months after the effective date of this AD, whichever occurs earlier, replace the elevator tab mast fittings with new, improved tab mast fittings, in accordance with Boeing Service Bulletin 737–55–1063, dated July 1, 1999. Accomplishment of this replacement action constitutes terminating action for the requirements of this AD.

Spares

(f) As of the effective date of this AD, no elevator tab mast fitting, part number (P/N) 183A8400–1 or 183A8400–2, shall be installed on any airplane.

Alternative Methods of Compliance

(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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(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.

Incorporation by Reference

(i) Except as provided by paragraphs (a) and (b) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, and Boeing Service Bulletin 737–55–1063, dated July 1, 1999. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on August 11, 1999.

Issued in Renton, Washington, on July 13, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–18364 Filed 7–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309 and 1310

[DEA NUMBER 168–F]

RIN 1117–AA46

Temporary Exemption From Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine Products

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is finalizing the Interim Final Rule, which included a request for comment, published in the **Federal Register** on October 17, 1997 (62 FR 53959). The interim rule amended the regulations to provide a temporary exemption from the registration requirement for persons who distribute pseudoephedrine and phenylpropanolamine drug products. No comments to the Interim Final Rule were received. This Final Rule makes those exemptions permanent.

FOR FURTHER INFORMATION CONTACT: Patricia Good, Chief, Liaison and Policy Section, Office of Diversion Control, Washington, DC 20537, telephone (202) 307–7297.

EFFECTIVE DATES: July 27, 1999.

SUPPLEMENTARY INFORMATION: On October 17, 1997, the Drug Enforcement Administration (DEA) published an Interim Final rule with request for comment which provided temporary exemption from the registration requirement for persons who distribute pseudoephedrine and phenylpropanolamine drug products (62 FR 53959).

Two specific exemptions were established in this interim rulemaking. The first exemption dealt with retail distributors of regulated drug products.

DEA amended 21 CFR 1309.29 to exempt retail distributors of pseudoephedrine and phenylpropanolamine related drug products from the registration requirement, so long as they engaged exclusively in distributions of regulated drug products below the 24-gram limit in a single transaction for legitimate medical use, either directly to walk-in customers or in face-to-face transactions by direct sales. The second exemption dealt with persons who are required to obtain a registration. The interim rule amended 21 CFR 1310.09 to provide that any person who submitted an application for registration for activities involving pseudoephedrine and phenylpropanolamine regulated drug products on or before December 3, 1997, was exempted from the registration requirement for their lawful activities with regulated drug products until the Administration takes final action with respect to that application.

No comments were received regarding this interim rulemaking. Therefore, the interim rule is adopted without change.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that this final rulemaking will not have a significant economic impact upon a substantial number of small business entities whose interest must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This final rulemaking is an administrative action to make the regulations consistent with the law and to avoid interruption of legitimate commerce by granting temporary exemptions from registration.

The Deputy Assistant Administrator further certifies that this final rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1–B. DEA has determined that this is not a significant rulemaking action.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. this rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The interim rule amending 21 CFR parts 1309 and 1310 which was published on October 17, 1997 at 62 FR 53959 is adopted as a final rule.

Dated: June 23, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 99–19047 Filed 7–26–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Part 100

RIN 0906–AA50

National Vaccine Injury Compensation Program: Addition of Vaccines Against Rotavirus to the Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the existing regulations governing the National Vaccine Injury Compensation Program (VICP) by adding vaccines against rotavirus to the Table of Injuries, which lists the vaccines covered under the VICP. This action is taken under section 2114(e) of the Public Health Service Act (the Act). The VICP provides a system of no-fault compensation for certain individuals who have been injured by specific childhood vaccines.

The two prerequisites for adding vaccines against rotavirus to the VICP have been satisfied. An excise tax of 75 cents per dose was enacted on October 21, 1998, and took effect for sales of the vaccines after October 21, 1998. The Centers for Disease Control and Prevention (CDC) has recommended to the Secretary of HHS that this vaccine be routinely administered to children. Thus, vaccines against rotavirus are now included in the VICP.

EFFECTIVE DATE: This regulation is effective on July 27, 1999. As provided by section 13632(a)(3) of Public Law 103–66, the Omnibus Budget Reconciliation Act of 1993, the addition of the vaccines against rotavirus to the VICP took effect on October 22, 1998, the effective date of the excise tax. See the discussion under **SUPPLEMENTARY INFORMATION**, for an explanation of the implications of this applicability date.

FOR FURTHER INFORMATION CONTACT: Geoffrey Evans, M.D., Medical Director, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number (301) 443–4198.

SUPPLEMENTARY INFORMATION: The statute authorizing the VICP provides for the inclusion of additional vaccines in the Program when they are recommended by the CDC to the Secretary for routine administration to children. See section 2114(e) of the Act, 42 U.S.C. 300aa–14(e). Consistent with section 13632(a)(3) of Public Law 103–66, the regulations governing the Program provide that such vaccines will be included in the Table of Injuries when an excise tax to provide funds for the payment of compensation with respect to such vaccines takes effect. 42 CFR 100.3(c)(3) (1998).

The CDC recommendation regarding vaccines against rotavirus was published in the Morbidity and Mortality Weekly Report on March 19, 1999. The excise tax for such vaccines was enacted by Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and became effective for sales after October 21, 1998. Accordingly, we are amending the regulations to include specific reference to rotavirus vaccines in the Table of Injuries and in the ''coverage'' portion of the regulations.

We have not identified any illness, disease, injury or condition which is caused by vaccines against rotavirus. Thus, the vaccine is added to the Table of Injuries with ''No Condition Specified.'' If we learn of any such illness, disease, injury or condition, we will consider amending the Table of Injuries to provide for its coverage, and a time period in which the first symptom or manifestation of its onset will be presumed to be vaccine-related.

Section 2116(b) of the Act, 42 U.S.C. 300aa–16(b), provides that individuals who were not previously eligible to file a petition before a revision to the Table of Injuries may file a petition for compensation for a vaccine added to the Table of Injuries. Such a petition must be filed not later than 2 years after the effective date of the revision if the injury or death occurred not more than

8 years before the effective date of the revision. Thus, for injuries or deaths related to rotavirus vaccine which occurred before October 22, 1998, petitions may be filed no later than October 22, 2000, provided that the injury or death occurred no earlier than October 22, 1990. Filing deadlines for injuries or deaths related to rotavirus vaccines administered after October 21, 1998, are governed by section 2116(a)(2) and (3) of the Act, 42 U.S.C. 300aa–16(a)(2) and (3).

Justification for Omitting Notice of Proposed Rulemaking

This amendment to 42 CFR 100.3 is required by section 2114(e) of the Act and 42 CFR 100.3, Vaccine injury table. Since this is a technical amendment, the Secretary has determined, under 5 U.S.C. 553 and departmental policy, that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of this final rule.

Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act, if a rule has a significant economic effect on a substantial number of small entities the Secretary must specifically consider the economic effect of a rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that no resources are required to implement the requirements in this rule. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities. The Secretary has also determined that this final rule does not meet the criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy or Federal expenditures. This technical amendment adds a new item to the Vaccine Injury Table.

We have determined that the rule is not a ''major rule'' within the meaning of the statute providing for Congressional review of agency rulemaking, 5 U.S.C. 801. Similarly, it will not have effects on State, local, and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act of 1980

This final rule has no information collection requirements.

List of Subjects in 42 CFR Part 100

Biologics, Health insurance, and Immunization.

Dated: July 15, 1999.

Donna E. Shalala,

Secretary.

Accordingly, 42 CFR part 100 is amended as set forth below.

PART 100—VACCINE INJURY COMPENSATION

1. The authority citation for 42 CFR part 100 is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act (42 U.S.C. 216); sec. 2115 of the PHS Act; 100 Stat. 3767, as revised (42 U.S.C. 300aa–15); § 100.3 Vaccine Injury Table, issued under secs. 312 and 313 of Pub. L. 99–660, 100 Stat. 3779–3782 (42 U.S.C. 300aa–1 note); and sec. 2114(c) and (e) of the PHS Act, 100 Stat. 3766 and 107 Stat. 645 (42 U.S.C. 300aa–14(c) and (e)); and sec. 904(b) of Pub. L. 105–34, 111 Stat. 873.

§ 100.3 [Amended]

2. The Vaccine Injury Table at § 100.3(a) is amended by redesignating Item XII as Item XIII, and by adding a new Item XII as follows:

Vaccine	Illness, disability, injury or condition covered	Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration
* *	*	* *
XII. Rotavirus vaccine.	No condition specified.	Not applicable.

§ 100.3 [Amended]

3. Section 100.3(c) is amended as follows:

a. Remove in paragraph (c)(1) the words ''paragraph (c)(2) or (3) of this section'' and add in its place the words ''paragraph (c)(2), (3) or (4) of this section'';

b. Redesignate paragraph (c)(3) as paragraph (c)(4);

c. Remove in paragraph (c)(4), as redesignated, the words ''(Item XII of the Table)'' and add in its place the words ''(Item XIII of the Table)''; and

d. Add a new paragraph (c)(3) to read as follows:

* * * * *

(c) Coverage provisions. * * *

(3) Rotavirus vaccines (Item XII of the Table) are included in the Table as of October 22, 1998.

* * * * *

[FR Doc. 99–19114 Filed 7–26–99; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 828 and 852

RIN 2900–AJ47

VA Acquisition Regulation: Bonds and Insurance

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs Acquisition Regulation to revise and update section numbers and titles to correspond with the Federal Acquisition Regulation, to make minor grammatical corrections and revisions, to allow return of bid guarantees, other than bid bonds, to bidders by any method that will provide evidence of receipt, and to designate the Deputy Assistant Secretary for Acquisition and Materiel Management as the Department's designee for excluding individuals from acting as sureties on bonds and for making determinations to accept bonds from individuals named on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

DATES: *Effective Date:* July 27, 1999.

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, (202) 273–8819.

SUPPLEMENTARY INFORMATION: The requirement at 828.101–70 to return bid guarantees, other than bid bonds, by certified mail has been modified to allow any method of delivery that will provide evidence of receipt. This will

allow the use of express delivery services, may simplify the return and tracking process, and is consistent with similar coverage in the Federal Acquisition Regulation (FAR) at 11.403(d) and 33.211(b).

This final rule provides that the Deputy Assistant Secretary for Acquisition and Materiel Management (DAS for A&MM) is delegated authority to act as the Secretary's designee under section 28.203–7 of the FAR. Accordingly, the DAS for A&MM may make determinations to exclude individuals from acting as sureties on bonds and to accept bonds from individuals whose names appear on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs. We think the DAS for A&MM is the appropriate official to make these determinations.

This final rule concerns contracts and would not have a significant effect on individuals or entities. Accordingly, we are dispensing with prior notice and comment and a delayed effective date.

The Secretary hereby certifies that this final rule will 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 not cause a significant effect on any entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

OMB Review

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

List of Subjects

48 CFR Part 828

Government procurement, Insurance, Surety bonds.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: April 14, 1999

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR Chapter 8 is amended as follows:

PART 828—BONDS AND INSURANCE

1. The authority citation for part 828 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

2. The heading for subpart 828.1 is revised to read as follows:

Subpart 828.1—Bonds and Other Financial Protections

828.101–3 [Redesignated as 828.101–2]

3. Section 828.101–3 is redesignated as 828.101–2.

828.101–70 [Amended]

4. Section 828.101–70, paragraph (a) is amended by removing ''certified mail or in person upon presentation of proper receipt after contract and bonds'' and adding, in its place, ''any method that will provide evidence of receipt, or in person upon presentation of proper receipt, after the contract and contract bonds''; paragraph (b) is amended by removing ''certified mail, or'' and adding, in its place, ''by any method that will provide evidence of receipt or''; and paragraph (c) is amended by removing ''until contract and bonds'' and adding, in its place, ''until the contract and contract bonds''.

5. Section 828.106 heading is added immediately preceding 828.106–6 to read as follows:

828.106 Administration.

6. Section 828.106–6 is revised to read as follows:

828.106–6 Furnishing information.

For all contracts except contracts awarded by the Office of Facilities Management, the head of the contracting activity, as defined in 802.100, shall be the Department designee referenced in FAR 28.106–6(c) to furnish copies of payment bonds to requestors. For contracts awarded by the Office of Facilities Management, the Office of Facilities Management contracting officer shall be the Department designee.

7. Subpart 828.2 is added to read as follows:

Subpart 828.2—Sureties and Other Security for Bonds

828.203–7 Exclusion of individual sureties.

The Deputy Assistant Secretary for Acquisition and Materiel Management is delegated authority to make the determinations referenced in FAR 28.203–7 to exclude individuals from acting as surety on bonds and to accept bonds from individuals named on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

828.306 [Amended]

8. Section 828.306, paragraph (b) is amended by removing ''this 828.306'' and adding, in its place, ''paragraph (a) of this section''.

9. The heading of Subpart 828.70 is removed.

828.7000 [Redesignated as 828.106–70]

10. Section 828.7000 is redesignated as 828.106–70.

828.7100 [Amended]

11. Section 828.7100, paragraph (a) is amended by removing ''contracts which involve a risk of an unusually hazardous nature, covering medical research or development as'' and adding, in its place, ''contracts covering medical research or development which involve risks of an unusually hazardous nature, as''.

828.7103 [Amended]

12. Section 828.7103, paragraph (a) is amended by removing ''The financial protection to cover'' and adding, in its place, ''The amount of financial protection that the contractor is required to have and maintain to cover'' and by removing ''which the contractor is required to have and maintain''.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

852.228–70 [Amended]

14. Section 852.228–70, introductory text is amended by removing ''828.7000'' and adding, in its place, ''828.106–70''.

[FR Doc. 99–19107 Filed 7–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990119022–9164–02; I.D. 111998C]

RIN 0648–AM13

Fisheries of the Northeastern United States; Amendment 1 to the Atlantic Salmon Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues final regulations to implement Amendment 1 to the Atlantic Salmon Fishery Management Plan (FMP). Specifically, these final regulations establish a framework process to implement, add to or adjust

Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the exclusive economic zone (EEZ). Amendment 1 to the FMP also includes an overfishing definition for Atlantic salmon.

DATES: Effective August 26, 1999.

ADDRESSES: Copies of Amendment 1 and its regulatory impact review (RIR) are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Bonnie L. VanPelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: On November 13, 1998, the New England Fishery Management Council (Council) submitted for review and Secretarial approval an omnibus amendment that includes Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP. The omnibus amendment was approved in its entirety on March 3, 1999, and a notice of approval of the omnibus amendment was published in the **Federal Register** on April 21, 1999 (64 FR 19503). A proposed rule to implement the aquaculture framework process contained in Amendment 1 to the Atlantic Salmon FMP was published on February 5, 1999 (64 FR 5754). The comment period on the proposed rule closed March 22, 1999. No public comments were received on the proposed rule. A complete discussion of Amendment 1's provisions appears in the preamble to the proposed rule and is not repeated here.

Approved Management Measures

Amendment 1 to the Atlantic Salmon FMP includes a new Atlantic salmon overfishing definition and adds a mechanism to allow for Atlantic salmon aquaculture in the EEZ through a framework adjustment process. For a discussion of the Atlantic salmon overfishing definition, see the notice of approval of the omnibus amendment (64 FR 19503, April 21, 1999).

Although salmon is overfished, no additional management measures are imposed by Amendment 1. The management measures currently in place prohibit harvesting of salmon from the EEZ and require that any Atlantic salmon incidentally caught in other fisheries be released in a manner that insures maximum probability of survival. These measures have been determined to be sufficient to the extent practicable to minimize bycatch and bycatch mortality consistent with national standard 9.

The Northeast Fisheries Science Center certified the Council's recommended overfishing definition with reservation noting that there was no specified mortality limit or threshold projected for a rebuilt stock, or stock size above which fishing mortality could be greater than zero. However, the Center's conclusion was that in light of the status of the Atlantic salmon resource and its long rebuilding schedule, considerations of such biological reference points can be addressed when, and if, necessary. Moreover, overfishing is not occurring, as fishing mortality is zero and is expected to stay at zero for the foreseeable future. The Council has been notified that should the status of the resource change, it would need to revisit the overfishing definition to clarify what level of fishing mortality is appropriate to rebuild the resource to a sustainable level.

For the sake of efficiency, this rule establishes a framework process to allow for implementation of aquaculture projects, which is consistent with the process outlined for all other amendments now being developed to bring New England and Mid-Atlantic Fishery Management Council plans into compliance with the Sustainable Fisheries Act. This action would allow for the implementation of aquaculture projects through the adjustment of the management measures prohibiting the harvest of Atlantic salmon from the EEZ and through the imposition of one or more of the management measures identified in Amendment 1, including, but not limited to: Minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, and establishment of special management areas or zones.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that Amendment 1 is necessary for the conservation and management of the Atlantic salmon fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 21, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Section 648.41 is added to read as follows:

§ 648.41 Framework specifications.

(a) *Within season management action.* The New England Fishery Management Council (NEFMC) may, at any time, initiate action to implement, add to or adjust Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the EEZ, provided such an action is consistent with the goals and objectives of the Atlantic Salmon FMP.

(b) *Framework process.* After initiation of an action to implement, add to or adjust an Atlantic salmon management measure to allow for an Atlantic salmon aquaculture project in the EEZ, the NEFMC shall develop and analyze Atlantic salmon management measures to allow for Atlantic salmon aquaculture projects in the EEZ over the span of at least two NEFMC meetings. The NEFMC shall provide the public with advance notice of the availability of both the proposals and the analysis and opportunity to comment on them prior to and at the second NEFMC meeting. The NEFMC's recommendation on aquaculture management measures must come from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones and any other management measures currently included in the FMP.

(c) *NEFMC recommendation.* After developing Atlantic salmon management measures and receiving public testimony, the NEFMC shall make a recommendation to NMFS. The NEFMC's recommendation must include supporting rationale and, if

management measures are recommended, an analysis of impacts and a recommendation to NMFS on whether to issue the management measures as a final rule. If NMFS concurs with the NEFMC's recommendation to issue the management measures as a final rule, the NEFMC must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the NEFMC's recommended management measures.

(3) Whether there is an immediate need to protect the resource.

(4) Whether there will be a continuing evaluation of measures adopted following their implementation as a final rule.

(d) *NMFS action*. If the NEFMC's recommendation includes implementation of management measures and, after reviewing the NEFMC's recommendation and supporting information:

(1) NMFS concurs with the NEFMC's recommended management measures and determines that the recommended measures should be issued as a final rule based on the factors specified in paragraph (c)(1) through (4) of this section, the measures will be issued as a final rule in the **Federal Register**.

(2) NMFS concurs with the NEFMC's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if NMFS concurs with the NEFMC recommendation, the measures will be issued as a final rule in the **Federal Register**.

(3) NMFS does not concur, the NEFMC will be notified in writing of the reasons for the non-concurrence.

(e) *Emergency action*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[FR Doc. 99–19172 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 143
Tuesday, July 27, 1999

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY–98–006]

RIN 0581–AB56

Eligibility Requirements for USDA Graded Shell Eggs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the regulations governing the voluntary shell egg grading program. Media reports in April 1998 raised concerns about the practice of repackaging eggs. The proposed revisions would provide that in order to be officially identified with a USDA consumer grademark, shell eggs must not have been previously shipped for retail sale. The proposal would also amend the definition of the term ''eggs of current production'' (currently eggs no older than 30 days) thereby making eggs that were laid more than 15 days before the date of packing ineligible for official grading. However, interested parties are invited to submit comments proposing other periods of time that are viewed as being more appropriate. AMS is particularly interested in receiving comments regarding the period of between 15 to 30 days. In addition, a definition of the term ''shipped for retail sale'' would be added to the regulations. These revisions would strengthen the integrity of the USDA grade shield by making ineligible for grading certain types of eggs.

DATES: Comments must be received on or before September 27, 1999.

ADDRESSES: Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, 1400 Independence Avenue, SW, Washington, D.C. 20250–0259. Comments may be faxed to 202/690–0941.

State that your comments refer to Docket No. PY–98–006 and note the date and page number of this issue of the **Federal Register**.

Comments received may be inspected at the above location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, 202/720–3271.

SUPPLEMENTARY INFORMATION:

Background

AMS administers a voluntary grading program for shell eggs under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). Any interested person, commercial firm, or government agency that applies for service must comply with the terms and conditions of the regulations and must pay for the services rendered. AMS graders monitor processing operations and verify the grade and size of eggs packaged into packages bearing the USDA grade shield. Plants in which these grading services are performed are called official plants. Currently in the United States, about one-third of the eggs marketed in shell form for human consumption are processed under the voluntary grading program.

Shell egg producers either pack their eggs at the site where the eggs are produced (an ''in-line'' operation), or ship their eggs to a processing facility or egg processor located elsewhere (an ''off-line'' operation). Egg processors also sell and ship eggs among themselves to accommodate local imbalances in supply. Once eggs are washed, sized, and packaged for retail sale, they are shipped to retailers for distribution to the ultimate consumer.

Occasionally a retail store may have an excess inventory of eggs. They may have overstocked for a seasonal promotion (e.g., Easter or Christmas) or the expiration date printed on the cartons may be approaching. Retailers either dispose of these eggs, give the eggs to local charitable feeding operations before the expiration date, or return the eggs to the processor. The processor may, in turn, repackage the eggs or process them into liquid, frozen, or dried egg products. If repackaged, the eggs are removed from their original package, such as a carton or open tray (known as a ''flat''), and placed into a new package which bears a pack date that is the same or different than on the original package. Eggs are usually, but not always, intermixed with other unprocessed eggs, rewashed, and regraded before repacking. The option of repackaging eggs has always been available to egg processors; there are no Federal regulations addressing the practice and Agency personnel have observed very little of it in official plants.

On April 7, 1998, a report was televised about an egg processor's practice of repackaging eggs. This report questioned the food safety and quality implications of this practice. This rule addresses the quality issues.

On April 17, 1998, USDA issued a written notice to the industry announcing suspension of the repackaging of eggs packed under the voluntary grading program while the Department reviewed its policies on egg repackaging. The suspension, effective April 27, ensured that eggs shipped for retail sale and returned were specifically ineligible for USDA-grade identification.

This proposed rule is the result of the Department's review of the repackaging issue. It would prohibit the USDA grade identification of eggs previously shipped for retail sale or eggs laid more than 15 days before date of packing. AMS is also requesting comments on alternate periods, particularly those between 15 and 30 days, that are viewed as being a more appropriate limit.

Eggs are at their peak of quality when they are laid and, over time, quality will decline. The rate of decline varies according to a variety of factors, with the most important being elapsed time since lay, storage temperature, and storage humidity. To maintain the integrity of the quality standards and the grade shield, only ''eggs of current production'' may be officially graded. AMS has defined those eggs to be shell eggs which have moved through usual marketing channels since the time they were laid and have not been held in refrigerated storage in excess of 30 days. In practice, AMS requires eggs being officially identified to be no older than 30 days on the day of packaging.

The first definition for ''eggs of current production'' was added to the regulations March 1, 1955, and included a 60-day requirement, which was

reduced to 30 days August 1, 1963. This definition allowed buyers and sellers to differentiate between relatively fresh eggs and cold storage or storage eggs. Commercial cold storage of eggs began in the U.S. around 1890, when egg production was seasonal. Until the 1950s, it was common for eggs to be held in refrigerated storage for up to 6 months. Cold storage could hold the spring and summer production surplus (about 50 percent of the annual production) for release during periods of relative scarcity in autumn and winter, thus avoiding drastic supply and price fluctuation. Modern breeding and flock management practices have virtually eliminated seasonal differences in egg production, so cold storage is no longer necessary or even practical. In addition, technological advances in the handling and marketing of shell eggs have reduced the time it takes for eggs to move through normal marketing channels and provide optimum conditions for maintaining egg quality.

Four dates are associated with the marketing of shell eggs. These, in order of occurrence, are the date of lay, the date of packaging, the expiration date, also known as the ''Sell By'' date, and the ''Use By'' date. The ''Use By'' date suggests the date after which product quality would likely be significantly diminished. Federal law does not require any of these dates to be present on shell egg packaging materials such as egg cartons. However, under the USDA grading program, the date of packaging is required, and if the expiration date is present, it can be no more than 30 days after the packaging date.

AMS believes that current shell egg marketing practices readily allow all processors to package shell eggs within 15 days of lay. However, as currently permitted by regulation, processors may on occasion repackage product returned from retail marketing channels or product stored in the processor's cooler that is approaching the current 30-day limit. In this way, processors can extend the number of days available to market the product by establishing a new, later expiration date. An April 1998 media story reported this practice and raised consumer awareness and concern about its food safety and quality implications.

This proposed rule responds to consumer concerns about product quality by proposing to make retail-returned eggs ineligible for official identification and proposing a shorter time limit for packaging shell eggs under the USDA grading program. This rule would not add or change any program requirements regarding the expiration date or the ''Use By'' date. By prohibiting retail-returned eggs and eggs older than 15 days from being officially graded and packaged, AMS believes that consumers who purchase officially graded product will receive product that is free of unwanted variation in egg quality that may be caused by the occasional blending of older, lower quality eggs with more recently laid, higher quality eggs.

AMS has tentatively concluded that reducing the time between date of lay and date of packaging will enhance the quality of USDA consumer graded eggs. Differences in the internal quality of eggs are expressed in Haugh units, a standardized quality scale determined primarily by the height of the albumen, or ''white'', of a broken-out egg under laboratory conditions. In one case study, AMS found that, under proper storage conditions, the Haugh unit average for eggs approximately 15 days old was 72, whereas the Haugh unit average for eggs approximately 30 days old was 68. These findings are consistent with the loss of quality normally associated with eggs of increasing age.

AMS has also tentatively concluded that industry practice readily allows eggs to be packaged within a period shorter than the current 30 days from date of lay. Discussions with industry members and Agency personnel familiar with current industry practice suggest that a 15-day limit would allow sufficient time for both in-line and off-line processors to trade, ship, process, and package eggs. In order to provide consumers with high quality shell eggs, AMS identifies best operational practices for processors that pack officially identified eggs. Accordingly, AMS is proposing to require that all eggs graded by USDA be no older than 15 days on the day of packaging by amending the definition of current production to mean shell eggs that are no more than 15 days old.

However, while formulating this proposal, AMS understood from some in the industry that a 15-day period may be an undue burden in certain situations. For example, smaller size eggs are sometimes stored to accumulate sufficient volumes for processing, and heavy demand for processing during holiday periods may extend the time between the date of lay and date of packaging. Therefore, although AMS still believes that a 15-day limit between the date of lay and date of packaging would generally allow sufficient time for processors to trade, ship, process, and package eggs, we are inviting interested persons to submit comments proposing other periods of time that are viewed as being more appropriate. AMS is especially interested in receiving comments regarding other limits between 15 to 30 days, for example a 21-day limit.

On May 19, 1998, the Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) jointly published an advance notice of proposed rulemaking that set forth a farm-to-table strategy that may decrease the food safety risks associated with Salmonella enteritidis in shell eggs (63 FR 27502). The comment period closed August 17, 1998. The actions proposed by the two agencies included reviews of potential food safety risks associated with the practices of rewashing and repackaging shell eggs and of expiration dating practices that might mislead consumers. Future regulatory actions taken by FSIS and FDA would apply to all packaged shell eggs, including those packaged under USDA's voluntary grading program, which addresses quality.

Proposed changes

This proposed rule would further restrict the eligibility requirements for shell eggs packed under the voluntary AMS quality grading program.

The proposal would change the definition for *Eggs of current production* (§ 56.1) by specifying that the term denotes eggs that are no more than 15 days old. This definition would require eggs being officially identified to be no older than 15 days on the day of packaging instead of the present 30-day limit. Additionally, reference to the term ''Refrigerator or storage eggs'' that is used to define eggs held in excess of 30 days is removed because it is obsolete. It is a term that once referred to eggs which had been put into cold storage during periods of high production to be released during periods of relative scarcity. This is no longer industry practice and therefore the term is no longer needed.

The proposal adds a definition for the term *Shipped for retail sale* (§ 56.1). This term would mean shell eggs that are forwarded from the processing facility for distribution to the ultimate consumer. This includes eggs forwarded for sale to wholesalers, brokers, retailer warehouses, retailer stores, or other distribution points in the marketing chain.

Finally, the proposal revises the requirements of shell eggs to be identified with consumer grademarks (§ 56.40). Eggs ''shipped for retail sale'' that are returned to an egg processor would be ineligible for USDA consumer grade identification, even if they are eggs of current production.

Executive Order 12866 and Effect on Small Entities

This proposed rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB). In addition, pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this proposed rule on small entities and has determined that its provisions would not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines small entities that produce and process chicken eggs as those whose annual receipts are less than $9,000,000 (13 CFR 121.201). Approximately 550,000 egg laying hens are needed to produce enough eggs to gross $9,000,000.

Currently, the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) authorizes a voluntary grading program for shell eggs. Shell egg processors that apply for service must pay for the services rendered. These user fees are proportional to the volume of shell eggs graded, so that costs are shared by all users. Shell egg processors are entitled to pack their eggs in packages bearing the USDA grade shield when AMS graders are present to certify that the eggs meet the grade requirements as labeled. Plants in which these grading services are performed are called official plants. Shell egg processors who do not use USDA's grading service may not use the USDA grade shield. There are about 700 shell egg processors registered with the Department that have 3,000 or more laying hens. Of these, 130 are official plants that use USDA's grading service and would be subject to this proposed rule. Of these 130 official plants, 14 meet the small business definition.

Repackaging is the practice of removing eggs from their original package and repacking them into a new package, with a pack date that is the same or different than on the original package. Eggs are at their peak of quality when they are laid and, over time, quality will decline. The repackaging of retail-returned eggs extends the time before those eggs reach the ultimate consumer. Since August 1, 1963, AMS has required eggs being officially identified to be no older than 30 days on the day of packaging.

In April 1998, the Agency surveyed its graders in the 130 official plants to determine the repackaging practices of those plants. Results of the survey indicated that 4 of the 130 plants had infrequently repackaged retail-returned eggs into shielded cartons during the previous year, usually during the holidays. No official plants that meet the definition for small businesses repackaged retail-returned eggs into shielded cartons.

On April 27, 1998, AMS suspended by written notice to the industry the repackaging of eggs into packages bearing the USDA grade shield when retailers had returned those eggs to the processor. The proposed revisions would provide that in order to be officially identified with a USDA consumer grademark, shell eggs must not have been previously shipped for retail sale.

This proposal would also amend the definition of the term ''eggs of current production,'' thereby making eggs that were laid more than 15 days before the date of packing ineligible for grading. AMS is also requesting comments on alternate periods, particularly those between 15 and 30 days, that are viewed as being a more appropriate limit. In addition, a definition of the term ''shipped for retail sale'' would be added to the regulations.

No adverse industry-wide impact has been observed since AMS suspended the repackaging of eggs returned by retailers, primarily because of the infrequent use of egg repackaging by official plants. Additionally, AMS believes that the proposed 15-day limit from date of lay to date of packaging for eggs officially identified with a USDA consumer grademark minimizes unwanted variations in egg quality while allowing sufficient time for the normal wholesale trading and shipping of shell eggs to be completed. AMS expects this limit to have little or no economic impact on shell egg producers or processors, including those that may be small businesses. Shell egg processors can market eggs that are not of current production by packaging them without USDA grade identification. Since the difference in economic return to processors between USDA graded versus non-USDA graded eggs is about one cent per dozen, the economic impact is minimal for official plants and non-official plants that may later elect to use the grading service. Optionally, processors may divert eggs to the production of liquid, frozen, and dried egg products. By doing so, they can recoup approximately 50 percent of the products' original value.

AMS considered leaving the 30-day requirement unchanged. However, AMS believes industry advances now allow wholesale trading and shipping to be completed in time to allow shell eggs to be packaged by processors within 15 days of lay. By proposing to change the requirement to a shorter period, AMS and the industry can better ensure the quality of officially identified consumer grade eggs.

While formulating this proposal, AMS understood from some in the industry that a 15-day period may impose an undue burden in certain situations. For example, smaller size eggs are sometimes stored to accumulate sufficient volumes for processing, and heavy demand for processing during holiday periods may extend the time between the date of lay and date of packaging. Therefore, although AMS believes that a 15-day limit between the date of lay and date of packaging would generally allow sufficient time for processors to trade, ship, process, and package eggs, AMS is seeking comments about the impact of the proposed 15-day limit, particularly on small businesses. AMS is also interested in receiving comments regarding other limits between 15 to 30 days, for example a 21-day limit.

Executive Orders 12988 and 12898

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations,'' AMS has considered the potential civil rights implications of this proposed rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, sex, national origin, religion, age, disability, or marital or familial status. This included those persons who are employees, program beneficiaries, or applicants for employment or program benefits in the voluntary shell egg grading program. Adoption of the proposed rule would not require official plants to relocate or alter their operations in ways that could adversely affect such persons or groups. Nor

would it exclude any persons or groups from participation in the voluntary shell egg grading program, deny any persons or groups the benefits of the grading program, or subject any persons or groups to discrimination.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection and recordkeeping requirements included in this rule, and there are no new requirements. The assigned OMB control number is 0581–0128.

List of Subjects in 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 56 be amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Amend § 56.1 by revising the term *Eggs of current production* and adding a definition for the term *Shipped for retail sale* to read as follows:

§ 56.1 Meaning of words and terms defined.

* * * * *

Eggs of current production means shell eggs that are no more than 15 days old.

* * * * *

Shipped for retail sale means shell eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

* * * * *

In § 56.40 paragraph (c) is revised to read as follows:

§ 56.40 Grading requirements of shell eggs identified with consumer grademarks.

(a) * * *

* * * * *

(c) In order to be officially identified with a USDA consumer grademark, shell eggs shall:

(1) Be eggs of current production;

(2) Not possess any undesirable odors or flavors; and

(3) Not have previously been shipped for retail sale.

Dated: July 22, 1999.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 99–19093 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL TRADE COMMISSION

16 CFR Part 312

Children's Online Privacy Protection Rule

AGENCY: Federal Trade Commission.

ACTION: Initial regulatory flexibility analysis.

SUMMARY: The Commission is publishing this initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of its proposed rule implementing the Children's Online Privacy Protection Act (''COPPA'' or ''the Act'').

DATES: Written comments must be submitted on or before August 6, 1999.

ADDRESSES: Written comments should be submitted to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The Commission requests that commenters submit the original plus five copies, if feasible. To enable prompt review and public access, comments also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a disk label stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS or Windows are preferred. Files from other operating systems should be submitted in ASCII text format.) Alternatively, the Commission will accept comments submitted to the following e-mail address <kidsrule@ftc.gov>. Individual members of the public filing comments need not submit multiple copies or comments in electronic form. All submissions should be captioned: ''Children's Online Privacy Protection Rule—IRFA Comment, P994504.'' Comments will be posted on the Commission's Web site: <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Toby Milgrom Levin, (202) 326–3156, Loren G. Thompson, (202) 326–2049, or Jill Samuels, (202) 326–2066, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 601 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: This notice supplements the Commission's initial notice of proposed rulemaking, 64 FR 22750 (Apr. 27, 1999), for a Children's Online Privacy Protection Rule, 16 CFR part 312, to implement the requirements of the Children's Online Privacy Protection Act of 1998 (''the Act''), title XIII, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, 1112 Stat. 2681, ____ (Oct. 21, 1998). The Commission's notice of proposed rulemaking did not include an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 603) based on a certification that the proposed rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605). *See* 64 FR 22761.

In the Notice of Proposed Rulemaking, the Commission concluded that the proposed rule's requirements are expressly mandated by the COPPA. In the Commission's view, the Act's requirements account for most, if not, all of the economic impact of the proposed rule, and the Commission's proposal adds little, if any, additional independent compliance burden to the statutory requirements. For example, as reiterated below, the proposed rule consistently incorporates the overall ''performance'' standards set forth in the statute rather than mandating any particular compliance method or approach. *See* 5 U.S.C. 603(c)(3). Moreover, certain provisions of the rule (*e.g.*, definitions taken directly from the statute, enforceability of rule by the Commission and the states, severability of the rule's provisions) would appear to have no material effect on the costs or burdens of compliance under the rule for regulated entities, regardless of size. Thus, the marginal cost, if any, that would be imposed by the rule on regulated entities, including small entities, would not be substantial. Since the Regulatory Flexibility Act does not require an initial (or final) regulatory flexibility analysis when a ''rule'' will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605), such an analysis did not accompany the proposed rule. Nonetheless, in its Notice of Proposed Rulemaking to implement the COPPA, the Commission expressly invited public comment on the proposed rule's effect on the costs, profitability, competitiveness of, and employment in small entities to ensure that no significant economic impact on a substantial number of small entities would be overlooked. *See* 64 FR 22761.

In response, the Commission received comments suggesting, among other things, that the Commission publish an initial regulatory flexibility analysis

under the Regulatory Flexibility Act.[1] While the Commission continues to believe that such an analysis is not technically required, the Commission has decided to publish the following analysis to provide further information and opportunity for public comment on the small business impact, if any, of the rule. The Commission notes that it has already afforded a period of public comment on the proposed rule for such comments, and will be conducting a public workshop on July 20, 1999, on the issue of obtaining parental consent under the rule. *See* 64 FR 34595 (June 28, 1999). The workshop will provide an additional opportunity for public comment on how compliance with that particular requirement might be achieved, while minimizing the potential impact of the requirement on regulated entities, including small entities, to the extent the Commission has any discretion on that issue. The July 30th deadline for comments in response to the initial regulatory flexibility analysis set forth below is scheduled to coincide with the close of the comment period that will follow the public workshop described earlier.

Description of the reasons that action by the agency is being considered. The COPPA requires the Commission to promulgate this rule not later than one year after the date of enactment of the Act. COPPA § 1303(b)(1).

Succinct statement of the objectives of, and legal basis for, the proposed rule. To prohibit unfair and deceptive acts and practices in connection with commercial websites' and online services' collection and use of personal information from and about children by: (1) Enhancing parental involvement in a child's online activities in order to protect the privacy of children in the online environment; (2) helping to protect the safety of children in online fora such as chat rooms, home pages, and pen-pal services in which children may make public postings of identifying information; (3) maintaining the security of children's personal information collected online; and (4) limiting the collection of personal information without parental consent. The legal basis for the proposed rule is the COPPA.

Description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. In general, the rule will apply to any commercial operator of an online service or Internet website directed to children or a commercial operator of an online service or Internet website who has actual knowledge that he or she is collecting personal information from a child. *See* proposed Rule § 312.3 (general requirements). The rule does not apply to nonprofit entities. *See* proposed Rule § 312.2 (defining ''operator''). A precise estimate of the number of small entities that fall within the rule is not currently feasible because the definition of a website directed to children turns on a number of factors that will require a factual analysis on a case-by-case basis.[2] The Commission seeks any information or comment on these issues, as noted below.

Description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. The statute and proposed rule do not directly impose any ''reporting'' or ''recordkeeping'' requirements within the meaning of the Paperwork Reduction Act, but would require that operators make certain third-party disclosures to the public, *i.e.*, provide parents with notice of their privacy policies. *See* proposed Rule §§ 312.3(a) (notice on website or online service), 312.4(a), (b), & (c) (format and contents of notice), 312.5(c)(3) & (4) (parental notification to obtain consent), 312.6(a)(1) (parental notification of information being collected on children). The Commission is seeking clearance from the Office of Management & Budget (OMB) for these requirements and the Commission's Supporting Statement submitted as part of that process is being made available on the public record of this rulemaking.

The statute and proposed rule also contain a number of compliance requirements not subject to the Paperwork Reduction Act, including but not limited to obtaining verifiable parental consent to collect personal information from children, § 312.5(b); allowing parents to have the opportunity to review and make changes to information provided by their children, § 312.6; and developing and implementing methods for maintaining the confidentiality, security, and integrity of personal information collected from children, § 312.8. These statutorily mandated obligations do not require operators to file reports or maintain records within the meaning of the Paperwork Reduction Act, although the Commission recognizes that there are potential compliance costs associated with these requirements. As noted above, the only class of small entities that would be subject to the above-described compliance requirements would be commercial operators of websites or online services directed to children or those commercial operators who have actual knowledge that they are collecting information from children, as discussed earlier.

Since the rule does not directly mandate ''reporting'' or ''recordkeeping'' within the meaning of the Paperwork Reduction Act, the rule does not require professional skills for the preparation of ''reports'' or ''records'' under that Act. The statute and rule do require that certain third-party disclosures (*i.e.*, privacy policy notices) may initially require professional attorney and computer programmer time to develop and post. For purposes of its Supporting Statement to OMB under the Paperwork Reduction Act, the Commission estimated approximately 60 hours per site (83% attorney hours, 17% programmer hours) in the first year and six hours per web site in subsequent years. However, the Commission as noted below, seeks further comment on the actual costs or expenditures, if any, of developing and posting the required privacy policy notices, and the extent to which these costs may differ or vary for small entities. (*See* the Supporting Statement submitted by the Commission to OMB at <http://www.ftc.gov/os/1999/9906/childprivsup>) It is important to note, however, that the Commission anticipates that any expenditures for professional attorney or programmer time may be significantly reduced or eliminated if websites avail themselves of software or other compliance tools or kits that make it easier and less costly to meet the rule's notice requirements. A number of industry groups have already developed privacy policy toolkits which are available online as part of their self-regulatory efforts in the privacy area. The Commission seeks further comment on this issue.

Certain of the statute's and rule's other non-Paperwork Reduction Act requirements may require some clerical or computer programmer time for compliance. For example, an employee may be required to review parental

[1] *See* Comment No. 74 submitted by the Honorable George W. Gekas and James M. Talent of the House of Representatives and Comment No. 91 submitted by Jere W. Gover, Jennifer A. Smith, and Eric E. Menge, Office of Advocacy, U.S. Small Business Administration.

[2] The proposed Rule (§ 312.2) states that ''In determining whether a commercial website or online service, or a portion thereof, is targeted to children, the Commission will consider its subject matter, visual or audio content, age of models, language or other characteristics of the website or online service, as well as whether advertising promoting or appearing on the website or online service is directed to children.''

responses to the operator's requests for consent. Depending on the method chosen by the operator to seek parental consent, some employee training may be required, *e.g.*, training an employee manning a toll-free telephone number to recognize whether a child or adult is on the line. Similar skills would be required of employees responsible for handling requests from parents who want to review the information provided by their children. Finally, computer programming and security expertise will be required to ensure that the operator maintains the confidentiality, security, and integrity of the data collected from children. Because the Commission currently has no basis on which to determine the number of hours required to conduct such tasks and as these requirements are not subject to the Paperwork Reduction Act, the Commission has not attempted here to provide an estimate in terms of burden hours, but is instead seeking reliable information and comment on costs and burdens for small entities.

Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule. The Commission is unaware of any duplicative, overlapping, or conflicting Federal rules. As noted below, the Commission seeks comments and information about any such rules, as well as any other state, local, or industry rules or policies that require website operators and online services to implement business practices (*e.g.*, notification, parental consent, security measures, etc.) that would comply with the requirements of the Commission's proposed rule.

Description of any significant alternative to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities, including alternatives considered, such as: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; (4) any exemption from coverage of the rule, or any part thereof, for such small entities. Under the proposed rule, subject operators will be free to choose one or more methods to achieve the goals of the rule based on their individual business models and needs. In many instances the proposed rule utilizes a performance standard to permit as much flexibility as possible for website operators to comply with the rule. For example, proposed Rule § 312.4(b) minimizes the burden on website operators and online service providers by permitting the notice to be posted by providing ''links'' to notices, rather than requiring complete texts of the notice, on each ''page'' or other location(s) where personal information is collected from children. Likewise, the requirements for parental notice (proposed Rule § 312.4(c)) are flexible and open-ended for all entities, not just small entities, requiring simply that the operator make ''reasonable efforts, taking into account available technology, to ensure'' that notice reaches parents. *See also* proposed Rule § 312.5 regarding parental consent.

Although these rules impose some costs, it is important to recognize that the requirements of notice, consent, access and security are mandated by the COPPA itself. Although the Commission has sought to minimize the burden on all businesses, including small entities, by incorporating the statute's flexible ''performance'' standards, the Commission does not have the discretion to provide for exemptions from the COPPA based on size of the operator. Likewise, the proposed rule attempts to clarify, consolidate, and simplify the statutory requirements for all entities, including small entities, but the Commission has little discretion, if any, to mandate different compliance methods or schedules for small entities that might ''take into account the resources available to small entities'' but not comply with the statutory requirements. For example, the COPPA requires the posting of privacy policies by websites and online services before information is collected from children and a waiver for small entities of that prior notice requirement (*e.g.*, by permitting notice after the fact) would be inconsistent with the statutory mandate. *See* COPPA, Pub. L. No. 105–277, § 1303(b)(1)(A) (i) and (ii).

Nevertheless, the Commission is seeking to address the variability of online businesses and to devise performance standards to allow for flexibility and innovation to achieve compliance with the mandated COPPA protections. Throughout the rulemaking proceeding, the Commission has made every effort to gather information regarding the economic impact of the COPPA's parental notice and consent requirements on all operators, including small entities. Thus, the **Federal Register** notice announcing the proposed rule included a number of questions for public comment regarding the costs and benefits associated with these key requirements with respect to small entities.

In addition, the agenda for the July 20th public workshop includes topics designated to elicit economic impact information, particularly as it would affect small businesses. The workshop will examine a wide range of mechanisms to implement parental consent so as to obtain a rich record of how operators, including small entities, can comply with the statutory requirement.

Questions for Comment To Assist Regulatory Flexibility Analysis

1. Please provide comment on any or all of the provisions in the proposed rule with regard to (a) the impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, the Commission should consider, as well as the costs and benefits of those alternatives, paying specific attention to the effect of the rule on small entities in light of the above analysis. In particular, please provide the above information with regard to the following sections of the proposed rule:

a. The requirement that notice be placed on the website, § 312.4(b);

b. The requirement that notice be provided to parents, § 312.4(c);

c. The requirement that operators obtain verifiable parental consent, § 312.5;

d. The requirement that parents be allowed to review and correct personal information provided by their children, § 312.6;

e. The requirement that operators take steps to ensure the confidentiality, safety, and integrity of the information provided to them, § 312.8; and

f. Any other requirement not mentioned above.

Costs to ''implement and comply'' with the rule include expenditures of time and money for: any employee training; attorney, computer programmer, or other professional time; preparing relevant materials; processing materials, including, for example, processing parental consent materials or requests for access to information; and recordkeeping.

2. Please describe ways in which the rule could be modified to reduce any costs or burdens for small entities consistent with the COPPA's mandated requirements.

3. Please describe whether and how technological developments (such as the development and implementation of digital signatures) could reduce the costs of implementing and complying with the rule for small entities or other operators.

4. Please provide any information quantifying the economic benefits to website operators of collecting personal information from or about children, including any information showing: advertising revenues based in part upon the number of children registered at a site; revenue derived from the sale or rental of children's personal or aggregate information to others; efficiencies resulting from marketing to a targeted audience; or revenue resulting from designing a customized and appealing site.

5. Please identify all relevant Federal, state or local rules that may duplicate, overlap or conflict with the proposed rule. In addition, please identify any industry rules or policies that require website operators and online services to implement business practices (*e.g.*, notification, parental consent, security measures, etc.) that would already comply with the requirements of the Commission's proposed rule.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–19094 Filed 7–26–99; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Related Contract Terms and Conditions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: In 1997, the Commodity Futures Trading Commission (Commission) promulgated a new fast-track procedure for the review and approval of applications for contract market designation in either ten or forty-five days. In response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness, the Commission is proposing a two-year pilot program to permit the listing of contracts for trading prior to Commission approval.

The proposed procedure would preserve the public interest in Commission review and approval of new contracts by providing that no more than one year's trading months may be listed at any time prior to approval. Any problems with a new contract could be rectified within that initial listing period. As proposed, exchanges would retain the choice to proceed under the current procedures for prior approval of new contracts, including fast-track application review.

The proposed listing of new contracts prior to designation does not affect the general requirement that proposed exchange rules and changes to existing exchange rules must be reviewed and approved by the Commission prior to implementation. Exchange rule changes, including both changes to contract terms and conditions and to rules of broad application that are not contract terms or conditions, can and do have an impact on open positions. They may affect the economic utility of contracts. Moreover, exchange rule changes may be the subject of divergent interests or, potentially, conflicts of interest at an exchange or raise broad public policy issues, all of which require that exchange rule changes be addressed through the Commission's statutory process of prior review and approval.

DATES: Comments must be received August 26, 1999.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Need for Additional Flexibility in Listing New Contracts

The Commission thoroughly analyzed the nature of global competition in the futures industry in a major 1994 study mandated by Congress as part of the 1992 amendments to the Act.[1] That study analyzed the growth of futures trading in non-U.S. markets and the relative decline in the global market share of U.S. exchanges. Although much has changed since 1994 in the global competitiveness of the futures industry, including in particular the continued evolution and development of new electronic trading platforms, many of the 1994 study's major conclusions remain valid today. The 1994 study concluded that U.S. exchanges remain leaders in innovation and generally have reached the global market first with new products.[2] Foreign exchanges, by and large, have grown by developing products tailored to their home markets and by trading those products at the same time of day as the underlying foreign cash market.[3] The study found no evidence that disparities in the regulatory frameworks of various jurisdictions, including particularly disparities in procedures for listing new contracts, were a major factor explaining the success of various exchanges in the global market.[4]

The Commission also concluded in its study that, ''the U.S. regulatory system must be responsive to changes in the marketplace if U.S. markets are to remain competitively robust. Consistent

[1] A study of the Global Competitiveness of U.S. Futures Markets, Commodity Futures Trading Commission, (April 1994)(''1994 study'').

[2] The Commission has been supportive, in general, of initiatives of U.S. exchanges to become more competitive both in terms of new products and trading systems. For example, the Commission has encouraged and supported industry-wide innovation and modernization in trading systems, sponsoring a round-table on October 16, 1996, to highlight issues relating to electronic order routing and trading systems. It has also amended many rules to respond to industry requests and on its own initiative to support the competitiveness of U.S. exchanges. Specifically, the Commission has promulgated rules to streamline applications for contract market designation, 64 FR 29217 (June 1, 1999); to permit bunched orders for sophisticated customers to be allocated after their execution, 63 FR 45699 (August 27, 1998); to permit futures-style margining of commodity options, 63 FR 32726 (June 16, 1998); to eliminate the requirement that futures commission merchants and introducing brokers deliver the specified risk disclosure document when opening accounts for sophisticated customers, 63 FR 8566 (February 20, 1998); to eliminate the short option value charge against a future commission merchant's net capital, 63 FR 32725 (June 16, 1998); to expand the use of acceptable electronic storage media for required records, 64 FR 28735 (May 27, 1999); to permit the use of a two-part disclosure document, 63 FR 58300 (October 30, 1998); to permit the trading of ''exchange of futures for swaps'' on the New York Mercantile Exchange, 63 FR 3708 (January 26, 1998); and to increase speculative position limits, 64 FR 24038 (May 5, 1999).

Moreover, the Commission has been very supportive of industry efforts over the years to introduce innovative futures and option contracts. These include such innovative concepts as the reintroduction of exchange-traded options, the introduction of flexible options, the first cash-settled futures contracts, the first futures contracts on stock indexes and the first futures and option contracts on natural gas, electricity crop yields, pollution permits, and bankruptcy rates.

[3] For example, many foreign exchanges trade interest-rate contracts based upon the sovereign debt of the nation in which they are located.

[4] Moreover, the trend among foreign authorities has been to strengthen their regulatory regimes. The Commission has been a world-leader in promoting the strengthening of regulatory oversigh as futures trading becomes more global in nature. This process has accelerated in light of developments in connection with the Barings, Plc. and Sumitomo Corp. situations. *See,* Windsor Declaration issued May 17, 1995, and London Communiqué on Supervision of Commodity Futures Markets (November 26, 1996).

with that view * * * the CFTC has historically attempted to facilitate U.S. exchange innovation and reduce the costs of regulation within its mandate * * *''[5] One means taken by the Commission in recent years to lower the cost of regulation has been to reduce significantly the time normally required for Commission review and approval of new contracts, particularly since implementing new fast-track procedures in 1997. Generally, the 10- or 45-day review periods provided under the fast-track procedure are readily compatible with the normal gestation period for new contracts.[6]

The Commission is proposing a pilot program to provide U.S. exchanges with substantial, additional flexibility in the listing of new contracts. Representatives of U.S. exchanges have testified that the ability to list contracts more quickly than currently possible is necessary for them to meet competitive challenges by foreign exchanges.[7] The proposed rule would enable designated exchanges generally to list for trading new contracts without any waiting period, directly responding to the exchanges' stated need to be able to respond immediately to competitive challenges.[8]

The proposed rule would not, however, eliminate the requirement that contracts be designated by the Commission. Rather, it would permit the Commission's review of new contracts to proceed after a new contract's initial listing. The Commission would continue to designate such contracts after they have been listed upon finding that they meet the requirements of the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (Act), and the rules thereunder. This would preserve a speedy, sure and efficient method for the Commission to review new contracts and the public's opportunity to comment on them. The proposed pilot program would not apply to changes to existing contracts. As discussed in more detail below, changes to existing contracts frequently raise issues relating to the value of existing positions and there is often significant interest by the public in commenting on proposed changes to such contracts.

The Commission is proposing this two-year pilot program under the Act's section 4(c) exemptive provision which, together with the other provisions of the Act, provides the Commission with far-ranging regulatory flexibility. The pilot program will provide an opportunity to identify any adverse consequences resulting from the predesignation listing of new contracts. As proposed, the approval requirement will continue to fulfill the important functions of providing a forum to resolve questions relating to the legality of contracts, a means to consider and respond to concerns raised by other regulators, a mechanism for government-to-government coordination when appropriate and the opportunity to subject contracts to impartial, expert scrutiny and to correct various problems early on. Finally, as proposed, exchanges will retain the option to seek prior Commission approval before listing new contracts.

II. History and Purpose of Statutory Requirement that Contracts Be Designated Before Trading and Exemptive Authority

Section 4(a) of the Act provides that, unless exempted by the Commission, futures contracts legally can be traded only on or subject to the rules of a contract market designated by the Commission.[9] Section 4(c)(1) authorizes the Commission, by rule, regulation, or order, to exempt any contract between ''appropriate persons'' from that or any other of the Act's requirements, with the exception of the accord provisions of section 2(a)(1)(B). Before granting such an exemption, the Commission must determine that its action would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act.[10]

The requirement that boards of trade meet specified conditions in order to be designated as contract markets has been a fundamental tool of federal regulation of commodity futures exchanges for the past seventy-five years.[11] Prior to the 1974 amendments to the Act, however, the statutory scheme did not require the

[5] 1994 study at p. 139.

[6] U.S. exchanges' initial launch date for new contracts is often well after designation, and many contracts are not listed until months or even years later. In this regard, of the 201 new contracts that were approved during the period 1996 through 1998, about one-fourth (46) have not yet been listed for trading. The average period after designation when the other 155 contracts were listed was about three months (87 days). Only 29 contracts in all were listed for trading within 10 days after Commission approval.

[7] During hearings before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, representatives of four U.S. futures exchanges testified that the current regulatory structure is overly burdensome and that statutory changes are necessary to achieve ''parity'' with foreign exchanges and to better enable U.S. exchanges to compete in the growing global marketplace. CTFC Reauthorization: Hearings Before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, 106th Cong., 1st Sess. (1999) See, statements of the Chicago Board of Trade, the Board of Trade of the City of New York, the Chicago Mercantile Exchange, and the New York Mercantile Exchange.

In particular, the U.S. exchanges urged Congress to eliminate the requirement that the Commission review and approve new contracts before they begin trading and amendments to exchange rules before they can be implemented. For example, Daniel Rappaport, Chairman of the Board of Directors of NYMEX testified that, ''detailed CFTC review and approval of the specific terms and conditions of the contract has not been necessary, provides marginal, if any value, and adds cost, uncertainty, and delay to the roll-out of new contracts.''

[8] However, contracts subject to the accord provision of section 2(a)(1)(B) of the Act would not be eligible for this relief consistent with the provisions of section 4(c) of the Act.

[9] Section 4(a) of the Act provides that: ''Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of * * * a contract for the purchase or sale of a commodity for future delivery * * * unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a ''contract market'' for such commodity * * *'' 7 U.S.C. 6(a).

[10] The Futures Trading Practice Act of 1992, P.L. No. 102–546, added a new subsections (c) and (d) to section 4 of the Act. Specifically, section 4(c), 7 U.S.C. 6(c), provides that:

(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest.

(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the Commission determines that—

(A) The requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

[11] *See*, Futures Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921). Designation as a contract market under the 1921 Act was contingent upon a board of trade's meeting specified statutory criteria, including providing for the prevention of manipulative activity. Although the constitutionality of this Act was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace*, 259 U.S. 44 (1922), all subsequent legislation regulating the futures industry followed the template of requiring exchanges to be designated as contract markets.

Commodity Exchange Authority, the Commission's predecessor agency, to approve in advance the trading of all new futures contracts,[12] nor did it require agency approval of exchange rules before they became effective. Rather, exchange rules amending the terms and conditions of futures contracts were subject only to disapproval after becoming effective.[13] The 1974 amendments to the Act reversed that approach, requiring that new contracts be approved prior to trading. As part of Congress' overall intent to strengthen federal regulatory oversight of the futures industry, the 1974 amendments provided for a meaningful government review of all new futures contracts before trading could begin and of proposed amendments to the terms of conditions of existing contracts.[14]

Subsequently, Congress enhanced the opportunity for public participation in the Commission's review of proposed exchange rule amendments.[15] In offering this amendment, Representative AuCoin reasoned that, although many rule changes may be technical,

> there are a number of proposed rule changes that are controversial because of their expected impact on the way a particular commodity is traded or on the broader effects that a change may bring about in the production and distribution of that commodity.

124 Cong. Rec. H7312 (July 26, 1978).

The Commission, recognizing the validity of Representative AuCoin's observation that various submissions may require differing levels of public scrutiny, has been flexible in implementing its regulatory mandate to review and approve new contracts and amendments to existing contracts. The fast-track review procedures, in particular, broke new ground in how the Commission reviews and approves applications for contract market designation, proposed exchange rules and changes to existing exchange rules. Since promulgating the fast-track designation procedures, the Commission has approved 36 contracts under the 10-day procedures, and 34 contracts under the 45-day procedures. Fast-track designation procedures have provided the exchanges with a time certain for Commission review, easing their planning for new contract introduction. Fast-track procedures also confirmed, however, that in many instances exchanges may prefer review procedures. Specifically, 43 proposed contracts that were otherwise eligible for fast-track review have been submitted under regular review procedures, which under the Act permits the Commission to take up to one year to review an application for contract market designation.

The Commission's past procedural flexibility has made its review more efficient while at the same time preserving the public interest in Commission approval of new contracts and of contract amendments. Review and approval of new contracts helps assure that futures markets are not readily susceptible to manipulation so that they better can serve their risk transfer and price discovery functions. The Commission, based upon its past experience, has found that appropriate contract design is the best deterrent to market manipulation, price distortion or market congestion, and that contract approval assures that contracts meet these widely-accepted design criteria.[16] Although market incentives, enlightened business judgment and the desire to protect reputation are strong motivations which can lead to a high degree of self-regulation, experience demonstrates that there have been instances when government oversight and action serve to address particular instances where business judgments by the exchange membership did not appear to offer sufficient guidance to inform fully an SRO's regulatory judgment.[17]

Needed changes to contract designs are most easily made before traders become accustomed to, or heavily reliant upon, a particular term or condition. Although it is possible to make adjustments to contract terms or conditions as needed, changing a term or condition of a proposed contract prior to its listing does not have the market impact of an after-the-fact rule change or of an emergency action. In this regard, the terms or conditions for delivery of several contracts for foreign currencies were changed while under Commission review. Commission vetting of exchange rules and CFTC coordination with the interested foreign governments resolved these delivery issues. Absent prior Commission approval, these design flaws might very well have been discovered through a default, a market emergency or similar dislocation.

Review and approval of new contracts also gives the public an opportunity to comment on proposed contracts and provides a forum for resolving disputes. Often, an innovative contract may raise issues for other government agencies. The Commission review process provides a formal mechanism for those agencies to make their views known to the Commission. Moreover, in cases where questions are raised about the legality of a contract's terms, such as recent questions as to whether the delivery terms of an electricity contract would violate certain legal restrictions in effect at the delivery point, the Commission's approval process provides a formal governmental decision on the issue, short of a court challenge to the contract.

Although exchanges have a strong business incentive to list contracts that will not be susceptible to manipulation, they may not receive, and act upon, the breadth of opinion available to the Commission. As discussed above, these views may come from foreign regulators, other government agencies and

[12] Prior to 1974, the Act defined ''commodity'' by specific enumeration. Accordingly, new contracts that were not so enumerated were unregulated. The definition of commodity periodically would be updated to include additional commodities in which trading had commenced on those exchanges which traded other regulated contracts. For example, livestock and livestock products were added to the Act's definition of ''commodity'' as part of the 1968 amendments to the Act, after such contracts had already begun trading on the Chicago Mercantile Exchange. Pub. L. No. 90–258 § 1(a), 49 Stat. 1491 (1968). Other futures exchanges, including the Commodity Exchange, Inc. and the former Coffee and Sugar, and the Cocoa exchanges, operated wholly outside of the regulatory scheme.

[13] *See* Pub. L. No. 90–258, § 23, 82 Stat. 33 (1968).

[14] *See* H.R. Rep. No. 93–975, 93d Cong., 2d Sess. at 78, 82 (1974).

[15] As part of the 1978 amendments to the Act, Congress added the provision requiring a public comment period for proposed exchange rules of major economic significance. That amendment to section 5a(a)(12) of the Act was offered from the floor during debate in the House of Representatives. It may indicate that the exchange has indeed received and considered input from interested outside sources in connection with a proposal. However, there are more than a few designation applications or proposed exchange rule changes every year that elicit a significant number of comments, casting doubt upon the exchange's theory that its business self-interest will reliably inform all of its regulatory judgements.

In this regard, in response to a Commission advisory on alternative execution or block trading procedures, 64 FR 31195 (June 10, 1999), the Chicago Board of Trade (CBT) by letter dated June 29, 1999, urged the Commission to:

> [S]olicit the input of, and coordinate with, various interested parties by publishing for public comment any proposals to permit alternative execution procedures. The Commission will in that way, be able to get the benefit of additional analysis of such proposals by knowledgeable members of the futures industry. * * *

[16] *See*, e.g., § 5a(a)(10) of the Act and the Commission's proceeding to amend the delivery terms of the CBT corn and soybean futures contracts, ''Notification to the CBT to Amend Delivery Specifications.'' 61 FR 68175 (December 12, 1995). The view that appropriate contract design is an important component of a market surveillance program and deters manipulation, price distortion and market congestion is widely accepted internationally, as well. *See*, the Tokyo Communiqué on Supervision of Commodity Futures Markets issued at the Tokyo Commodity Futures Markets Regulators' Conference on October 31, 1997.

[17] Often, the Commission receives few or no public comments on contract market designations or on exchange rule changes. This is to be expected.

departments, futures intermediaries, commodity producers or users and other nonmembers. For example, trade interviews by Commission staff first revealed that the discounts for nonpar varieties and locations for a proposed potato contract did not conform to cash market practices. Subsequently, major producer groups opposed the proposed contract's terms in public comments filed with the Commission, and the exchange made extensive revisions. Accordingly, the Commission's review and approval process, which expands participation in the process, may bring to light information not previously considered by an exchange in designing a proposed contract's terms.

Recognizing the potential benefit of receiving additional input from a wider variety of sources, some exchanges, particularly the smaller exchanges, have made positive use of the Commission's review and approval process in developing new products. For example, one exchange accepted Commission staff's suggestions on an appropriate means of constructing an index with a large number of inactively traded stocks. After these revisions, the contract obtained regulatory approval from both the Commission and the Securities and Exchange Commission.

The proposed pilot program for predesignation listing of new contracts will permit exchanges to list new contracts quickly in response to perceived competitive threats. However, it will also retain current procedures, enabling exchanges to benefit from the comments process included in the current procedures, from the Commission's expertise in these issues and from its interaction with U.S. and foreign regulators.

III. The Proposed Rule

Although the rule which the Commission is proposing permits exchanges to list new contracts for a limited period prior to designation, it conforms to the underlying legal requirement that all contracts must be designated by the Commission in order legally to trade. Moreover, the proposed listing rule is consistent with the spirit of the Act's provision which contemplates that in certain instances exchanges may make proposed rules effective pending Commission action. Specifically, section 5a(a)(12) of the Act permits exchanges to make proposed rules effective without Commission approval if the Commission fails to act on the proposed rules within specified time limits. Those exchange rules may remain in effect while Commission action is pending. The Commission's rule on predesignation listing of proposed contracts would apply the same concept in instances where an exchange believes that competitive or other factors make immediate listing of a proposed contract necessary.

Contracts listed under the proposed procedure, although not designated, would be valid and enforceable pursuant to the Commission's rule, which is being proposed under the exemptive authority of section 4(c) of the Act. The board of trade, pursuant to the Commission's rule and section 5a(8)(iii) of the Act, would be required to enforce the contract's terms and conditions, although not yet approved by the Commission.[18] In addition, the board of trade would be required to fulfill all of a contract market's self-regulatory obligations during the period the contract is listed for trading as though it were designated. Upon designation, the Commission, as it does for all contracts, would approve the contract's terms and conditions under section 5a(a)(12) of the Act.

The Commission is proposing that predesignation listing be available only when an exchange already is a designated contract market for at least one nondormant contract. This is because the initial designation of a board of trade as a contract market often entails a more lengthy review which includes analysis of its trading and clearance systems and its self-regulatory programs. Such start up exchanges are not appropriate candidates for the proposed immediate listing rule.

Moreover, the Commission is proposing that while a designation application submitted under regular or fast track procedures is pending, a second exchange may not list the same, or a substantially similar, contract to trade using the pilot procedure. Such a result would penalize the first exchange for submitting a proposed contract market application for Commission review and preapproval, clearly and unwarranted competitive use of the proposed rule. As proposed, the second exchange would be required to wait until the day following approval of the first application to notify the Commission that it intends to list the same, or a substantially similar, contract to trade. Thus, for example, an application for contract designation filed for fast-track review, absent a regulatory problem, would be deemed approved forty-five days after receipt. Not until the forty-sixth day after the Commission has received the application could a second exchange notify the Commission that it intended to list the same or a substantially similar contract for trading prior to designation. The second exchange could then list for trading the contract on the forty-seventh day after receipt of the original application. In this way, the rule would not permit a competing exchange to short-circuit the review process and to disadvantage the exchange choosing to subject a proposed contract to prior Commission review. Of course, where the first contract was listed prior to designation, there would be no purpose served by preventing a second exchange from also listing the contract for trading prior to approval. In that case, both exchanges could list contracts for trading the day after they notify the Commission.[19]

In addition, the proposed prelisting procedure is not intended to be a means of evading an adverse Commission proceeding involving the same or a substantially similar contract. Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a ''new'' contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to the original, designated contract.[20] In addition, predesignation listing would not be available for stock indexes, commodities which are subject to the specific approval procedures of the Johnson-Shad jurisdiction.[21]

[18] Compare, 17 CFR 1.53.

[19] Exchanges would not be able to use this proposed rule to forestall a competitor from introducing a new contract by filing an application in bad faith. Although a second exchange could not use the predesignation listing procedure while a prior application was pending, nothing would prevent the second exchange from filing an application for review and approval by the Commission on its own merits.

[20] Similarly, the Commission is not proposing that the listing provision be applicable for a futures contract that is based upon the occurrence of a single event or that is intended to be listed temporarily. For example, a futures contract in a fuel that was being phased out of use, such as leaded gasoline, raises deliverable supply issues. Such a contract should not be able to evade the review and approval provisions of the Act by being listed during the last few months when the commodity is available. Moreover, although single event futures contracts have not yet been proposed, it would be possible to construct such contracts. The proposed rule is not intended to be used as a means to avoid addressing the designation issues which may be raised by such contracts.

[21] *See* section 2(a)(1)(B) of the Act.

The Commission is proposing that exchanges be able to determine whether and when to make use of the new listing procedure, and is not restricting an exchange's use of the predesignation listing of contracts to a defined set of circumstances. The exchanges have argued that as a matter of business self-interest they will design contracts that comply with the Act's designation requirements and that prior Commission review is an unnecessary check on their role as self-regulators. Based upon these representations, the Commission expects to be able to designate new contracts listed under the proposed pilot rules and to approve their terms and conditions as initially listed.

However, exchanges not infrequently have revised the terms and conditions of pending contracts submitted to the Commission for prior review. Changes to the terms or conditions of a contract listed under the proposed procedure would be required to be approved by the Commission under section 5a(a)(12) of the Act and Commission rules thereunder before being made effective. The Commission generally would approve such changes when designating the contract. Presumably, the revisions would be minor, made in advance of the contract's first expiration, made before a large open interest had been established, and cause no disruption to traders or to the markets generally.

Some designation applications filed with the Commission, however, have included serious flaws. If it becomes evident during the Commission's review that a contract already listed for trading fails to meet a designation requirement, the exchange would have to take appropriate corrective measures. Depending upon the nature of the problem, these steps might be exigent in nature, have to be applied to trading months with open positions and require an exchange to act under its emergency authority. Although this is not the preferred mechanism for vetting new contracts, it may be an unavoidable consequence of listing a contract with a deficiency prior to approval. Accordingly, as with the Commission's fast-track designation procedures, an exchange's choice to list contracts for trading prior to designation would most appropriately be used for contracts which clearly raise no legal or practical impediments to trading.

As proposed, exchanges choosing to list contracts prior to Commission review and designation must notify the Commission of their intent by filing the contract's terms and conditions with the Commission's Office of the Secretariat and the Commission's regional office having jurisdiction over the exchange by close of business on the business day prior to listing the contracts for trading. As proposed, exchanges may list no more than one full year's trading months at any time prior to the contract's designation. An application for designation would be required to be filed within forty-five days of the initial listing, unless during this period the trading months have been delisted. Finally, the exchange would be required to identify the contract listed as pending Commission designation.

As discussed above, the Commission is proposing this rule under its section 4(c) exemptive authority. That section provides that the Commission may exempt from the Act's requirements contracts between appropriate persons. Because the proposed rule applies to contracts listed on designated exchanges subject to the self-regulatory requirements of the Act, the Commission finds all traders are ''appropriate'' for application of this proposed exemptive rule. Moreover, for the reasons explained above, the Commission believes that the proposed rule would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act. The Commission specifically requests comment on these findings.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These amendments propose a two-year pilot program to permit exchanges under section 4(c) of the Act to list new contracts for trading prior to designation as a contract market. Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.* (Supp. I 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA.

The Office of Management and Budget (OMB) approved the collection of information associated with this proposed rule (3038–0022, Rules Pertaining to Contract Markets and their Members) on October 24, 1998. While the proposed rule discussed herein has no burden, the group of rules (3038–0022) of which it is a part has the following burden:

Average burden hours per response.	3,609.89
Number of Respondents.	15,893
Frequency of response	On occasion.

Copies of the OMB-approved information collection submission are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 5

Contract markets, Designation application.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 5—CONTRACT MARKET COMPLIANCE

1. The authority citation for part 5 is revised to read as follows:

Authority: 7 U.S.C. 6(c), 6c, 7, 7a, 8 and 12a.

2. Part 5 is amended by adding a new § 5.3 to read as follows:

§ 5.3 Predesignation listing of new contracts.

(a) Notwithstanding any contrary provision of the Act or Commission rules, a board of trade seeking designation as a contract market under sections 4c, 5 and 5a(a) of the Act may list for trading delivery months or expirations prior to designation, if the board of trade:

(1) Is already designated as a contract market in at least one other contract which is not dormant within the meaning of § 5.2 of this part;

(2) Complies with all other requirements of the Act and Commission regulations thereunder applicable to designated contract markets during the period the contract is listed for trading prior to its designation as a contract market;

(3) Files with the Commission at its Washington, DC, headquarters and the regional office having jurisdiction over

it a copy of the contract's terms and conditions no later than the close of business of the day preceding listing; and

(4) Notifies the public on all public references to the contract or its trading months that the contract is trading pending Commission designation.

(b) The board of trade may not list for trading delivery months or option expirations for more than one year at any time prior to the contract's designation as a contract market under sections 4c, 5, 5a and 6 of the Act and regulations thereunder, or under § 5.1 of this part.

(c) The board of trade must file with the Commission an application for contract market designation which meets the requirements of Appendix A of this part within forty-five days of initially listing for trading a contract under this section, unless the contract is delisted during this period.

(d) The board of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under this section. Any proposed revisions to the terms or conditions of the contract as initially listed for trading under this section must be submitted for Commission review under section 5a(a)(12) of the Act and § 1.41 of this chapter.

(e) The provisions of this section for listing trading months prior to contract market designation shall not apply to:

(1) A contract subject to the provisions of section 2(a)(1)(B) of the Act;

(2) A contract that is the same or substantially the same as one for which an application for contract market designation under sections 4c,5, 5a and 6 of the Act or § 5.1 of this part was filed for Commission approval prior to being listed for trading while the application is pending before the Commission.

(3) A contract that is the same or substantially the same as one which is the subject of a Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or amend a term or condition under section 8a(7) of the Act, to amend terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or to any other proceeding the effect of which is to disapprove, alter, amend, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to refrain from taking a specific action.

Issued in Washington, DC, this 20th day of July, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–18985 Filed 7–26–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM99–2–000]

Regional Transmission Organizations; Extension of Time For Reply Comments

July 21, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed Rule: Notice of extension of time.

SUMMARY: On May 13, 1999, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (64 FR 31390, June 10, 1999) proposing to amend its regulations under the Federal Power Act to facilitate the formation of Regional Transmission Organizations. The date for filing reply comments is being extended at the request of the Edison Electric Institute.

DATES: Reply comments shall be filed on or before September 29, 1999.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David P. Boergers, Secretary, 202–208–1279.

SUPPLEMENTARY INFORMATION:

On June 30, 1999, the Edison Electric Institute (EEI) filed a motion for an extension of time to file reply comments in response to the Commission's Notice of Proposed Rulemaking issued May 13, 1999, in the above-docketed proceeding. The motion states that EEI requires additional time to obtain, evaluate and discuss with its members the large number of initial comments that it is expected will be filed in response to the Commission's RTO NOPR. EEI further states that the American Public Power Association and the National Rural Electric Cooperative do not oppose the motion for additional time.

Upon consideration, notice is hereby given that an extension of time for filing reply comments in response to the Commission's RTO NOPR is granted to and including September 29, 1999.

David P. Boergers,

Secretary.

[FR Doc. 99–19073 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 57 and 75

RIN 1219–AB19

Safety Standards for Self-Rescue Devices in Underground Coal and Underground Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends the public comment period for the Advance Notice of Proposed Rulemaking (ANPRM) published in the **Federal Register** on July 7, 1999. The ANPRM addressed safety standards for self-rescue devices in underground coal and underground metal and nonmetal mines.

DATES: Submit your comments on or before September 7, 1999.

ADDRESSES: Mail your comments to MSHA, Office of Standards, Regulations, and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203 or telefax your comments to the same office at 703–235–5551.

While we (MSHA) do not require it, we encourage you to also submit a computer disk containing your comments or transmit an e-mail with your comments to comments@msha.gov.

FOR FURTHER INFORMATION CONTACT: Carol Jones, Acting Director, Office of Standards, Regulations, and Variances, 703–235–1910.

SUPPLEMENTARY INFORMATION: We held a joint conference with the National Institute for Occupational Safety and Health in Beckley, West Virginia on June 15 and 16, 1999. This conference provided an opportunity for all segments of the mining community to discuss issues related to self-rescue devices. Using information developed at the conference, we published an ANPRM in the **Federal Register** on July 7 (64 FR 36632). In the ANPRM, we requested comments on issues discussed at the conference and other issues dealing with self-rescue devices. The comment period was to close on August 6, 1999.

At the request of a segment of the mining community to extend the time to submit comments, we are extending the comment period. The comment period will close September 7, 1999. We believe that this will provide sufficient time for all interested parties to review the ANPRM and submit comments.

Dated: July 21, 1999.

Marvin W. Nichols,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 99–19159 Filed 7–26–99; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–6408–5]

RIN–2050–AE54

Potential Revisions to the Land Disposal Restrictions Mercury Treatment Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Advance notice of proposed rulemaking (ANPRM); extension of comment period.

SUMMARY: On May 28, 1999 (64 *FR* 28949), EPA issued an ANPRM presenting potential revisions to the 40 CFR part 268 Land Disposal Restrictions treatment standards applicable to mercury-bearing hazardous wastes. The ANPRM requested comment on EPA's waste generation and treatment data for mercury-bearing hazardous waste, as well as on technical and policy issues regarding mercury waste treatment, and potential avenues by which current mercury treatment standards might be revised. The Agency is extending the comment period because several commenters have requested more time to address the Agency's request for comment on potential revisions to the mercury-bearing hazardous waste regulations. This notice extends the comment period for the ANPRM.

DATES: The comment period for this ANPRM is extended from the original closing date of July 27, 1999 to October 25, 1999.

ADDRESSES: If you wish to comment on the ANPRM, you must send an original and two copies of the comments referencing docket number F–1999–MTSP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. You may also submit comments electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. You should identify comments in electronic format with the docket number F–1999–MTSP–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters and any form of encryption. If you do not submit comments electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (text) format or a word processing format that can be converted to ASCII (text). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, contact the RCRA Hotline, Monday through Friday between 9:00 a.m. and 6:00 p.m. EST, toll free at (800) 424–9346; or (703) 412–9810 from Government phones or if in the Washington, DC local calling area; or (800) 553–7672 for the hearing impaired. For technical information contact Rita Chow at (703) 308–6158 or Josh Lewis (703) 308–7877, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: July 20, 1999.

Judy A. Kertcher,

Acting Director, Office of Solid Waste.

[FR Doc. 99–19156 Filed 7–26–99 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 414

[HCFA–1010–P]

RIN 0938–AJ00

Medicare Program; Replacement of Reasonable Charge Methodology by Fee Schedules

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

ACTION: Proposed rule.

SUMMARY: We are proposing to implement fee schedules to be used for payment of services, excluding ambulance services, still subject to the reasonable charge payment methodology. The authority for establishing these fee schedules is provided by section 4315 of the Balanced Budget Act of 1997 (Public Law 105–33), which adds to the Social Security Act a new section 1842(s). A fee schedule for ambulance services is mandated by a different statutory provision. Section 1842(s) of the Social Security Act specifies that statewide or other areawide fee schedules may be implemented for the following services: medical supplies; home dialysis supplies and equipment; therapeutic shoes; parenteral and enteral nutrients, equipment, and supplies; electromyogram devices; salivation devices; blood products; and transfusion medicine.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on September 27, 1999.

ADDRESSES: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1010–P, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1010–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

FOR FURTHER INFORMATION CONTACT: Joel Kaiser, (410) 786–4499.

SUPPLEMENTARY INFORMATION:

I. Background

A. Payment Under Reasonable Charges

Payment for most services, including supplies and equipment, furnished under Part B of the Medicare program (Supplementary Medical Insurance) is made through contractors known as Medicare carriers. At one point, payment for most of these services was made on a reasonable charge basis by these carriers. The methodology for determining reasonable charges is set forth in section 1842(b) of the Social Security Act (the Act) and 42 CFR part 405, subpart E of our regulations. Reasonable charge determinations are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for service is generally set at the lowest of the following factors:

- The supplier's actual charge for the service.
- The supplier's customary charge for the service.
- The prevailing charge in the locality for similar services. (The prevailing charge may not exceed the 75th percentile of the customary charges of suppliers in the locality.)
- The inflation indexed charge (IIC). The IIC is defined in § 405.509(a) as the lowest of the fee screens used to determine reasonable charges for services, including supplies, and equipment paid on a reasonable charge basis (excluding physicians' services) that is in effect on December 31 of the previous fee screen year, updated by the inflation adjustment factor. Fee screens are those factors identified above, including the IIC and lowest charge level if applicable, used to determine payment under the reasonable charge methodology. The inflation adjustment factor is based on the current change in the consumer price index for all urban consumers (CPI–U) for the 12-month period ending June 30.

For parenteral and enteral nutrients, equipment, and supplies, an additional factor, the lowest charge level (LCL), is used to determine the reasonable charge. In accordance with § 405.511(c), the LCL is set at the 25th percentile of the charges (incurred or submitted on claims processed by the carrier) for the above services, in the locality designated by the carrier for this purpose, during the 3-month period of July 1 through September 30 preceding the fee screen year (January 1 through December 31) for which the service was furnished.

Sections 405.502(g) and 405.506 permit exceptions to the general rules for determining reasonable charges. Section 405.502(g) gives the carrier the authority to establish special payment limits for a category of service if it determines that the standard rules for calculating payments result in grossly deficient or grossly excessive payments. Section 405.506 provides that a charge which exceeds the customary charge, the prevailing charge, or the LCL ''may be found to be reasonable, but only where there are unusual circumstances, or medical complications requiring additional time, effort or expense which support an additional charge, and only if it is acceptable medical or medical service practice in the locality to make an extra charge in such cases.''

B. Payment Under Fee Schedules

The law gradually replaced the reasonable charge payment methodology with fee schedule payment methodologies for most services furnished under Part B of the Medicare program. Fee schedules have been established for physicians' services, laboratory services, durable medical equipment (DME), prosthetics and orthotics, surgical dressings, and, beginning in the year 2000, ambulance services. Subject to coinsurance and deductible rules, Medicare payment for these services is equal to the lower of the actual charge for the service or the amount determined under the fee schedule methodology.

Section 4315 of the Balanced Budget Act of 1997 (BBA) amends the Act at section 1842 by adding a new subsection(s). Section 1842(s) of the Act provides authority for implementing statewide or other areawide fee schedules to be used for payment of the following services that are currently paid on a reasonable charge basis:

- Medical supplies.
- Home dialysis supplies and equipment (as defined in section 1881(b)(8) of the Act).
- Therapeutic shoes.
- Parenteral and enteral nutrients, equipment, and supplies (PEN).
- Electromyogram devices.
- Salivation devices.
- Blood products.
- Transfusion medicine.

Section 1842(s)(1) of the Act provides that the fee schedules for the services listed above are to be updated on an annual basis by the percentage increase in the CPI–U (United States city average) for the 12-month period ending with June of the preceding year. The fee schedules for PEN, however, may not be updated before the year 2003. Finally, total payments for the initial year of the fee schedules must be approximately equal to the estimated total payments that would have been made under the

reasonable charge payment methodology.

II. Provisions of the Proposed Regulations

A. General

We propose, under section 1842(s) of the Act, to implement fee schedules for those services listed above. Subject to coinsurance and deductible rules, Medicare payment for these services is to be equal to the lower of the actual charge for the service or the amount determined under the applicable fee schedule payment methodology presented below. The fee schedules we propose would apply to services furnished on or after January 1, 1999, and would be calculated using base reasonable charges updated by an inflation update factor.

Section 4315(d) of the BBA requires that the total payments for the initial year of the fee schedules be approximately equal to the estimated total payments that would have been made under the reasonable charge payment methodology. For this reason, for services other than PEN, we are proposing that the fee schedule amounts be based on average reasonable charges from the period July 1, 1996 through June 30, 1997, the same data period used in calculating the 1998 reasonable charges. Furthermore, for the purposes of calculating the 1999 fee schedule amounts, we are proposing that the base fee schedule amounts be increased by the change in the CPI-U for the 12-month period ending with June of 1998, the inflation adjustment factor that would have otherwise been used in calculating the 1999 IICs. This would update the reasonable charge data to the 1999 level, the initial year of the fee schedules. For PEN, which accounts for approximately 90 percent of the Medicare expenditures for services addressed in this rule, we are proposing that the fee schedule amounts be based on the reasonable charges that would have been used in determining payment for PEN in 1999.

The proposed fee schedules would have a minimal, if any, impact on the efforts of HCFA and its contractors to revise their current systems to be millennium or Y2K compliant, as Y2K compliant fee schedule systems are already in place for other services. The proposed fee schedules would be incorporated into these current systems.

B. National Limits

For medical supplies, electromyogram devices, salivation devices, blood products, and transfusion medicine furnished within the continental United States, we propose national limits on the statewide fee schedule amounts similar to those that were mandated by the Congress for DME and surgical dressings in section 1834 of the Act. The Congress mandated ceilings and floors, equal to 100 percent and 85 percent, respectively, of the median of all statewide fee schedule amounts, to limit unreasonably high and low fees resulting from the local fee calculations for DME and surgical dressings. The Congress recognized the unique costs of doing business in areas outside the continental United States and therefore did not apply the national limits for DME and surgical dressings to these areas.

The national limits for DME and surgical dressings have been effective at eliminating outlying fees that cannot be explained by the differences in the costs of doing business in one part of the country versus another. We are therefore proposing that this methodology be applied to the services identified above. Accordingly, the statewide fee schedule amounts for these services may not exceed 100 percent of the median of all statewide fee schedule amounts for areas within the continental United States and may not be less than 85 percent of the median of all statewide fee schedule amounts for areas within the continental United States. The statewide fee schedule amounts for areas outside the continental United States will not be subject to the national limits. National limits are not proposed for home dialysis supplies and equipment, therapeutic shoes, or PEN because the payment amounts for these services are already subject to national limits or are determined on a national basis in the case of PEN.

C. Medical Supplies

Medical supplies are miscellaneous supplies or devices including, but not limited to, casts, splints, and paraffin that are not already included under an existing fee schedule. In addition, intraocular lenses (IOLs) inserted during or subsequent to cataract surgery in a physician's office are considered medical supplies for payment purposes under this rule. For calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average of allowed charges for the services. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI-U for the 12-month period ending with June of 1998. The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act. Beginning with the second year of the fee schedule, the statewide fee schedule amounts for IOLs inserted in a physician's office are not to exceed the Medicare allowed payment amount for IOLs furnished by ambulatory surgical centers (ASCs).

D. Home Dialysis Supplies And Equipment

These are services as defined in § 410.52. For calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average of allowed charges for the services. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI–U for the 12-month period ending with June of 1998. However, amount of payment under this methodology may not exceed the limit specified for equipment and supplies in § 414.330(c)(2). The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

E. Therapeutic Shoes

These services are defined in section 1861(s)(12) of the Act as ''extra-depth shoes with inserts or custom molded shoes with inserts for an individual with diabetes.'' In addition, section 1833(o)(2)(D) of the Act provides that an individual ''may substitute modification of such shoes instead of obtaining one (or more, as specified by the Secretary) pairs of inserts (other than the original pair of inserts with respect to such shoes).'' Section 1833(o)(2)(A) of the Act establishes national payment limits for these services. These are upper payment limits, or ceilings, applied to the reasonable charges calculated for these services. The initial year, 1988 limits were $300 for one pair of custom molded shoes (including any inserts that are provided initially with the shoes), $100 for one pair of extra-depth shoes (not including inserts provided with such shoes), and $50 for any pairs of inserts. In accordance with section 1833(o)(2)(C) of the Act, these national payment limits are increased on an annual basis by the same annual percentage increase provided for DME, rounded to the nearest multiple of $1. We may establish limits lower than these limits if shoes and inserts of appropriate quality are readily available at or below the limits. We have determined that, to the extent that reasonable charges for shoes and inserts are lower than the limitations contained in section 1834(o)(2)(A) of the Act, shoes and inserts are readily available at that level. Therefore, we find it appropriate and consistent with the

direction of the BBA to apply fee schedule amounts lower than the limits.

For calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average of allowed charges for the services. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI–U for the 12-month period ending with June of 1998. In addition, the statewide fee schedule amounts may not exceed the national payment limits established under section 1833(o)(2) of the Act. The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

F. Parenteral and Enteral Nutrients (PEN)

These services are covered by Medicare as prosthetic devices, which are defined in section 1861(s)(8) of the Act. However, PEN is excluded from the prosthetic and orthotic fee schedule payment methodology by section 1834(h)(4)(B) of the Act. In accordance with section 4551(b) of the BBA, the reasonable charges for PEN for the years 1998 through 2002 may not exceed the reasonable charges determined for 1995. The prevailing charges for PEN are currently determined on a nationwide basis (that is, the 75th percentile of the customary charges of suppliers in the entire nation).

As explained above, section 4551(b) of the BBA limits the reasonable charges calculated for 1998 through 2002 for PEN to the reasonable charges calculated in 1995. Therefore, payment under the reasonable charge methodology would be based on the lesser of the charges calculated for the given fee screen year (for example, 1999) or the charges calculated for 1995. For calendar year 1999, we propose nationwide fee schedule amounts equal to the lesser of the charges determined to be reasonable for the services during 1995 or the charges determined to be reasonable for the services during 1998 (using charge data with dates of service from July 1, 1996 through June 30, 1997), increased by the inflation adjustment factor that would have otherwise been used in calculating the 1999 IICs, in effect, the 1999 reasonable charges. Beginning the fee screen year 2003, the fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

G. Electromyogram Devices And Salivation Devices

The decision regarding Medicare coverage of these services is made at the carrier's discretion. In any carrier area in which these services are covered, for calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average of allowed charges for the services. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI–U for the 12-month period ending with June of 1998. The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

H. Blood Products

For calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average of allowed charges for the blood products services. These services are not included under the definition of drugs and biologicals in section 1861(t)(1) of the Act. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI–U for the 12-month period ending with June of 1998. The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

I. Transfusion Medicine

For calendar year 1999, we propose statewide fee schedule amounts equal to the weighted average allowed charges for transfusion medicine services. For these calculations, we will use reasonable charge data with dates of service from July 1, 1996 through June 30, 1997, increased by the change in the CPI–U for the 12-month period ending with June of 1998. The fee schedule amounts are to be updated on an annual basis in accordance with section 1842(s)(1) of the Act.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Regulatory Impact Statement

We have examined the impacts of this proposed rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by non-profit status or by having revenues of $5 million or less annually. For purposes of the RFA, all suppliers of Medicare Part B services are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We expect suppliers of the Part B services listed in this preamble to be affected by this proposed rule. For 1999, the initial year of the fee schedules, we estimate that there will be a decrease of less than 1 percent in total expenditures for the services addressed in this proposed rule. Therefore, we expect that the overall impact of this proposed rule will be negligible.

With regard to IOLs, beginning with the second year of the fee schedules, we are proposing that the fee schedule amounts not exceed the Medicare allowed payment amount for IOLs furnished by ASCs. Therefore, it is likely that the IOL fee schedule amounts will decrease after the first year of the fee schedules. We do not believe, however, that limiting payment for IOLs furnished in a physician's office to the amount paid for IOLs furnished in an ASC will result in a lack of availability of IOLs to Medicare beneficiaries. The IOLs furnished by ASCs are the same devices that are furnished in a physician's office. The Medicare payment amount for IOLs furnished by ASCs is established through separate regulations and is based on the average price paid by ASCs for these devices. This amount should represent adequate payment to physicians for the cost of the IOL device that they insert in their office.

We expect that total expenditures in the outlying fee schedule years of 2000 and beyond will continue to approximate total expenditures that would have otherwise been made under the reasonable charge methodology in part because the fee schedules are updated using the same factor used in updating the IICs under the reasonable charge methodology.

For these reasons, we are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this proposed rule would not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

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

42 CFR part 414 would be amended as set forth below:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

Subpart A—General Provisions

2. A new § 414.70 is added to read as follows:

§ 414.70 Fee schedules for certain items and services previously paid on a reasonable charge basis.

(a) *General rule.* For services defined in § 400.202 of this chapter furnished on or after January 1, 1999, Medicare pays for the services as described in paragraph (b) of this section on the basis of 80 percent of the lesser of—

(1) The actual charge for the service; or

(2) The fee schedule amount for the service, as determined in accordance with paragraphs (e) through (k) of this section.

(b) *Payment classification.* (1) HCFA or the carrier determines fee schedules for the following categories of services:

(i) Medical supplies, as specified in paragraph (e) of this section.

(ii) Home dialysis supplies and equipment, as specified in paragraph (f) of this section.

(iii) Therapeutic shoes, as specified in paragraph (g) of this section.

(iv) Parenteral and enteral nutrients, equipment, and supplies (PEN), as specified in paragraph (h) of this section.

(v) Electromyogram devices and salivation devices, as specified in paragraph (i) of this section.

(vi) Blood products, as specified in paragraph (j) of this section.

(vii) Transfusion medicine, as specified in paragraph (k) of this section.

(2) HCFA designates the specific services in each category through program instructions.

(c) *Definition. Local payment amount* means the weighted average reasonable charge for the service furnished in a State, the District of Columbia, or a United States territory during the period July 1, 1996 through June 30, 1997, as determined by the carrier, increased by the change in the consumer price index for all urban consumers (CPI–U) for the 12-month period ending with June 1998.

(d) *Updating the fee schedule amounts.* Except for the fee schedule amounts for services described in paragraph (h) of this section, for each year subsequent to 1999, the fee schedule amounts of the preceding year are updated by the percentage increase in the CPI–U for the 12-month period ending with June of the preceding year. For services described in paragraph (h) of this section, for each year subsequent to 2002, the fee schedule amounts of the preceding year are updated by the percentage increase in the CPI–U for the 12-month period ending with June of the preceding year.

(e) *Medical supplies.* (1) This category includes, but is not limited to, cast supplies, splints, paraffin, and intraocular lenses (IOLs) inserted during or subsequent to cataract surgery in a physician's office.

(2) Payment for medical supplies is made in a lump sum amount for purchase of the item based on the applicable fee schedule amount.

(3) The fee schedule amount for an item furnished in 1999 is one of the following:

(i) Within the continental United States, 100 percent of the local payment amount if the local payment amount is neither greater than the median nor less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(ii) Within the continental United States, 100 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount exceeds the median of all local payment amounts for areas within the continental United States.

(iii) Within the continental United States, 85 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount is less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(iv) 100 percent of the local payment amount for areas outside the continental United States.

(4) For each year subsequent to 1999, the fee schedule payment amounts for IOLs inserted in a physician's office may not exceed the Medicare allowed payment amount for IOLs furnished by ambulatory surgical centers.

(f) *Home dialysis supplies and equipment.* (1) This category includes items and services as defined in § 410.52 of this chapter.

(2) Payment for home dialysis supplies and equipment is made in a lump sum based on the applicable fee schedule amount, but may not exceed the limit for equipment and supplies in § 414.330(c)(2).

(3) The fee schedule amount for a service furnished in 1999 is equal to the local payment amount.

(g) *Therapeutic shoes.* (1) This category includes extra-depth shoes with inserts or custom molded shoes with inserts for an individual with diabetes, modifications of the shoes, and replacement inserts for the shoes.

(2) Payment for therapeutic shoes is made in a lump sum based on the applicable fee schedule amount.

(3) The fee schedule amount for payment for a service furnished in 1999 is the lesser of—

(i) The local payment amount; or

(ii) The national payment limit specified in section 1833(o)(2) of the Act.

(h) *Parenteral and enteral nutrients, equipment, and supplies (PEN).* (1) Payment for PEN is made in a lump sum based on the applicable fee schedule amount.

(2) The fee schedule amount for payment for a service furnished in 1999 is the lesser of—

(i) The charge determined to be reasonable for the service during 1995; or

(ii) The charge determined to be reasonable for the service during 1998, increased by the inflation adjustment factor used in calculating the 1999 IIC.

(i) *Electromyogram and salivation devices.*

(1) Payment for an electromyogram device or a salivation device is made in a lump sum for purchase of the device or on a monthly rental basis based on the applicable fee schedule amount.

(2) The fee schedule amount for payment for an electromyogram device or a salivation device furnished in 1999 is one of the following:

(i) Within the continental United States, 100 percent of the local payment

amount if the local payment amount is neither greater than the median nor less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(ii) 100 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States exceeds the median of all local payment amounts for areas within the continental United States.

(iii) 85 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States is less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(iv) 100 percent of the local payment amount for areas outside the continental United States.

(j) *Blood products.* (1) Payment for blood products is made in a lump sum based on the applicable fee schedule amount.

(2) The fee schedule amount for payment for a blood product furnished in 1999 is one of the following:

(i) Within the continental United States, 100 percent of the local payment amount if the local payment amount is neither greater than the median nor less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(ii) 100 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States exceeds the median of all local payment amounts for areas within the continental United States.

(iii) 85 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States is less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(iv) 100 percent of the local payment amount for areas outside the continental United States.

(k) *Transfusion medicine.* (1) Payment for transfusion medicine is made in a lump sum based on the applicable fee schedule amount.

(2) The fee schedule amount for payment for transfusion medicine furnished in 1999 is one of the following:

(i) Within the continental United States, 100 percent of the local payment amount if the local payment amount is neither greater than the median nor less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(ii) 100 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States exceeds the median of all local payment amounts for areas within the continental United States.

(iii) 85 percent of the median of all local payment amounts for areas within the continental United States if the local payment amount within the continental United States is less than 85 percent of the median of all local payment amounts for areas within the continental United States.

(iv) 100 percent of the local payment amount for areas outside the continental United States.

Subpart E—Determination of Reasonable Charges Under the ESRD Program

3. In § 414.330 the introductory text of paragraph (a)(2) is revised to read as follows:

§ 414.330 Payment for home dialysis equipment, supplies, and support services.

(a) * * *

(2) *Exception.* If the conditions in paragraphs (a)(2)(i) through (a)(2)(iv) of this section are met, Medicare pays for home dialysis equipment and supplies on a fee schedule basis in accordance with § 414.70, but the amount of payment may not exceed the limit for equipment and supplies in paragraph (c)(2) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: January 3, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: February 25, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–19115 Filed 7–26–99; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–177; FCC 99–126]

Reduction of Regulatory Requirements For AM Broadcasters Using Directional Antennas

AGENCY: Federal Communications Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rule Making*, the Commission proposes substantial reductions in the proof of performance requirements for AM directional antenna systems. These proposals are intended to alleviate unnecessary financial burdens imposed on AM broadcasters by such requirements without jeopardizing the Commission's policy objectives of controlling interference and assuring adequate community coverage by AM stations. The Commission previously issued a *Notice of Inquiry* in this proceeding in response to a joint petition for rule making by five broadcast consulting engineering firms requesting a thorough reexamination of testing and verification procedures for AM radio stations that use directional antennas.

DATES: Submit comments on or before September 10, 1999 and reply comments on or before September 27, 1999.

ADDRESSES: Parties who choose to file comments concerning this *Notice of Proposed Rule Making* by paper should address their comments to Magalie Roman Salas, Office of the Secretary, TW–A306, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Comments also should be submitted on a 3.5 inch diskette using WordPerfect 5.1 for Windows or compatible software to Son Nguyen, Federal Communications Commission, 445 12th Street, S.W., Room 2–A330, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Son Nguyen, Dale Bickel or William Ball at (202) 418–2660 or snguyen@fcc.gov, dbickel@fcc.gov, or wball@fcc.gov.

SUPPLEMENTARY INFORMATION: Comments and other data may be submitted via electronic mail to http://www.gcc.gov/e-file/ecfs.html.

The Commission proposes to amend 47 CFR Part 73 Subpart A as set forth below:

1. *Computer Modeling versus Proofs of Performance.* Several computer models have been developed over the years to calculate operating characteristics of particular importance to engineers designing, installing and adjusting AM antenna systems. Unlike the mathematical formulas for calculating the radiation characteristics of AM directional antennas contained in 47 CFR 73.150, 73.152 and 73.160, these computer models or ''NEC programs'' deal with ''internal'' array parameters such as impedances, currents and voltages at locations within the power distribution and radiation system. Several commentators suggested that proofs of performance may not be

necessary for directional arrays adjusted pursuant to NEC programs, arguing that such programs make possible the satisfactory adjustment of directional arrays without reliance on field strength measurements.

2. The Commission does not propose to adopt a methodology based on NEC programs to determine whether directional arrays conform to authorized radiation patterns. The Commission has two fundamental concerns. First, based on the present record, the Commission is concerned that it could not continue to accomplish its core regulatory function of preventing interference among AM broadcast stations if the requirement of proofs of performance were eliminated for stations adjusted pursuant to NEC programs. Second, the Commission is concerned that adopting a methodology based on NEC programs could draw it into controversial issues relating to the adequacy of adjustment programs and procedures, leading to delays in authorizing new service. The Commission generally does not regulate either the design of circuitry internal to antenna systems or the methodology employed in the adjustment of antenna systems. The Commission seeks comment on these matters.

3. *Directional Antenna Proofs of Performance.* A proof of performance establishes whether the radiation pattern of an AM directional array is in compliance with the radiation pattern authorized by the station's construction permit or license. A full proof of performance requires a large number of measurements of the station's signal to establish the shape of the radiation pattern. Each full proof generally consists of two sets of measurements—nondirectional and directional measurements—and a minimum of 30 points along each of eight radials is required. Complex arrays require more radials and, therefore, more measurement points. A partial proof requires a lesser number of measurements to show that the station continues to operate as it did during the last full proof.

4. *Full Proofs—Number of Radials.* The Commission proposes to reduce the minimum number of radials required under 47 CFR 73.151 from eight to six for simple directional antenna patterns and to generally require no more than 12 radials to define complex patterns. (For AM stations operating with different daytime and nighttime directional antenna patterns, different radials may be required for each pattern.) If the major lobe, minor lobes, and nulls of the pattern cannot all be accounted for by the required 12 radials, pattern symmetry may be used to account for the remaining minor lobes and nulls. The radials would be distributed as follows: (A) One radial in the major lobe, at the pattern maximum; (B) At least five additional radials, as needed to definitely establish the pattern, generally at the peaks of minor lobes and at pattern nulls. This may include radials specified on the station's authorization. However, no two radials may be more than 90 degrees azimuth apart. If two radials would be more than 90 degrees apart, then an additional radial must be specified within that arc; and (C) Any radials specified on the construction permit or license.

5. Nondirectional antenna measurements would be taken along the radials used for directional measurements. In addition, the Commission proposes that those few nondirectional stations required to conduct a full proof (due to the proximity of reradiating structures or other atypical circumstances) be permitted to employ six evenly-spaced radials.

6. The Commission tentatively concludes that it can reasonably rely on fewer radials, in conjunction with the 90 degree maximum arc restriction, to establish nondirectional and directional patterns. It tentatively concludes that using a smaller number of radials, or permitting radials to be spaced more than 90 degrees apart, would not provide a sufficient number of points to identify distortion of a nondirectional pattern. Furthermore, the Commission believes that the above-stated proposals can sharply cut the time and cost of conducting a proof of performance. Comment is requested on these matters.

7. *Full Proofs— Number of Points per Radial, Length of Radials.* The Commission proposes to reduce the number of points per radial required under 47 CFR 73.186(a)(1) to a minimum of 15, as well as to shorten the minimum length of the radial from 34 to 15 kilometers (''km''). These 15 measurement points would include the very important close-in measurement points (points at less than three km from the transmitter site) used to determine the inverse distance field. The Commission proposes to specify intervals between these points as follows: (A) The closest point at a distance 10 times the maximum distance between the elements of a directional array, or at a distance five times the vertical height of the antenna in the case of a nondirectional station; (B) Close-in measurements at 0.2 km intervals, out to a distance of three km (unchanged from the present requirements of 47 CFR 73.186); (C) Measurements at one km intervals between three and five km (three points); (D) Measurements at two km intervals between five and 15 km (five points); (E) Additional measurements as necessary at greater distances to achieve at least 15 points clear of potential reradiating structures; and (F) Measurements at any monitoring point locations along the radial (unchanged from the present rule).

8. The Commission tentatively concludes that the proposed reduced number of points and shorter radial length represent the minimum which would allow verification of the performance of the antenna system. The Commission tentatively concludes that the present measurement requirements for close-in measurements (within three km of the transmitter site) should not be modified. The Commission seeks comment on each aspect of this proposal.

9. For each measurement point, the Commission proposes that the applicant provide several pieces of data: the date(s) of the measurements; the azimuth of the radial; the distance from the center of the array to the measurement point; the pattern being measured (day/night/critical hours); the time of the measurement; and the measured field strength value at that point. The Commission proposes to adopt a standardized format for the submission of the data in order to facilitate electronic filing and processing. The Commission seeks comment regarding the format that should be used for the compilation and submission of this data. Comment is also requested as to whether the time of each measurement should continue to be required with these submissions.

10. *Partial Proofs—Number of Points Required.* The Commission proposes to reduce from 10 to eight the minimum number of points per radial required under 47 CFR 73.154. The proof must include any monitoring point locations, and must use radial measurement point locations established in the last full proof of performance, as is the case under the current rule. The Commission believes that reducing the number of points would reduce the financial burden on AM directional licensees conducting partial proofs while still providing sufficient data to confidently verify directional array performance.

11. *Partial Proofs—When Required.* The Commission proposes to eliminate the requirement under 47 CFR 73.68 to conduct a partial proof of performance following replacement or modification of sampling system components mounted on the tower, *provided* the new components are mounted in the exact location of the old components,

measurements made at the monitoring points before and after installation establish that the substitution had no effect, and antenna monitor values remain within the tolerances specified in the Commission's rules or the station's authorization.

12. *Proofs of Performance—Monitoring Points.* Monitoring points are specific locations on selected proof radials where licensees regularly take field strength measurements to verify that a directional array remains within the radiation limits specified in the station's authorization. They are established at the time a station's full proof of performance is conducted. The Commission does *not* propose to eliminate monitoring point requirements, as suggested by some commentators, who argue that seasonal variations in ground conductivity affect the signal strengths measured at many monitoring points. The Commission tentatively concludes that monitoring point measurements remain a fundamental tool in verifying the performance of AM directional arrays independent of antenna monitor and antenna sampling system readings. The Commission also does not propose to adopt a suggestion to delete monitoring point measurements in exchange for yearly skeleton proofs taken on formerly monitored radials. The Commission seeks comment on these tentative conclusions.

13. Under 47 CFR 73.158, an informal application to change a monitoring point must include the results of a partial proof of performance taken on the radial containing the monitoring point to be changed. The Commission proposes to eliminate this requirement. Instead, the applicant would simply reference the measurements taken along that radial in the last full proof of performance submitted to the Commission. The staff would assign a radiation limit for the new monitoring point using the same procedure as described above. The field strength limit would be assigned based on the tolerance available between the radiation along the monitoring point radial as determined by the proof of performance and the radiation permitted by the authorized standard (or augmented) radiation pattern.

14. The Commission also proposes to eliminate the requirement for maps and directions indicating how to reach monitoring points for applicants using GPS-determined coordinates to identify monitoring point locations. A description of the monitoring point as well as a photograph would still be required to verify that the location is free of obstructions such as overhead power lines, *see* 47 CFR 73.151(a)(3) and 73.158(a)(4), to identify the precise location of the monitoring point with respect to nearby landmarks, and to identify the exact placement of measurement equipment. *See* CFR 73.151(a)(3) and 73.158(a)(2), (3). In order to achieve sufficient accuracy, a differential GPS receiver would be required. The Commission would specify monitoring point coordinates submitted in this manner on the station's license. Parties interested in locating these monitoring points could plot the specified coordinates onto topographical or other maps to determine the best route. The Commission asks for comment on these proposals.

15. *AM Station Equipment & Measurements—Base Current Ammeters.* Licensees are currently required under 47 CFR 73.58(b) to install base current ammeters or toroidal transformers (current registering devices) at the power feed point of each tower, typically at the base of the tower. The Commission proposes to delete the requirement for base current ammeters or toroidal transformers for those directional stations employing *approved* antenna sampling systems. Stations not using approved sampling systems have no reliable alternate on-site means of assessing antenna performance and, therefore, the Commission's rules would continue to require the installation and use of base current ammeters if the Commission has not approved the alternative system. The Commission seeks comment on this proposal.

16. *Equipment & Measurements—Antenna Monitors.* All AM directional stations are required to use an antenna monitor verified for compliance with the technical requirements in 47 CFR 73.53 as a means of verifying directional array performance. This rule also establishes detailed specifications that antenna monitors must meet. The Commission proposes to delete most of the antenna monitor construction and operational requirements of 47 CFR 73.53, with the exception of a few provisions that would be shifted to other existing rule sections. Specifically, the present requirement in 47 CFR 73.53(a) that the antenna monitor be verified for compliance with the Commission's technical requirements would be moved to 47 CFR 73.69, which deals with antenna monitors. Antenna monitor requirements for critical arrays would be moved from 47 CFR 73.53(c) to 73.69. Minimum readout levels in 47 CFR 73.53(b)(4) and (b)(5) would be moved to 47 CFR 73.1215. The Commission in recent years has eliminated detailed construction and operational requirements for other types of broadcast equipment, such as transmitters and metering equipment, and tentatively concludes that the instant proposal will encourage the development of more dependable, less expensive antenna monitors. Comment is requested on this proposal.

17. Several commentators requested that 47 CFR 73.68 be modified to permit licensees to use voltage sampling devices to feed antenna monitors in lieu of current sampling devices such as sampling transformers and pick-up loops. The Commission asks for comments as to the accuracy and reliability of voltage sampling devices, whether they are appropriate as sampling devices for assessing array performance, and whether the rules should be modified to permit their use.

18. *Equipment & Measurements—Impedance Measurements Across a Range of Frequencies.* Directional and nondirectional AM stations are currently required to take measurements of impedance across a range of frequencies under 47 CFR 73.54(c)(1) and (c)(2). The Commission proposes to delete this requirement. The Commission tentatively concludes that retention of 47 CFR 73.54(c) is not necessary because competition will serve as a sufficient incentive to maintain quality operations, as has proven to be the case with regard to other broadcast stations. The Commission seeks comment on this proposal.

19. *Equipment & Measurements—Common Point Impedance Measurements.* AM directional stations must take impedance (resistance and reactance) measurements at the common radiofrequency input location under 47 CFR 73.54(b). The reactance at this point is adjusted by the antenna matching network to a value of zero ohms. The Commission proposes to delete the requirement that the common point reactance be adjusted to zero ohms. The Commission seeks comment as to whether a limit should be set for the maximum amount of reactance permitted.

20. *Critical Arrays—Antenna Monitors.* Critical arrays are directional antennas which, because they are unusually sensitive to slight variations in internal operating parameters, are predicted to exceed their standard radiation pattern at normal operating tolerances and, therefore, pose a greater potential for causing objectionable interference. Licenses of stations with critical arrays specify tighter operating tolerances. To monitor these tighter tolerances, 47 CFR 73.69 requires stations with critical arrays to install

special precision monitors. The Commission proposes to discontinue specifying the use of expensive, specially designed precision antenna monitors for critical arrays. Instead, the Commission proposes to simply require that the monitor installed have a digital readout graduated in increments no larger than one-half of the critical parameter specified in the authorization. The Commission tentatively concludes that the rule can be relaxed to permit the use of off-the-shelf equipment without adverse impact on stations that are protected by critical arrays. Comment on this proposal is requested.

21. *Critical Arrays—Designation.* The Commission does *not* propose to discontinue the critical array classification system, as suggested by several commenters. Some directional antenna systems are inherently more unstable than others and more likely to cause objectionable interference to other AM stations. Authorizations for such stations are conditioned require more stringent monitoring. The Commission acknowledges that the staff has generally investigated an array for stability only if a petition or objection is filed against the application proposing the array. As a result, the staff has not identified and designated as critical arrays all unstable arrays. The Commission intends to change this practice by discontinuing reliance on petitions or objections as the primary method of identifying unstable arrays. Instead, the Commission proposes to apply a uniform screening process to all applications for directional facilities.

22. In addition, the Commission has analyzed all licensed AM directional antennas utilizing its stability criteria and tentatively concluded that the current criteria are too stringent, and that modifications are necessary to tag only those arrays that have the highest probability of causing ''real world'' interference under normal operating tolerances. Accordingly, the Commission proposes to relax its stability criteria in two ways. First, tests for array stability would be restricted to radiation pattern minima (nulls) and maxima of standard patterns in the horizontal plane only instead of testing at all azimuths and elevations. The studies would be restricted to the horizontal plane radiation pattern because only the horizontal plane pattern can be directly observed by means of field measurements. Second, the Commission proposes to classify an array as critical only if the standard pattern is exceeded at 10 percent or more of the possible parameter variation combinations. (The current test requires only one instance of excessive radiation.) The Commission believes that the proposed 10 percent standard will more realistically predict the likelihood of excessive radiation. The Commission seeks comments on both proposed relaxations to the current stability test criteria.

23. Finally, based on the results of studies the Commission has performed on the licensed AM directional patterns in the AM engineering database, the Commission propose to exclude all two- and three-tower arrays from designation as critical arrays. Furthermore, the Commission proposes to categorically exclude all daytime arrays, considering that objections have never been filed based on daytime interference issues related to array instability. Thus, only nighttime and critical-hours directional proposals would be screened. Licensees with facilities currently classified as critical would be permitted to request staff review of their designation based on the revised criteria; however, the Commission does not propose to review the directional facilities of any station not currently classified as critical. The Commission seeks comment on each aspect of this proposal.

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–19096 Filed 7–26–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 063099A]

RIN 0648–AI78

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Atlantic Herring Fishery Management Plan

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

ACTION: Notice of availability of a fishery management plan; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has submitted the Atlantic Herring Fishery Management Plan (FMP) for Secretarial review and is requesting comments from the public. The FMP would allow for the development of a sustainable fishery that targets the entire U.S. Atlantic herring resource more evenly to achieve optimum yield (OY). Overfishing would be prevented through the use of total allowable catch (TAC) allocations for distinct management areas. An annual scientific review of the resource would allow for adjustments to the fishery as a result of fluctuations in stock size. Development of the FMP was coordinated closely with the Atlantic States Marine Fisheries Commission (Commission) and Mid-Atlantic Fishery Management Council (MAFMC) in order to assure complementary management measures in both state and Federal waters.

DATES: Comments must be received on or before September 27, 1999.

ADDRESSES: Comments on the Atlantic Herring FMP should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–3799. Mark the outside of the envelope, ''Comments on Herring FMP.''

Copies of the Atlantic Herring FMP, its regulatory impact review, initial regulatory flexibility analysis, the final environmental impact statement, the Omnibus Essential Fish Habitat Amendment, and supporting documentation are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION:

The FMP proposes an overfishing definition and implementation of the following measures under authority of the the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act): (1) TAC levels for each of the three management areas, one of which is divided into inshore and offshore sub-areas; (2) a procedure to develop annual specifications; (3) initial plan specifications for the 1999 fishing year; (4) effort limits through mandatory days out of the fishery; (5) spawning closures; (6) trip limits for incidental harvest during spawning closures or when effort controls are in effect; (7) a vessel monitoring system (VMS) requirement; (8) vessel size limits; (9) a framework adjustment process; (10) permitting and reporting requirements; (11) restrictions on transfers at sea; and (12) other measures for administration and enforcement. The

FMP also discusses the reduction and monitoring of bycatch and a roe fishery.

The purpose of the FMP is to achieve, on a continuing basis, OY from the fishery and to prevent overfishing of the Atlantic herring resource. In addition, the FMP will provide for the orderly development of the offshore and inshore fisheries.

Overfishing Definition

The FMP proposes an overfishing definition for Atlantic herring comprised of two status determination criteria. If stock biomass is equal or greater than B_{MSY} (the biomass level at maximum sustainable yield), overfishing occurs when the fishing mortality rate exceeds F_{MSY} (the fishing mortality rate that yields B_{MSY}). If stock biomass is below B_{MSY}, overfishing occurs when the fishing mortality rate exceeds the level that has a 50–percent probability of rebuilding stock biomass to B_{MSY} in 5 years ($F_{threshold}$). The stock is in an overfished condition when stock biomass is below $\frac{1}{2}B_{MSY}$ and overfishing occurs when fishing mortality exceeds $F_{threshold}$. These criteria are thresholds and form the basis for the control rule.

The control rule also specifies risk averse fishing mortality rate targets, accounting for uncertainty in the estimate of F_{MSY}. If stock biomass is equal to or greater than $\frac{1}{2}B_{MSY}$, the target fishing mortality rate will be the lower limit of the 80–percent confidence interval about F_{MSY}. When biomass is below B_{MSY}, the target fishing mortality rate will be reduced consistent with the 5-year rebuilding schedule used to determine $F_{threshold}$. Since the Atlantic herring stock is not listed as ''overfished'' or ''approaching an overfished condition'' in the Annual Report to Congress for 1998, the Council was not required to submit a rebuilding strategy as part of the FMP at this time.

Essential Fish Habitat (EFH)

The Council submitted an omnibus EFH amendment to address EFH provisions for several FMPs for Northeastern fisheries. The omnibus EFH amendment document also included the EFH components of the proposed Atlantic herring FMP, which was then still under development by the Council. Although the Atlantic herring EFH components were included in the omnibus EFH amendment, they were not considered during Secretarial review of the omnibus EFH amendment. For Atlantic herring, the notice of availability for the omnibus EFH amendment (63 FR 66110, December 1, 1998) stated that ''the omnibus amendment includes the EFH components of the Atlantic Herring FMP that is being developed by the NEFMC. The EFH information for Atlantic Herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial approval.'' Therefore, with publication of this notice of availability for the Atlantic Herring FMP, the public is also invited to comment on the appprovability of the herring EFH provisions in the Council's omnibus EFH amendment. The EFH component of the omnibus EFH amendment describes and identifies EFH for Atlantic herring, discusses measures to address the effects of fishing and non-fishing impacts on EFH, and identifies other actions for the conservation and enhancement of EFH. The comment period for the EFH provisions of the Atlantic herring FMP is the same as it is for this notice of FMP availability. The Council intends to review periodically the EFH designations for Atlantic herring under this FMP and, if needed, will update them. This FMP would authorize any revision to the EFH components through the FMP's framework process.

Management Measures of Concern

While NMFS seeks comment on all of the management issues in the FMP, it invites specific public comment on the following measures for the reasons stated:

Restrictions on the Size of Domestic Fishing and Processing Vessels

This measure would prohibit domestic vessels > 165 ft (50.3 m) in length, or > 750 gross registered tons (GRT)(680.4 mt), or > 3,000 horsepower from fishing for Atlantic herring in the exclusive economic zone (EEZ), but would allow such vessels to process herring if U.S. at-sea processing (USAP) is specified in a given year. Foreign vessels, regardless of size, could also process herring in the EEZ if joint venture processing (JVP) is specified. This could create the possibility that some foreign processing vessels would receive larger allocations than some domestic processing vessels. For example, the proposed 1999 specifications for USAP is zero, whereas the JVP is specified to be 40,000 mt.

Regarding the proposed harvesting vessel size restriction, NMFS notes discrepancies in the size, capacity and/or horsepower restrictions between the Atlantic herring and Atlantic mackerel fisheries. NMFS seeks comment on this measure because the same vessels often participate in the herring and mackerel fisheries; the incidental catch in the herring fishery is likely to consist of mackerel; the incidental catch in the mackerel fishery is likely to consist of herring; and differences in the size, capacity and/or horsepower restrictions within similar fisheries in the same waters may prove to be confusing, administratively burdensome, and difficult to enforce.

Proposed Scheme to Restrict Fishing to Specific Days Based on the Proportion of the TAC Caught in a Management Area

This measure would require NMFS to determine when harvesters have reached 40, 65, and 80 percent of the TAC in any of the four management areas, at which time NMFS would be required to project further when the catch would exceed 50, 75, and 90 percent of the TAC, and if the TAC will be exceeded. If NMFS projects that the TAC will be exceeded, then fishermen would be required to stop fishing for herring for a certain number of days in order to prevent the TAC from being exceeded.

NMFS is concerned that this ''days out of the fishery'' measure may be administratively burdensome. Further, considering that there is no limited or controlled access in the fishery other than restrictions on the size of domestic fishing and processing vessels, fishermen could increase their participation in the fishery (through additional vessels or hours), adjust their schedules to work around the days-out restriction, or substitute other forms of effort (increased landings during the days available for fishing or shift effort into other management areas) in response to the restricted days, thereby reducing or eliminating the conservation benefit of the ''days-out-of-the-fishery'' measure.

Spawning Area Closures

To protect spawning concentrations of herring, the FMP would implement five closed areas in the GOM to directed fishing for herring. These areas would be closed on a rotating basis for specified time periods. When an area is closed, fishing vessels could possess, land, or transfer up to 2,000 lb (907.2 kg) of herring per calendar day or per trip, whichever is least, from or in that area.

Allowing vessels to fish in areas designated closed during certain times of the year for spawning herring and allowing an incidental catch of spawning herring may be counter-productive and fail to protect spawning herring. Further, it may pose enforcement problems.

Adjustment of the TAC for Management Area 1A

This measure would require the Regional Administrator to adjust the TAC for Management Area 1A if she determines that the New Brunswick, Canada, fixed gear fishery will not harvest 20,000 mt of Atlantic herring by October 1. This measure may be problematic because a real-time mechanism to monitor the Canadian catch does not exist, and adjusting the TAC after October 1 might not provide much benefit before the fishing year is over on December 31.

Specification of the Amount of Herring to be Used for Roe in a Roe Fishery

This measure would require that the Regional Administrator specify the amount of herring to be used for roe, should the amount harvested become a concern. Even though the Regional Administrator would make the decision based upon the recommendation of the Council (which would first consult with the Commission), the FMP as submitted by the Council provides no standards by which the Regional Administrator could base her determination.

A proposed rule that would implement the FMP will be published in the **Federal Register** for public comment after NMFS has evaluated it under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by September 27, 1999, the end of the comment period for this notice of availability on the FMP, to be considered in the decision concerning approval or disapproval of the management measures contained in the FMP. All comments received by September 27, 1999, whether specifically directed to the FMP or the proposed rule, will be considered in the approval/disapproval decision on the FMP. Comments received after that date will not be considered in the approval/disapproval decision on the FMP. All comments received on the FMP or on the proposed rule will be responded to in the preamble to the final rule.

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

Dated: July 21, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19171 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 071699E]

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

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene four public hearings on Draft Amendment 12 to the Fishery Management Plan for Coastal Migratory Pelagics in the Gulf of Mexico and South Atlantic (draft Amendment 12) and its draft environmental assessment (draft EA) and draft regulatory impact review (draft RIR). Draft Amendment 12 contains provisions for extending the commercial king mackerel permit moratorium for 3 or 5 years from its current expiration date of October 15, 2000, to provide time for the Council and the Gulf of Mexico Fishery Management Council to develop and implement a controlled access system for the king mackerel fishery.

DATES: Written comments will be accepted until 5 p.m. on September 16, 1999. The hearings will be held from August 16 through August 18, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699. Copies of draft Amendment 12 and EA are available from Kerry O'Malley at 843-571-4366. Draft Amendment 12 and its draft EA and draft RIR will also be available to the public at the hearings.

The hearings will be held in Florida, South Carolina, and North Carolina. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and special accommodations.

FOR FURTHER INFORMATION CONTACT: Kerry O'Malley, South Atlantic Fishery Management Council, 843-571-4366; Fax: 843-769-4520; E-mail address: kerry.omalley@noaa.gov.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on draft Amendment 12 and its draft EA and draft RIR. Draft Amendment 12 includes management measures that would extend the commercial king mackerel permit moratorium beyond its current expiration date of October 15, 2000. The following options are being considered by the Council, with B as the preferred option: Option A—Extend the commercial king mackerel permit moratorium from its current expiration date of October 15, 2000, to October 15, 2003, or until replaced with a license limitation, limited access, and/or individual fishing quota or individual transferable quota system, whichever occurs first; and Option B—Extend the commercial king mackerel permit moratorium from its current expiration date of October 15, 2000, to October 15, 2005, or until replaced with a license limitation, limited access, and/or individual fishing quota or individual transferable quota system, whichever occurs first.

The hearings will begin at 6 p.m. and will end when all business is completed at all of the following locations:

1. Monday, August 16, 1999--Carteret Community College, 3505 Arendell Street, Morehead City, NC; telephone:919–247–3094;

2. Tuesday, August 17, 1999--Town & Country Inn, 2008 Savannah Highway, Charleston, SC; telephone: 843–571–1000;

3. Tuesday, August 17, 1999--Best Western-Miami Airport, 1550 NW LeJuene Road, Miami, FL; telephone: 305–871–2345; and

4. Wednesday, August 18, 1999--Sea Turtle Inn, 1 Ocean Blvd, Atlantic Beach, FL; telephone: 800–874–6000.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by August 9, 1999.

Dated: July 21, 1999.

Gary C. Matlock,

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

[FR Doc. 99–19173 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 071999A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on August 10–11, 1999, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, August 10, 1999, at 9:30 a.m. and on Wednesday, August 11, 1999, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Four Points Hotel, Route 132 and Bearse's Way, Hyannis, MA 02601; telephone (508) 771–3000. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Tuesday, August 10, 1999

The meeting will begin with an advisory report from the Northeast Fisheries Science Center on the status of sea scallops and witch flounder and updated assessments of all multispecies finfish, including 10-year rebuilding projections. During the afternoon session the Groundfish Committee will ask the Council to consider approval of initial action on a framework adjustment to the Northeast Multispecies Fishery Management Plan (FMP) to modify the Gulf of Maine cod fishery management program to address the 1999 cod discard problem and implement management measures for the 2000–2001 fishing year. A measure would also be included that would modify the mechanism in Georges Bank cod trip limit program (currently under NMFS review in Framework Adjustment 30 to the FMP) that provides authority to the Administrator, Northeast Region, NMFS (Regional Administrator) to reduce the trip limit based on an evaluation of the risk of exceeding the annual catch target. The Groundfish Committee report also will include recommendations for measures to be considered in the development of Amendment 13 to the FMP. The process to identify specific management options will occur between now and the November Council meeting.

Wednesday, August 11, 1999

As the first agenda item, the Council will elect its 1999–2000 officers. Reports will follow from the Council Chairman, Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard, the Atlantic States Marine Fisheries Commission and the U.S. Fish and Wildlife Service. The Enforcement Committee will ask for approval of the enforcement guidelines developed for Council use during the selection of measures to be included in fishery management plans. The Enforcement Report will conclude with an update by NOAA General Counsel on the status of civil penalty cases in the Northeast. During the afternoon portion of the meeting the Interspecies Committee will ask the Council to consider approval of a control date to apply to the use of days-at-sea (DAS) allocated through the Northeast Multispecies, Sea Scallop, and Monkfish FMPs. Fishing effort which occurs after publication of the control date may be treated differently than fishing effort expended prior to that date if the Council chooses to constrain future DAS usage based on more recent levels of use. The meeting will adjourn after the Council addresses any other outstanding business.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 21, 1999.

Gary C. Matlock,

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

[FR Doc. 99–19170 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 143
Tuesday, July 27, 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

Agricultural Research Service

Notice of National Genetic Resources Advisory Council Meeting.

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The United States Department of Agriculture announces the ninth meeting of the National Genetic Resources Advisory Council.

SUPPLEMENTARY INFORMATION: The National Genetic Resources Advisory Council consists of 16 members to provide advice to the Secretary and Director, National Genetic Resources Program, regarding the advancement of the Program. The meeting will discuss matters concerning genetic resources conservation and utilization.

TIME AND DATE: August 26, 1999, 8:30 a.m.–5:00 p.m.; August 27, 1999, 8:30 a.m.–4:00 p.m.

PLACE: Room 5030, USDA South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before or after the meeting with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Henry L. Shands, Director, National Genetic Resources Program, Room 323–A Jamie L. Whitten Federal Building, USDA, 1400 Independence Avenue SW, Washington, D.C. 20250–0300. Telephone 202–205–7835, Fax 202–690–1434.

Done at Washington, D.C. on this 13th Day of July 1999.

Henry L. Shands,

Assistant Administrator for Genetic Resources, USDA–ARS.

[FR Doc. 99–19109 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that Federally owned invention U.S. Serial No. 09/122,850, filed July 28, 1998, entitled ''Electrostatic Reduction System for Reducing Airborne Dust and Microorganisms'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to BioIon, L.L.C., of Athens Georgia, a limited exclusive license to Serial No. 09/122,850.

DATES: Comments must be received on or before October 25, 1999.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as BioIon, L.L.C. has submitted a complete and sufficient application for a license. The prospective limited exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective limited exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–19108 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that Federally owned invention U.S. Serial No. 09/314,102, filed May 19, 1999, entitled ''US–852 Citrus Rootstock'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Twyford International, Inc., of Santa Paula, California, an exclusive license to Serial No. 09/314,102.

DATES: Comments must be received on or before October 25, 1999.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Twyford International, Inc. has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–19110 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; USDA National Hunger Clearinghouse Survey

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces FNS' intention to request renewal of Office of Management and Budget (OMB) approval of the USDA National Hunger Clearinghouse Survey.

DATES: Comments on this notice must be received by September 27, 1999.

ADDRESSES: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to Joyce C. Willis, Director, Office of Consumer Affairs, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 813–B, Alexandria, VA 223302

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Joyce C. Willis, (703) 305–2281.

SUPPLEMENTARY INFORMATION:

Title: USDA National Hunger Clearinghouse Survey.

OMB Number: 0584–0474.

Expiration Date: 5/31/99.

Type of Request: Renewal of OMB approval.

Abstract: Section 26 of the National School Lunch Act (42 U.S.C. 1769g(d)) (copy attached), which was added to the Act by section 123 of Pub. L. 103–448 on November 2, 1994, mandated that FNS enter into a contract with a non-governmental organization to establish and maintain an information clearinghouse (named USDA National Hunger Clearinghouse) for groups that assist low-income individuals or communities regarding nutrition assistance programs or other assistance. FNS awarded the 4-year contract to World Hunger Year (WHY) on September 29, 1995; the contract ends on September 30, 1999.

Section 26 was amended by section 112 of Pub. L. 105–336 on October 31, 1998 (applicable amendatory language attached), to extend funding for the Clearinghouse through fiscal year (FY) 2003. FNS is in the process of conducting the necessary competitive procurement activities to award this new contract.

The USDA National Hunger Clearinghouse includes a database of non-governmental, grassroots programs that work in the areas of hunger and nutrition, as well as a mailing list of relevant local governmental agencies. Under the existing contract, Clearinghouse staff established the database by reviewing relevant programs of organizations contained in several existing mailing lists. Updated program and mailing information about organizations culled from these lists were collected and entered into the database once each year (years 1, 2, and 3 of the contract) through a series of electronically-processed survey questionnaires sent through the mail. Returned surveys were scanned and data entered into the database. Clearinghouse staff followed up by phone or fax to ensure the highest possible return rate on the questionnaires. Surveys may also be completed on the World Wide Web. The return rate on questionnaires under the existing contract was 7 percent in year 1 of the contract, 18 percent in year 2, and 27 in year 3.

In order to effectively maintain the database under the new contract, questionnaires will be sent to all organizations included in the database once each year (years 1 through 5 of the contract) in order to obtain updated information, and to add additional organizations to increase the size of the database.

Each survey will be administered to each respondent only once each year.

Estimate of the Burden: Public reporting burden for this collection of information is estimated to average 5 minutes for the survey (the survey includes one 2-page instrument).

Respondents: The respondents are non-governmental organizations that have grassroots food and nutrition programs.

Estimated Number of Respondents: For the first year of the contract, 1,850 respondents are estimated; and for years 2 through 5, 1,750 respondents.

Estimated Number of Responses per Respondents: One response in each of the 5 years.

Estimated Total Annual Burden on Respondents: For the first year of the contract, 154 hours; and for years 2 through 5, 146 hours. The estimated total burden for all 5 years of the contract is 738 hours.

Copies of this information collection can be obtained from Martha Newton, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 813–B, Alexandria, VA 22302.

Dated: June 18, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–19080 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Sunshine Act Meeting

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 2:00 p.m., Thursday, August 5, 1999.

PLACE: Room 5030, South Building, Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Current telecommunications industry issues.
2. Status of PBO planning.
3. Options relating to the conversion of B stock to C stock.
4. Retirement of class A stock in FY 1999.
5. Annual class C stock dividend rate.
6. Allowance for loan losses reserve for FY 1999.
7. Administrative issues.

ACTION: Stockholders' Meeting.

TIME AND DATE: 9:00 a.m., Friday, August 6, 1999.

PLACE: The Williamsburg Room, Room 104–A, Jamie L. Whitten Building, Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the stockholders' meeting:

1. Call to order.
2. Establishment of a quorum.
3. Action on Minutes of the November 6, 1997, stockholders' meeting.

4. Secretary's report on loans approved in FY 1999.
5. Treasurer's report.
6. Privatization committee report.
7. New business.
8. Adjournment.

ACTION: Board of Directors Meeting.

TIME AND DATE: Following the stockholders' meeting, Friday, August 6, 1999.

PLACE: The Williamsburg Room, Room 104–A, Jamie L. Whitten Building, Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:
1. Call to order.
2. Action on Minutes of the May 14, 1999, board meeting.
3. Report on loans approved in the third quarter of FY 1999.
4. Summary of financial activity for the third quarter of FY 1999.
5. Governor's report on the allowance for loan losses reserve for FY 1999.
6. Privatization committee report.
7. Consideration of resolution to retire class A stock in FY 1999.
8. Consideration of resolution to set annual class C stock dividend rate.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: July 22, 1999.

Wally Beyer,

Governor, Rural Telephone Bank.

[FR Doc. 99–19292 Filed 7–23–99; 2:27 pm]

BILLING CODE 3410–15–P

CENSUS MONITORING BOARD

Public Meeting

ANNOUNCEMENT DATE: July 22, 1999.

SUMMARY: This notice, in compliance with Public Law 105–119, sets forth the meeting date, time, and place for a public meeting of the U.S. Census Monitoring Board. The meeting agenda will include the completion of the review of the paid advertising program for the 2000 Census, which began on July 8, 1999. Additionally, the Board will have a general business session.

DATE: Tuesday August 3, 1999.

TIME: 9:00 a.m. to 11:30 a.m.

LOCATION: 800 North Capital Street, NW, Conference Room L43, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clark Reid, 301–457–5080, Communications Director (Congressional Members) or Estela Mendoza, Communications Director (Presidential Members) 301–457–9900.

Fred T. Asbell,

Executive Director, Congressional Members.

[FR Doc. 99–19138 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

International Trade Administration

May 1999 Sunset Reviews: Final Results and Revocation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of sunset reviews and revocation of antidumping duty order on oil country tubular goods from Israel (A–508–602) and the countervailing duty order on oil country tubular goods from Israel (C–508–601).

SUMMARY: On May 3, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty order and countervailing duty order on oil country tubular goods from Israel (64 FR 23596). Because the domestic interested parties have withdrawn, in full, their participation in the ongoing sunset reviews, the Department is revoking these orders.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1987, the Department issued an antidumping duty order on oil country tubular goods from Israel (52 FR 7000, as amended (53 FR 29370 (August 4, 1988)), and a countervailing duty order on oil country tubular goods from Israel (52 FR 6999 (March 6, 1987)). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), on May 3, 1999, the Department initiated sunset reviews of these orders by publishing notice of the initiation in the **Federal Register** (64 FR 23596). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for these proceedings to inform them of the automatic initiation of sunset reviews on these orders.

In the sunset reviews of the antidumping and countervailing duty orders on oil country tubular goods from Israel, we received Notices of Intent to Participate from North Star Steel Ohio (''North Star'') by the May 18, 1999 deadline (*see* § 351.218(d)(1)(i) of *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13520 (March 20, 1998) (''*Sunset Regulations*'')). On June 22, 1999, North Star informed the Department that it intended to withdraw its Notices of Intent to Participate, explaining that it is no longer interested in participating in these reviews. As a result, the Department determined that no domestic party intends to participate in these sunset reviews and, on June 24, 1999, we notified the International Trade Commission that no later than August 2, 1999, we intended to issue final determinations revoking these orders.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and § 351.218(d)(1)(iii)(B)(3) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because North Star withdrew its participation in these reviews and no other domestic interested party filed a Notice of Intent to Participate (*see* §§ 351.218(d)(1)(iii) and 751(c)(3)(A) of the *Sunset Regulations*), we are revoking these orders.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping and countervailing duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response

to appropriately filed requests for review.

Dated: July 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19164 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany: Initiation of New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of New Shipper Antidumping Duty Review.

SUMMARY: The Department of Commerce has received a request to conduct a new shipper review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 351.214(d), we are initiating this new shipper review.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Anne Copper or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0090 or (202) 482–4477, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references are made to the Department of Commerce's (''the Department'') regulations at 19 CFR part 351 (1998).

Background

On May 25, 1999, the Department received a request from MPT Prazisionsteile GmbH Mittweider (''MPT'') pursuant to section 751(a)(2)(B) of the Act, and in accordance with 19 CFR 351.214(b), for a new shipper review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany with respect to ball bearings produced and exported by MPT. This order has a May anniversary month. Accordingly, we are initiating a new shipper review for MPT as requested. The period of review is May 1, 1998, through April 30, 1999.

Initiation of Review

In accordance with 19 CFR 351.214(b)(2), MPT provided certification that it did not export ball bearings, or components thereof, to the United States during the period of investigation. MPT also certified that, since the investigation was initiated, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation, including those not individually examined during the investigation. It also submitted documentation establishing: (i) The date on which the ball bearings, or components thereof, were first entered or withdrawn from warehouse and the date on which the subject merchandise was first shipped to the United States; (ii) the volume of that shipment; and (iii) the date of the first sale to an unaffiliated customer in the United States. Therefore, in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating a new shipper review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany with respect to ball bearings produced and exported by MPT. We intend to issue the final results of this review not later than 270 days after the day on which this new shipper review is initiated.

Antidumping duty proceeding	Period to be reviewed
Germany: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, A–428–801	
MPT Prazisionsteile GmbH Mittweider	5/01/98–4/30/99

Concurrent with publication of this notice and in accordance with 19 CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by MPT until the completion of the review.

The interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: July 21, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–19167 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–806]

Carbon Steel Wire Rope From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On March 8, 1999, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty administrative review of the antidumping duty order on carbon steel wire rope from Mexico (64 FR 10979). This review covers one manufacturer/exporter of the subject merchandise to the United States, Aceros Camesa S.A. de C.V. (Camesa), and the period of March 1, 1997 through February 28, 1998. We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from Camesa and from the Committee of Domestic Steel Wire Rope and Specialty Cable

Manufacturers (the petitioner). We have not changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: July 7, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0666, (202) 482–4236, respectively.

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. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (April 1998).

Background

On March 8, 1999, the Department published in the **Federal Register** the preliminary results of the review of the antidumping duty order on carbon steel wire rope from Mexico (64 FR 10979). On April 7, 1999, we received comments from the petitioner and Camesa. The petitioner and Camesa submitted rebuttal comments on April 12, 1998.

The Department has now completed this antidumping duty administrative review in accordance with section 751(b) of the Act.

Scope of Review

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090.

Excluded from this review is stainless steel wire rope, which is classifiable under HTS subheading 7312.10.6000, and all forms of stranded wire, with the following exception.

In the final affirmative determination of circumvention of antidumping duty order, 60 FR 10831 (February 28, 1995), the Department determined that steel wire strand, when manufactured in Mexico by Camesa and imported into the United States for use in the production of steel wire rope, falls within the scope of the antidumping duty order on steel wire rope from Mexico. Such merchandise is currently classifiable under subheading 7312.10.3020 of the HTS.

Although HTS subheadings are provided for convenience and for Customs purposes, our own written description of the scope of this review remains dispositive.

This review covers one manufacturer/exporter, Camesa, and the period March 1, 1997 through February 28, 1998.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received case and rebuttal briefs from both petitioner and Camesa.

Comment 1: Whether Camesa's Sales to the United States Constitute Bona Fide Transactions

The petitioner contends that the timing and nature of Camesa's sales to the United States during the period of review (POR) indicate that they were not bona fide transactions. The petitioner claims that the sales were contrived for the purpose of orchestrating an export scheme to serve as the basis for an administrative review and adjustment of the antidumping duty deposit requirement. Consequently, the petitioner contends, the Department must disregard these sales and determine that no proper basis existed for an administrative review of the March 1, 1997 through February 28, 1998 period.

The petitioner argues that the circumstances of the sales indicate that they were contrived for purposes of manipulating the Department's antidumping analysis. In this regard, the petitioner points to the small number of sales and the late date of the sales, occurring at the end of the POR, as evidence that these sales were concocted by Camesa solely for purposes of justifying an administrative review and obtaining a zero margin.

The petitioner also contends that Camesa's one customer during the POR was not sincerely interested in purchasing general purpose steel wire rope from Camesa. According to the petitioner, Camesa's sole U.S. purchaser during the POR had been, up until approximately one month before the date of the U.S. sales, a purchaser of fishing ropes, exclusively. Because these fishing ropes were entered in-bond for subsequent export to foreign destinations, they were not subject to review. The petitioner argues that the customer's sudden switch, shortly before the end of the review period, to the general purpose ropes subject to the current review is evidence that the sales were contrived for the purpose of manipulating Camesa's dumping margin.

Finally, the petitioner contends that Department precedent equates the term *bona fide* with commercially reasonable, and points to U.S. Customs data to demonstrate that Camesa's sales were not made at commercially reasonable prices. These customs figures indicate that, for the month of Camesa's sales to the United States, the average price of all goods falling under the tariff schedule subheading that includes the products sold by Camesa during the POR is less than the prices charged by Camesa.

Camesa contends that the petitioner has not provided any evidence beyond its own speculation that the sales in question were not *bona fide.* Camesa argues that the relatively small number and the late timing of the sales to the United States during the POR were the result of Camesa's difficulty in finding U.S. customers in the face of the high cash deposit rate (111.68 percent) in effect during the POR for imports of its steel wire rope products, not the result of an attempt to manipulate the dumping margin.

Similarly, Camesa argues, there is no basis for questioning the genuineness of Camesa's U.S. customer's need for steel wire rope. The only evidence on the record regarding that customer's need for subject merchandise suggests a legitimate business motivation.

Finally, Camesa has three responses to the customs figures submitted by the petitioner. First, Camesa contends that petitioner's submission was untimely, having been filed with the Department after the deadline stipulated in 19 CFR 351.301(b)(2). Second, Camesa claims that it is unreasonable to compare the prices of its products sold to the United States with the average price of all imported products falling within a tariff schedule subheading. Camesa claims that products within this subheading vary greatly in important characteristics that significantly affect price, and, as support, Camesa demonstrates how the catalog prices for its own products falling within this subheading vary greatly. Thus, argues Camesa, the average price of all products within this subheading imported into the United States will vary greatly according to the composition of the products imported. Third, Camesa argues that even if the Department were to accept the figures as timely and find them significant in judging the commercial reasonableness of Camesa's U.S. sales prices, the

petitioner has misinterpreted the law regarding the importance of a sale's commercial reasonableness. According to Camesa, in order to prove that sales are not *bona fide* it is not enough to show that their sales terms are commercially unreasonable. Camesa cites *Silicon Metal from Brazil: Notice of Final Results of Antidumping Duty Administrative Review:* ''[T]he Department only disregards U.S. sales in exceptional circumstances where the sale is commercially unreasonable and other facts and circumstances indicate an attempt to manipulate the dumping margins.'' 64 FR 6305, 6317 (Feb. 9, 1999) (*Silicon Metal from Brazil*).

DOC Position: We agree with Camesa. While the Department's authority to disregard U.S. sales in administrative reviews as non-bona fide transactions has been recognized by the Court of International Trade (CIT), *see, e.g., PQ Corp.* v. *United States,* 652 F. Supp. 724, 729 (CIT 1987), there is no express statutory or regulatory provision that addresses or guides the exclusion of U.S. sales. Nevertheless, the Department has the ''authority to prevent fraud upon its proceedings.'' *Chang Tieh Indust. Co., Ltd.* v. *United States,* 840 F.Supp. 141, 146 (CIT 1993). Thus, the Department has the discretion to exclude certain U.S. sales where those sales are clearly ''distorting or unrepresentative.'' *American Permac, Inc.* v. *United States,* Slip Op. 92–8 (Feb. 4, 1992).

In order to determine whether sales should be excluded as non-bona fide transactions, the Department in the past has looked at a variety of factors indicating ''whether the transaction has been so artificially structured as to be commercially unreasonable.'' *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Rescission of Antidumping Duty Administrative Review,* 63 FR 47232 (Sep. 4, 1998) (*Steel Plate from Romania*); *see also Silicon Metal from Brazil,* 64 FR at 6317 (noting that the Department will exclude U.S. sales where exceptional circumstances demonstrate commercially unreasonable sales terms and an attempt to manipulate the margin calculations).

However, a sale will not be excluded simply because it was made for the purpose of obtaining a smaller margin, ''as long as the sale itself is at least arguably commercially reasonable.'' *Steel Plate from Romania,* 63 FR at 47234; *see also P.Q. Corp.,* 652 F. Supp. at 729 (explaining that an overpriced transaction created solely for the purpose of lowering the margin may be acceptable if the transaction was in fact sold at arm's length). Rather, the Department looks at the totality of the circumstances to determine whether the transactions in question are artificial, and thus, would not provide an appropriate basis for determining the respondent's U.S. pricing behavior. *See Manganese Metal from the PRC,* 60 FR 56,045 (Nov. 6, 1995) (''Based on the totality of the circumstances, . . . the Department determines, . . . that these were not bona fide sales for commercial purposes and, therefore, would not provide an appropriate basis for determining [respondent's] pricing behavior for sales to the United States. Therefore, these sales have been disregarded.''); *see also Steel Plate from Romania* (''Based on the cumulative weight of these factors, we determine that this sale was not bona fide because it was not a commercially reasonable transaction and involved selling procedures atypical of (the exporter's and importer's) normal business practices.'')

We agree that the facts cited by the petitioner to prove that the sale was artificially structured, namely the small number of sales, the single customer, and the late sale date, could be, as Camesa argues, simply the result of the high cash deposit rate on steel wire rope from Mexico in effect during the POR. Additionally, while the number of sales made by Camesa during the POR was small, the quantity of goods sold was substantial. Finally, nothing in the record suggests that the documentation for the transactions was fabricated, *see Sulfanic Acid from Hungary,* 58 FR 8256, 8257 (Feb. 12, 1993) (the Department applied BIA where documents discovered at verification indicated that information might have been fabricated for the purpose of the investigation); *compare Salmon from Norway,* 62 FR 1430 (Jan. 10, 1997) (sales were included where there was no evidence of fabricated documents or other suspicious activity), or that the sales were not made at arm's length. Although Customs data generally provides a good basis for determining whether sales have been made at commercially reasonable prices we agree with Camesa in this instance that the price figure provided by the petitioner covers a range of products so broad that it cannot be meaningfully compared with Camesa's sales prices during the POR.

The petitioner's questioning of Camesa's customer's genuine interest in purchasing steel wire rope is not supported by the record. The only evidence on the record indicating the customer's motive for its purchase, while not elaborate, nevertheless indicates a genuine desire to become a customer of Camesa's and a purchaser of steel wire rope within the scope of the order. Please see Camesa's June 5, 1998 response, appendix A–6–B, document 1 for another explanation of the customer's motive, due to the proprietary nature of the explanation.

Because the petitioner has not provided sufficient evidence to demonstrate that the sales involved were fabricated or otherwise commercially unreasonable, and we have found no other evidence demonstrating that the sales were not bona fide transactions, we have continued to include these sales in our margin calculation in these final results of review.

Comment 2: Whether the Department Should Reject Camesa's Home Market Sales Data as Inaccurate and Inherently Unreliable and Instead Use Adverse Facts Available

In the Department's preliminary results of review, we rejected Camesa's second home market sales database, submitted on October 20, 1998, noting that it contained discrepancies with the original database, submitted on July 7, 1998. We concluded that these discrepancies constituted new information not requested by the Department. [1] Because this new information was not requested and was not submitted within the time period stipulated by 19 CFR 351.301(b)(2), we rejected the second database as untimely.

The petitioner argues that these discrepancies, which the Department described as ''significant and unexplained,'' *see Memorandum to the File from Case Analyst* (March 2, 1999) at 2, raise serious questions about the accuracy of all home market data submitted by Camesa during the POR. The petitioner further argues that, by submitting new information in its second database, Camesa was admitting that its first submission was inaccurate. According to the petitioner, ''submission of such significant adjustments in its supplemental filing is an overt and explicit admission that its

[1] On October 20, 1998, Camesa submitted its second home market sales database in response to our supplemental questionnaire, which requested that Camesa submit information on product characteristics and additional sales. In doing so, however, it did not simply submit an addendum to the first database, but instead, resubmitted the entire home market sales database; i.e., all data regarding home market sales were resubmitted. Some of the fields in this second database contained information conflicting with the first database, even though we had not requested Camesa to revise any of the previously submitted fields. We had only requested the inclusion of additional fields; i.e., product characteristics, and the inclusion of additional sales observations.

initial database was inaccurate.'' The petitioner notes that the discrepancies affected the reporting of all sales that were contained in both databases and affected numerous fields reported for these sales, including gross unit price and several adjustments used by the Department in calculating normal value. The petitioner concludes that the Department should reject Camesa's home market data in favor of facts otherwise available.

Camesa argues that the discrepancies between its first and second databases do not constitute an admission that Camesa's first submission is inaccurate, but merely were the result of mistakes made under the pressure of meeting the Department's filing deadline. Camesa argues that these discrepancies are a result of mistakes made in compiling the second database, not a result of an attempt by Camesa to revise the data it reported in its first submission. These discrepancies, Camesa claims, do not call into question the accuracy of the underlying data.

Moreover, Camesa points to several expenses for which, in its July 7, 1998 response to the Department's first questionnaire, Camesa provided worksheets and other documents to explain and support the data reported in the July 7, 1998 database. Camesa attempts to explain some of the discrepancies found in three of the fields reported in its home market database. It argues that it could not resolve all of the discrepancies without placing new information on the record, which had been closed per § 351.301(b)(2).[2] The petitioner contends that Camesa's attempts at resolving the discrepancies are inadequate.

Finally, Camesa contends that, even if it had conceded there were errors in its initial sales listing, that fact alone would not justify the resort to an adverse inference, as Camesa has cooperated fully in this review.

DOC Position: We agree with Camesa. The record does not indicate that the original database is inaccurate or unreliable, and we do not find that Camesa failed to act to the best of its ability.

Under section 776(a) of the Act and 19 CFR 351.308, the Department will only rely on facts otherwise available when: (1) Necessary information is not on the record; or (2) the respondent has withheld information, fails to provide requested information, significantly impedes a proceeding, or provides information that cannot be verified. Furthermore, in accordance with section 776(b) of the Act, the Department will rely on adverse inferences only where the respondent has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information.

Although the Department did not conduct a verification of Camesa during the POR, we did, per Department policy, issue an extensive questionnaire to Camesa requesting support for all sales data provided to us. We found some deficiencies in Camesa's response to this initial questionnaire and thus issued a supplemental questionnaire. Camesa's responses to both questionnaires, in combination, provided the Department with sufficient explanations of how Camesa calculated the data it reported, along with support for the raw numbers underlying its response. Thus, the respondent did not withhold information or fail to provide requested information. As such, Camesa's responses were complete and provided all of the information necessary for margin calculations. We note that the petitioner did not comment on Camesa's response to either of our questionnaires or otherwise indicate that it was concerned with the quality of Camesa's reported data, until we had issued our preliminary results of review.

Moreover, it is important to note that we did not request the second database as the result of having found errors in the calculations or data used by Camesa in compiling the first database. We requested the second database because we had determined that Camesa needed to report a larger number of sales of similar merchandise, and to report physical characteristics for all sales.[3] Thus, our rejection of the second database did not leave unanswered concerns about the quality of Camesa's previously submitted data or calculations.

Finally, after having rejected Camesa's second database in our preliminary results of review, and thus having removed it from consideration, we cannot now use it for purposes of impugning the first database. Even if, however, the second database were available for our current analysis, we could not conclude that because the first database contained some inaccuracies, all of Camesa's submitted home market data must also be inaccurate. As explained above, the submissions on the record were timely filed and are complete and supported by documentation in the record. Therefore, we did not reject Camesa's home market sales data. As such, it is not necessary to rely on adverse facts available.

Comment 3: Whether The Department Must Affirm Its Preliminary Determination That Camesa Sold Products in the Home Market at Below Cost of Production

The petitioner argues that the Department correctly applied the sales-below-cost test to all products ''under the consideration for the determination of normal value.'' The petitioner also argues that sales ''under consideration for the determination of normal value'' should include all home market sales reported.

Respondents did not comment on this issue.

DOC Position: We agree with the petitioner that a sales-below-cost test must be conducted on all home market sales reported, and affirm our preliminary finding that Camesa made sales below cost in its home market during the POR.

Comment 4: Whether the Department Should Summarily Reject All of the Petitioner's Contentions

In its rebuttal brief, Camesa argues that the petitioner did not raise its objections in a timely manner. Camesa notes that the petitioner did not submit comments on any of Camesa's questionnaire responses, and did not, until after publication of our preliminary results of review, indicate it had concerns with the bona fide nature of Camesa's sales to the United States or with the suitability of Camesa's home market data for review.

DOC Position: The Department disagrees with Camesa. Section 351.309(b) of the Department's regulations states that the Department will consider case and rebuttal briefs filed within stated time limits. An interested party is under no burden to provide another party with advance warning of the issues it plans to raise in its case brief. In fact, an interested party might very well have no idea what arguments it will need to make until the Department has issued its preliminary results of review. In this case, for example, the petitioner had no advance

[2] The petitioner did not argue that Camesa submitted untimely information in the attempts, in its April 8, 1999 case brief, it made to resolve the discrepancies.

[3] The Department was able to reach its preliminary conclusions without the use of this expanded sales information. The initial, more limited sales information provided by Camesa included above-cost sales of identical products that were contemporaneous with all sales in the United States. We therefore did not need to examine sales of similar merchandise, and the necessary physical characteristics were taken from an appendix attached to the written, narrative portion of Camesa's October 20, 1998 submission. Thus, the second sales database was not ultimately necessary for our calculations.

warning that the Department would reject Camesa's second submission of home market sales data (see the above discussion of *Comment 2*) until our preliminary results were issued.

Interested parties were given five days after the filing of case briefs in which to respond to the arguments of other parties, in accordance with § 351.309(d) of the Department's regulations.

Finally, the petitioner's comments did not raise unusually complex issues. Camesa did not indicate to the Department, prior to its April 13th submission, that it was having difficulty responding to the petitioner's arguments within the allotted time period, nor has it explained how in particular it was overburdened or denied a reasonable opportunity for responding.

We determine that the following dumping margins exist:

Manufacturer/exporter	Period	Margin (percent)
Aceros Camesa, S.A. de C.V.	3/1/97–2/28/98	0.00

The Department shall determine, and the customs service shall assess, antidumping duties on all appropriate entries. We will instruct customs to liquidate the entries made during the POR without regard to antidumping duties since no margins were determined to exist in this review. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of final results of review, for all shipments of steel wire rope from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Camesa will be the rate stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) the cash deposit rate for all other manufacturers or exporters will continue to be 111.68 percent, the all others rate established in the less-than-fair-value (LTFV) investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with § 351.306 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 771(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 351.213.

Dated: July 6, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19166 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Revocation of Antidumping Finding: Elemental Sulphur From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping finding: Elemental sulphur from Canada.

SUMMARY: Pursuant to section 751(c) of the Tariff Act from 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') determined that revocation of the antidumping finding on elemental sulphur from Canada is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 2232 (January 13, 1999)). Therefore, pursuant to 19 CFR 351.222(i)(1)(iii), the Department of Commerce (''the Department'') is publishing notice of the revocation of the antidumping finding on elemental sulphur from Canada. Pursuant to section 751(c)(6)(A)(iv) of the Act, the effective date of revocation is January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: January 1, 2000.

Background

On August 3, 1998, the Department initiated, and the Commission instituted, a sunset review (63 FR 41227 and 63 FR 41280, respectively) of the antidumping finding on elemental sulphur from Canada pursuant to section 751(c) of the Act. As a result of the review, the Department found that revocation of the antidumping finding would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the finding to be revoked (*see Final Results of Expedited Sunset Review: Elemental Sulphur from Canada,* 63 FR 67647 (December 8, 1998).

On January 13, 1999, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping finding on elemental sulphur would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Elemental Sulphur from Canada,* 64 FR 2232 (January 13, 1999) and USITC Pub. 3152, Inv. No. AA1921–127 (January 1999)).

Scope

The merchandise covered by this determination is elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule

(HTS) subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for customs purposes, the written description of the scope of this finding remains dispositive.

Determination

As a result of the determination by the Commission that revocation of this antidumping finding is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act, will revoke the antidumping finding on elemental sulphur from Canada. Pursuant to section 751(c)(6)(A)(iv) of the Act, this revocation is effective January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue suspension of liquidation and collection of cash deposit rates on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: July 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19163 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods, Other Than Drill Pipe From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Extension of Time Limits for Preliminary Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on oil country tubular goods from Japan. The Department initiated this antidumping administrative review for Sumitomo Metal Industries Ltd. on September 29, 1998 (63 FR 51893) and for Okura and Company on October 29, 1999 (63 FR 58009). The review covers the period August 1, 1997 through July 31, 1998.

Because of the complexity of certain issues, it is not practicable to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to August 31, 1999 (*See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Re: Extension of Preliminary Results). This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: July 9, 1999.

Edward C. Yang,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–19165 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–068]

Continuation of Antidumping Finding: Prestressed Concrete Steel Wire Strand From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping finding: Prestressed concrete steel wire strand from Japan.

SUMMARY: On December 30, 1998, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act from 1930, as amended (''the Act''), determined that revocation of the antidumping finding on prestressed concrete steel wire strand from Japan would be likely to lead to continuation or recurrence of dumping (64 FR 857 (January 6, 1999)). On January 27, 1999, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping finding on prestressed concrete steel wire strand from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 4123 (January 27, 1999)). Therefore, pursuant to 19 CFR 351.218(e)(4), the Department is publishing notice of the continuation of the antidumping finding on prestressed concrete steel wire strand from Japan.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: February 3, 1999.

Background

On September 1, 1998, the Department initiated, and the Commission instituted, a sunset review (63 FR 46410 and 63 FR 46477, respectively) of the antidumping finding on prestressed concrete steel wire strand from Japan pursuant to section 751(c) of the Act. As a result of this review, the Department found that revocation of the antidumping finding would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the finding to be revoked (*see Final Results of Expedited Sunset Review: Steel Wire Strand from Japan,* 64 FR 857 (January 6, 1999)).

On January 27, 1999, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping finding on prestressed concrete steel wire strand from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Prestressed Concrete Steel Wire Strand from Japan,* 64 FR 4123 (January 27, 1999) and USITC Pub. 3156, Inv. No. AA1921–188 (Review) (February 1999)).

Scope

The merchandise covered by this determination is steel wire strand, other than alloy steel, not galvanized, which

is stress-relieved and suitable for use in prestressed concrete. Such merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 7312.10.30.12. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of this antidumping finding would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping finding on prestressed concrete steel wire strand from Japan. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rate in effect at the time of entry for all imports of subject merchandise. Pursuant to section 751(c)(6)(A)(iii) of the Act, any subsequent five-year review of this finding will be initiated not later than the fifth anniversary of the effective date of continuation of this finding.

Normally, the effective date of continuation of a finding, order, or suspension agreement will be the date of publication in the **Federal Register** of the Notice of Continuation. As provided in 19 CFR 351.218(e)(4), the Department normally will issue its determination to continue a finding, order, or suspended investigation not later than seven days after the date of publication in the **Federal Register** of the Commission's determination concluding the sunset review and immediately thereafter will publish its notice of continuation in the **Federal Register**. In the instant case, however, the Department's publication of the Notice of Continuation was delayed. The Department has explicitly indicated that the effective date of continuation of this finding is February 3, 1999, seven days after the date of publication in the **Federal Register** of the Commission's determination. As a result, pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year review of this finding not later than January 2004.

Dated: July 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19160 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–818, A–583–831 and A–580–834]

Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From United Kingdom, Taiwan and South Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Antidumping Duty Orders.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Rick Johnson, Linda Ludwig or Jim Doyle, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–3818, (202) 482–0649 and (202) 483–0259 respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Scope of the Orders

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper

valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

Antidumping Duty Orders

On July 19, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from United Kingdom, Taiwan and South Korea. Therefore, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from United Kingdom, Taiwan and South Korea. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from United Kingdom, Taiwan and South Korea entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notices of preliminary determinations in the **Federal Register**, 64 FR 85–92, 101–108, 116–124, 137–147 (Jan 4, 1999). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

subject stainless steel sheet and strip in coils not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
United Kingdom.	
Avesta Sheffield	14.84
All Others	14.84
Taiwan.	
Tung Mung/Ta Chen	14.95
Tung Mung	14.95
YUSCO/Ta Chen	34.95
YUSCO	34.95
Chang Mien	.0.00
All Others	12.61
South Korea.	
Pohang Iron & Steel Co., Ltd	12.12
Taihan Electric Wire Co., Ltd	58.79
Inchon Iron & Steel Co., Ltd	0.00
All Others	12.12

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from United Kingdom, Taiwan and South Korea. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect. This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: July 21, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–19124 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order.

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Ranado, Stephanie Arthur, or Robert James, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–3518, (202) 482–6312, or (202) 482–5222, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Amendment to the Final Determination

On May 19, 1999, the Department determined that stainless steel sheet and strip in coils (stainless sheet in coil) from Germany are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Germany, 64 FR 30710 (June 8, 1999) (Final Determination). On May 28, 1999, respondent Krupp Thyssen Nirosta, GmbH (KTN) timely filed an allegation that the Department had made several ministerial errors in its final determination. Petitioners (Allegheney Ludlum Corp., Armco, Inc. J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corp., United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization) also timely alleged two ministerial errors on June 2, 1999. Both interested parties requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**. See 19 CFR 351.224(e). In addition, on June 8, 1999, petitioners filed comments in rebuttal of two of KTN's alleged errors.

KTN's submission alleges the following errors:

- In attempting to remove a third-country shipment from KTN's U.S. sales listing, the Department inadvertently deleted the wrong transaction;
- The Department used the incorrect interest rates for calculating home market credit expenses and in certain instances U.S. credit expenses and inventory carrying costs;
- For one of KTN's affiliated home market service centers, the Department inadvertently relied upon an outdated database superseded by a later submission;
- The Department erred in adjusting KTN's cost of production (COP) for certain products subjected to further processing by the affiliated home market service center, thus overstating the COP;
- The Department's attempt to revise KTN's variable cost of manufacture (VCOM) to reflect corrected nickel prices did not work due to a programming error;
- For an affiliated U.S. reseller to which we applied adverse facts available the weighted-average gross unit price set forth in the Department's May 19, 1999 analysis memorandum differs from that hand-entered into the margin program;
- For this same reseller, the Department inadvertently relied upon an outdated database superseded by a later submission;
- Finally, in applying adverse facts available to the affiliated U.S. reseller, the Department erred by failing to exclude putatively cut-to-length material (which is not included in the scope of this investigation).

See Letter, Hogan & Hartson, May 28, 1999 passim. In their submission petitioners note that the Department stated that it intended to apply adverse facts available for KTN's failure to report certain home market downstream sales made by its affiliates. To do this, petitioners aver, the Department intended to calculate the highest gross unit price for each product (i.e., control number) for sales between KTN and its affiliates and use this price as the basis for NV. However, petitioners allege, the Department inadvertently omitted the customer code for one of the home market affiliates to which we were applying facts available. In addition, petitioners argue that the Department's application of facts available for these unreported sales had no effect in certain cases because the Department inadvertently included the affiliated customers in its arm's-length test; when these customers subsequently failed the arm's-length test the transactions were excluded entirely from the margin calculation and not subjected to facts available, as clearly intended by the Department.

Petitioners' rebuttal addressed two of KTN's allegations. With respect to KTN's VCOM, petitioners argue that any correction to home market VCOM applies equally to both U.S. VCOM and U.S. total cost of manufacture. These latter two are both needed to calculate accurate adjustments for differences in physical characteristics of the home market and U.S. merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff

Act. With respect to KTN's U.S. reseller, petitioners contend that the Department's decision not to attempt segregating cut-to-length stainless sheet and strip from the subject stainless sheet in coils is methodological, not ministerial. Furthermore, petitioners continue, the Department determined that the U.S. reseller's sales data were so replete with errors as to be unreliable in toto; in petitioners view, it would be inappropriate for the Department now to accept the reliability of selective portions of those data (i.e., the two specific variables KTN suggests using for this purpose). Because the Department rejected the entire database, petitioners aver, it would not make sense for the Department to then assume that these two fields were reported accurately and to use these as the basis for segregating cut-to-length products from products in coil form.

After reviewing both parties' allegations and petitioners rebuttal we have determined, in accordance with 19 CFR 351.224, that the Final Determination includes several ministerial errors. As to KTN's allegations, we agree with KTN that each of the points raised by KTN constitutes a ministerial error with the exception of the alleged ''failure'' to exclude cut-to-length merchandise. Our treatment of the U.S. reseller's reported sales represented a methodological choice, and not ''an error in addition, subtraction, or other arithmetic function'' or ''other similar types of unintentional error.'' 19 CFR 351.224(e); see also Memorandum For Richard Weible; ''Allegations of Ministerial Errors; Final Determination in the Investigation of Stainless Steel Sheet and Strip in Coils from Germany'' (Ministerial Errors Memorandum), dated July 23, 1999, a public version of which is on file in room B–099 of the main Commerce building, and the Final Determination, 64 FR at 30739. We also agree with petitioners that the intended correction to KTN's home market VCOM applies equally to KTN's U.S. VCOM and U.S. TCOM, and have adjusted each accordingly for this amended final determination.

Finally, we also agree that the two errors alleged by petitioners represent ministerial errors and have corrected both for this final determination. For a detailed description of each of these allegations and, where applicable, our resultant corrections, see the Ministerial Errors Memorandum. Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel sheet and strip in coils from Germany. The revised weighted-average dumping margins are in the ''Antidumping Duty Order'' section, below.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of

between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''. [5]

Antidumping Duty Orders

On July 19, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Germany. Therefore, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from Germany. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from Germany entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 92). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject stainless steel sheet and strip in coils not specifically listed. The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Krupp Thyssen Nirosta GmbH	25.37
All Others	25.37

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from Germany. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: July 21, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–19125 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Michael Heaney, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–2924 or (202) 482–4475, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Amendment to the Final Determination

On May 19, 1999, the Department determined that stainless steel sheet and strip in coils (stainless sheet in coil) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Act. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Mexico, 64 FR 30790 (June 8, 1999) (Final Determination). On June 1, 1999, respondent Mexinox S.A. de C.V. (Mexinox) filed a timely allegation that the Department had made several ministerial errors in its Final Determination. We received no ministerial error allegations nor rebuttal comments from the petitioners (Allegheney Ludlum Corp., Armco, Inc. J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corp., United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization). Mexinox requested that we correct the ministerial errors pursuant to the Department's authority under 19 CFR 351.224.

Mexinox alleges the following ministerial errors:

- The Department erred by failing to calculate a separate weight-averaged net U.S. price for export price (EP) and constructed export price (CEP) sales, but instead collapsing EP and CEP calculations into a single weight-averaged figure which was then used to calculate the margin.
- The Department erred by including foreign exchange losses in the calculation of variable cost of manufacturing (VCOM), rather than including them in either general and administrative (G&A) expenses or as part of the net interest expenses.
- In calculating CEP profit, the Department erred by failing to include the U.S. indirect selling expenses of Mexinox's U.S. Krupp affiliate in the computation of the total U.S. selling expenses.

Section 735(e) of the Act and 19 CFR 351.224(f) define a ministerial error as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Department considers ministerial.'' We agree with Mexinox that the failure to calculate a separate weight-averaged U.S. price for EP and CEP transactions constituted a clerical error. We did not intend to collapse the calculation of net U.S. price into a single value for EP and CEP sales. We intended rather to calculate a separate net U.S. price for EP and CEP sales. We also agree that the failure to include the indirect selling expenses of the U.S. Krupp affiliate in the pool of total selling expenses constituted a clerical error. We did not intend to omit any incurred selling expenses from the computation of total selling expenses. We have corrected these errors in this amended final determination. However, we do not agree that the inclusion of foreign exchange losses in the calculation of VCOM constituted a clerical error. These foreign exchange losses relate to gains and losses incurred exclusively on purchases of raw materials and hence are a cost of materials. Therefore, the direct material foreign exchange losses are appropriately included in the calculation of VCOM. Thus, the inclusion of direct material foreign exchange losses in VCOM does not constitute a ministerial error.

Because we agree that our Final Determination contained two clerical errors, we are amending the Final Determination of the antidumping duty investigation of stainless steel sheet and strip in coils from Mexico in accordance with 19 CFR 351.224(e). The revised weighted-average dumping margins are in the ''Antidumping Duty Order'' section, below.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2)

sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

Antidumping Duty Order

On July 19, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] 'GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

merchandise from Mexico. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs Service officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from Mexico. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from Mexico entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 124). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject stainless steel sheet and strip in coils not specifically listed. The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percent
Mexinox S.A. de C.V.	30.85
All Others	30.85

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from Mexico. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR § 351.224(e).

Dated: July 21, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–19126 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–814]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or James Doyle, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–3434, or (202) 482–0159, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Amendment to the Final Determination

On May 19, 1999, the Department determined that stainless steel sheet and strip in coils (stainless sheet in coil) from France are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From France, 64 FR 308204 (June 8, 1999) (Final Determination). On June 1, 1999, respondents, Usinor and its home market and U.S. market affiliates (Ugine Division, Ugine Serive, Bernier, Uginox, Hague and Edgcomb Metals), timely alleged one ministerial error. Additionally, on June 4, 1999, Petitioners (Allegheney Ludlum Corp., Armco, Inc. J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corp., United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization) timely alleged three ministerial errors. See 19 CFR 351.224(e).

Comment 1: Respondents allege that the Department's model match program in its final determination failed to retain the product characteristics with respect to Usinor's sales to Ugine Service. Respondents noted that this error has the effect of ignoring these sales for matching purposes for control numbers sold only to Ugine Service. Respondents recommended that the Department add these characteristics to the ''KEEP'' statement in line 542 of its model match program.

Department's Position: After a review of respondents' allegation, we agree with respondents and have corrected our model match program at line 542 to account for the missing product characteristics (i.e., we added the variable &HMPHVARS) in the model match program. For the computer code we used to correct this ministerial error, please see the *Memorandum from Robert A. Bolling to Edward Yang* dated July 13, 1999 (''*Amended Final Calculation Memorandum*''), a public version of which is available in the Central Records Unit, Room B–099 of the Department of Commerce building, 14th Street and Constitution Ave, N.W., Washington, D.C.

Comment 2: Petitioners allege that in the final determination the Department tested sales from Usinor to Ugine Service and Bernier to determine if those sales were made at arm's length prices. Petitioners noted that while certain home market sales that did not pass the arm's length test were excluded from the dumping analysis, the Department failed to exclude sales from a second home market sales file that did not pass the arm's length test. Respondents did not comment on this issue.

Department's Position: After a review of petitioner's allegation, we agree with petitioners, and have corrected our model match program in order to exclude sales from the second home market sales file from our dumping analysis that failed the arm's length test. At line 537 of the model match program, we have included the dataset ''ARMFAIL.'' For the computer code we used to correct this ministerial error, please see the *Amended Final Calculation Memorandum,* a public version of which is available in the Central Records Unit, Room B–099 of the Department of Commerce building, 14th Street and Constitution Ave, N.W., Washington, D.C.

Comment 3: Petitioners allege that the Department determined that the reported affiliated freight forwarder rates for U.S. sales were not at arm's

length prices, and thus the Department decided to apply facts available to the reported affiliated freight forwarder rates for U.S. sales. As facts available, the Department used a simple average of Usinor's reported freight forwarder rates for all U.S. sales. Petitioners argue that the Department's application of facts available in the SAS programing had the result of lowering the affiliated freight forwarder rates for certain U.S. sales. Petitioners contend that for any sale where the reported freight forwarder rate exceeded the simple average of the reported freight forwarder rates, the Department's use of facts available provided a benefit to the respondent.

Respondents state that the Department's program correctly and accurately applied the average of reported freight forwarder rates as was determined in the final determination. Additionally, respondents note that the application of facts available may have lowered certain U.S. sales affiliated freight forwarder rates is irrelevant because the impact of the Department's approach was to increase the dumping margin. Further, respondents contend that the petitioners' allegation was not a ministerial error as defined by the Department's regulations. Finally, respondents argue that petitioners' allegation is an attempt to repeat their argument of applying adverse facts available, which the Department has previously rejected.

Department's Position: We disagree with petitioners. Petitioners' allegation does not meet the criteria for treatment as a ministerial error. A ministerial error is defined in 19 CFR section 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.'' We performed our calculation of averaging all of the freight forwarder expenses as we intended. See comment 6 of our final determination and our analysis memo. Thus, the Department's action was an intentional policy choice, and not a ministerial error. As we stated in our final determination, because Usinor was unable to provide the requested information, it would be inappropriate to use the rate proposed by petitioners, because use of such a rate would require an adverse assumption: ''Because we find that Usinor has acted to the best of its ability with respect to this adjustment, as non-adverse facts available, we have used the average of Usinor's reported freight-forwarder rates.'' *See Notice of Final Determination of Sales at Less than Fair Value in the Investigation of Stainless Steel Sheet and Strip in Coils (SSSS) from France,* 64 FR 30820, 30830 (June 8, 1999). In selecting non-adverse facts available, the Department attempts to use neutral information which will not necessarily raise or lower the respondent's overall margin. In this case, in the absence of usable freight forwarder rates, the Department used an average freight rate which was not designed to have any pre-ordained effect on the margin. Thus, the Department's treatment of the affiliated freight forwarders expense was a policy decision and not an unintentional error of the kind covered by the ministerial error provision.

Comment 4: Petitioners allege that the Department restricted the universe of home market models when it performed the model matching. Petitioners contend that the Department restricted the model matching in that the Department used only one home market control number (CONNUM) at a certain level of trade (LOT) (i.e., when there are two levels of trade in the home market) which excluded the same CONNUM at the other level of trade. In order words, in instances where certain CONNUMS were sold at both levels of trade, the Department only performed matching for that CONNUM at one level of trade. Therefore, petitioners argue that matching U.S. sales to normal values is not correct because the data necessary to match across levels of trade were excluded. Petitioners state that the Department should have instead performed the matching process on the entire universe of home market models.

Respondents state that petitioners' allegation with regards to this issue is incoherent and fails to assert a ministerial error. First, respondents state that the Department's program did not disregard home market sales at levels of trades 2 and 3. Further, respondents contend that the Department's programming is correctly constructed to match sales where practicable at the nearest level of trade. Finally, respondents argue that petitioners' suggested programming language is incorrect because it results in a vast distortion and overstatement of the dumping margin.

Department's Position: After a review of petitioner's allegation, we agree with petitioners. In performing our model matching, the Department should have allowed matching of home market and U.S. models at the same level of trade when home market models were sold at both levels of trade. Thus, we have corrected our model match and margin calculation programs to allow for matching at different levels of trade. For the computer code we used to correct this ministerial error, please see the *Amended Final Calculation Memorandum,* a public version of which is available in the Central Records Unit, Room B–099 of the Department of Commerce building, 14th Street and Constitution Ave, N.W., Washington, D.C.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel sheet and strip in coils from France. The revised weighted-average dumping margins are in the ''Antidumping Duty Order'' section, below.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and

7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

Antidumping Duty Order

On July 19, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from France. Therefore, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from France. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from France entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 109). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject stainless steel sheet and strip in coils not specifically listed. The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin(percent)
Usinor	9.38
All Others	9.38

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from France. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: July 21, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–19127 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–845]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Karla Whalen, or Letitia Kress, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–1391, or (202) 482–3362, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Amendment to the Final Determination

On May 19, 1999, the Department determined that stainless steel sheet and strip in coils (stainless sheet in coil) from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan, 64 FR 30574 (June 8, 1999) (Final Determination). On June 2, 1999, Petitioners (Allegheney Ludlum Corp., Armco, Inc. J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corp., United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization) timely alleged three ministerial errors. Petitioners requested that we correct the errors. See 19 CFR 351.224(e). Kawasaki Steel Corporation did not respond to the submitted ministerial error comments.

Petitioner's submission alleges the following errors:

- the Department improperly excluded certain home market sales as a result of applying the Department's scope exclusion language that did not distinguish based upon thickness;
- the Department intended to, but did not apply partial facts available for certain U.S. sales with inland insurance rates less than the verified minimum inland insurance rate;
- the Department did not use the verified duty drawback amounts in the margin analysis due to inconsistent variable names used in the Margin Program;

The Department agrees that the three errors alleged by petitioners represent ministerial errors and have corrected each for this amended final determination. For a detailed description of each of these allegations and, where applicable, our resultant corrections, see the Analysis of Clerical Errors Memorandum (Memo to Edward Yang, from Karla Whalen and Letitia Kress, dated July 9, 1999). Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel sheet and strip in coils from Japan. The revised weighted-average dumping margins are in the ''Antidumping Duty Order'' section, below.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44,

7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

Antidumping Duty Orders

On July 19, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Japan. Therefore, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from Japan. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from Japan entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 108). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject stainless steel sheet and strip in coils not specifically listed. The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Kawasaki Steel Corporation	40.18
Nippon Steel Corporation	57.87
Nisshin Steel Co., Ltd	57.87
Nippon Yakin Kogyo	57.87
Nippon Metal Industries	57.87
All Others	40.18

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from Japan. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: July 21, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–19128 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–824]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Lesley Stagliano or Rick Johnson, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–6134, or (202) 482–3818, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

Amendment to the Final Determination

On May 19, 1999, the Department determined that stainless steel sheet and strip in coils (SSSS) from Italy are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750 (June 8, 1999) (*Final Determination*). On June 4, 1999, respondent Acciai Speciali Terni, SpA., (AST) filed an allegation that the Department had made several ministerial errors in its final determination. Petitioners (Allegheney Ludlum Corp., Armco, Inc. J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corp., United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization) also timely alleged ministerial errors on June 4, 1999. Both interested parties requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**. See 19 CFR 351.224(e). In addition, on June 11, 1999, petitioners filed comments in rebuttal of three of AST's alleged errors.

AST's submission alleged the following errors:

- the Department overstated the value of AST's eighty-four rejected U.S. sales in its facts available margin calculation for these sales;
- the Department inadvertently used a previously reported insurance revenue amount based on a pending claim rather than revise AST's insurance revenue field to reflect AST's final settlement amount as it had intended to do;
- the Department inadvertently applied the mill edge discount to all products, rather than to products only sold with a mill edge;
- the Department failed to convert U.S. inventory carrying costs from a per-kilogram amount to a per-pound amount;
- finally, in applying adverse facts available to the affiliated U.S. reseller, the Department erred by failing to exclude sales identifiable as non-subject cut-to-length material (which is not included in the scope of this investigation).

See Letter, Hogan & Hartson, June 4, 1999 *passim*.

Petitioners' submission alleged the following errors:

- the Department inadvertently included AST's packing costs in the calculation of COP and CV in the margin program, and therefore, understated AST's overall profit and AST's CEP profit ratio;
- the Department inadvertently failed to convert U.S. values stated in lire per pound

to values stated in lire per kilogram before adding them to home market values stated in lire per kilogram in order to calculate the CEP profit ratio;

- finally, the Department inadvertently excluded the value of AST's unreported U.S. sales and the value of the sales through AST's affiliated U.S. reseller from the denominator that the Department used to calculate the ratio for AST's U.S. insurance revenue.

See Letter, Collier, Shannon, Rill & Scott, June 4, 1999 *passim*.

Petitioners' rebuttal addressed three of AST's allegations. First, petitioners disagree with AST's allegation, that the Department overstated the value of the rejected eighty-four U.S. sales when it calculated the facts available margin for these sales. Due to the proprietary nature of this issue, please refer to the *Memorandum For Ed Yang from Lesley Stagliano; Allegations of Ministerial Errors; Final Determination in the Investigation of Stainless Steel Sheet and Strip in Coils from Italy* (*Ministerial Errors Memorandum*), dated July 21, 1999, for further information. With respect to AST's claim that the Department failed to use AST's revised insurance revenue in its calculations, petitioners argue that the INSUREVU field correctly refers to the transaction-specific insurance revenue that AST claimed it received for sales during the period of investigation, and therefore, should not be revised. Finally, with respect to AST's U.S. reseller, petitioners contend that the Department's decision not to attempt segregating cut-to-length stainless sheet and strip from the subject stainless sheet in coils is methodological, and not ministerial as AST claims. Furthermore, petitioners continue, the Department determined that the U.S. reseller's sales data were so replete with errors as to be unreliable *in toto*; and that therefore, it would be inappropriate for the Department now to accept the reliability of selective portions of those data (*i.e.*, the two specific variables AST suggests using for this purpose). Because the Department rejected the entire database, petitioners aver, it would not make sense for the Department to then assume that these two fields were reported accurately and to use these as the basis for segregating cut-to-length products from products in coil form.

After reviewing both parties' allegations and petitioners' rebuttal we have determined, in accordance with 19 CFR 351.224, that the *Final Determination* includes several ministerial errors. As to AST's allegations, we agree with AST that each of the points raised by AST constitutes a ministerial error with the exception of two: the alleged overstatement of the value of AST's eighty-four sales in the Department's facts available margin calculation for these sales; and the alleged ''failure'' to exclude cut-to-length merchandise. Our calculation of the facts available rate on eighty-four U.S. sales, and our treatment of the U.S. Reseller's reported sales represented a methodological choice, and not ''an error in addition, subtraction, or other arithmetic function'' or ''error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.'' Section 735(e) of the Act and 19 CFR 351.224(e) of the Department's regulations; *see also Ministerial Errors Memorandum*, and the *Final Determination*, 64 FR at 30757–58.

Finally, we also agree that the first two errors alleged by petitioners represent ministerial errors and have corrected both for this final determination. However, we disagree with petitioners that excluding the value of AST's unreported U.S. sales and the value of the sales through AST's affiliated U.S. reseller from the denominator the Department used to calculate the ratio for AST's U.S. insurance revenue was a clerical error as defined by the 735(e) of the Tariff Act of 1930, as amended (''the Act''), and Section 351.224 of the Department's regulations, as defined above. Therefore, we have made no adjustments to the final determination for this allegation. For a detailed description of each of these allegations and, where applicable, our resultant corrections, see the *Ministerial Errors Memorandum*. Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel sheet and strip in coils from Italy. The revised weighted-average dumping margins are in the ''Antidumping Duty Order'' section, below.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between

1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[5]

Antidumping Duty Orders

On July 23, 1999, the International Trade Commission (the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Italy. Therefore, in accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of stainless steel sheet and strip in coils from Italy. These antidumping duties will be assessed on all unliquidated entries of stainless steel sheet and strip in coils from Italy entered, or withdrawn from warehouse, for consumption on or after January 4, 1999, the date on which the Department published its notice of preliminary determination in the **Federal Register** (64 FR 116). On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

normally deposit estimated, cash deposits for the subject merchandise equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject stainless steel sheet and strip in coils not specifically listed. The revised weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Acciai Speciali Terni, SpA	11.23
All Others	11.23

This notice constitutes the antidumping duty order with respect to stainless steel sheet and strip in coils from Italy. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: July 21, 1999.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration

[FR Doc. 99–19129 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–601, A–583–603]

Final Results of Expedited Sunset Reviews: Top-of-the-Stove Stainless Steel Cookware From the Republic of Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset reviews: top-of-the-stove stainless steel cookware from the Republic of Korea and Taiwan.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping orders on top-of-the-stove stainless steel cookware (''cookware'') from the Republic of Korea (''Korea'') and Taiwan (64 FR 4840) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of notices of intent to participate and substantive comments filed on behalf of the domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: July 27, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to these antidumping orders is top-of-the-stove stainless steel cookware from Korea and Taiwan. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of the order are stainless steel oven ware and stainless steel kitchen ware. The Department has issued several scope clarifications for these two orders. For imports of the subject merchandise from Korea, certain stainless steel pasta and steamer inserts are within the scope (63 FR 41545, August 4, 1998), certain stainless steel eight-cup coffee percolators are within the scope (58 FR 11209, February 24, 1993), and certain stainless steel stock pots and covers are within the scope of the order (57 FR 57420, December 4, 1992). For imports of the subject merchandise from Taiwan, ''universal pan lids'' are not within the scope of the order (57 FR 57420, December 4, 1992) and Max Burton's StoveTop Smoker is within the scope of the order (60 FR 36782, July 18, 1995). Moreover, as a result of a changed circumstances review, the Department revoked the order on Korea in part with respect to certain stainless steel camping ware (1) made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consisting of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans (62 FR 3662, January 24, 1997). Such merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

These reviews cover imports from all manufacturers and exporters of top-of-the-stove stainless steel cookware from the Republic of Korea and Taiwan.

Background

On February 1, 1999, the Department initiated sunset reviews of the antidumping orders on top-of-the-stove stainless steel cookware from the Republic of Korea and Taiwan (64 FR 4840), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of the Stainless Steel Cookware Committee, whose current members are Regal Ware, Inc., All-Clad Metalcrafters, Inc., and Vita Craft Corp. (collectively, the ''Committee''), on February 16, 1999, within the deadline specified in § 351.218(d)(1)(i) of the *Sunset Regulations.* Pursuant to section 771(9)(E) of the Act, the Committee claimed interested party status as an association of U.S. manufacturers of a domestic like product. In addition, the Committee's individual members claimed domestic interested party status pursuant to section 771(9)(C) of the Act, as domestic producers of a like product. Moreover, the Committee stated that Regal Ware was a petitioner in the original investigation. The Department received complete substantive responses from the Committee on March 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under § 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19

CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day, reviews of these orders.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margins of dumping likely to prevail if the orders are revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, the Committee's comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In these reviews, the Department did not receive a substantive response from any respondent interested party. Pursuant to § 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

The antidumping orders on top-of-the-stove stainless steel cookware from Taiwan and the Republic of Korea were published in the **Federal Register** on January 20, 1987 (52 FR 2138, 2139). Since that time, the Department has conducted several administrative reviews of the order with respect to cookware from Korea.[1] However, since the imposition of the order, no administrative reviews of the antidumping order on top-of-the-stove stainless steel cookware from Taiwan have been conducted. The orders remain in effect for all manufacturers and exporters of the subject merchandise from both countries.

In its substantive responses, the Committee argued that the actions taken by Korean and Taiwanese producers/exporters of stainless steel cookware during the life of the order indicate that the likely effect of revocation of the orders in these cases would be that dumping of cookware would continue at significant margins (*see* March 3, 1999, Substantive Response of the Committee at 8 (Taiwan) and 9–10 (Korea)). With respect to whether dumping continued at any level above de minimis after the issuance of the orders, the Committee pointed out that, regarding the subject merchandise from Korea, the Department has found in its administrative reviews margins of dumping above de minimis, with rates as high as 31.23 percent (*see* March 3, 1999, Substantive Response of the Committee at 10). With respect to the merchandise from Taiwan, the Department has not conducted any administrative reviews. Therefore, the Committee argued, because the margins that were determined in the original investigation remain in effect, all of the margins applicable to imports of stainless steel cookware from Taiwan are significantly above de minimis (*see* March 3, 1999, Substantive Response of the Committee at 9).

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. As pointed out above, dumping margins above de minimis continue to exist for shipments of the subject merchandise from both Korea and Taiwan.

Consistent with section 752(c) of the Act, the Department also considers the volume of imports before and after issuance of the order. The Committee argued that a significant decline in the volume of imports of the subject merchandise from both Korea and Taiwan since the imposition of the orders provides further evidence that dumping would continue if the orders were revoked. In their substantive responses, the Committee provided statistics demonstrating the decline in import volumes of stainless steel cookware from Korea and Taiwan (*see* March 3, 1999, Substantive Responses of the Committee at Attachment 1). The Department's statistics on imports of the subject merchandise from Taiwan and Korea confirm the Committee's arguments that imports of stainless steel cooking ware fell sharply after the orders were imposed. In fact, the volume of imports of cookware from Taiwan fell from approximately 15,208,000 units in 1986 to approximately 3,979,000 in 1987 and continued dropping to 1,774,000 in 1998.[2] As for the volume of imports from Korea, they also dropped dramatically after the imposition of the order, from approximately 35,540,000 units in 1986 to approximately 16,858,000 units in 1987 and continued dropping to 3,660,000 in 1998.[3]

As noted above, in conducting its sunset reviews, the Department considers the weighted-average dumping margins and volume of imports when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. Based on this

[1] *See Certain Stainless Steel Cooking Ware from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 56 FR 38114 (August 12, 1991); *Certain Stainless Steel Cooking Ware from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 58 FR 9560 (February 22, 1993); *Stainless Steel Cooking Ware from the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 59 FR 10788 (March 8, 1994); *Certain Stainless Steel Cooking Ware from the Republic of Korea; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order,* 62 FR 3662 (January 24, 1997).

[2] *See* U.S. Census Bureau Report IM146 and the March 3, 1999, Substantive Response of the Committee at Attachment 1.

[3] *Id.*

analysis, the Department finds that the existence of dumping margins above *de minimis* levels and a reduction in export volumes after the issuance of the orders is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a de minimis level continues in effect for exports of the subject merchandise by all known Korean and all known Taiwanese producers/exporters. Therefore, given that dumping has continued over the life of the orders, import volumes declined significantly after the imposition of the orders, respondent parties waived participation, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*)

The Department, in its final determinations of sales at less than fair value, published weighted-average dumping margins for five Korean producers/exporters of stainless steel cookware (51 FR 42873, November 26, 1986, amended in 51 FR 46889, December 29, 1986) and three Taiwanese producers/exporters (51 FR 42882, November 26, 1986). Moreover, the Department published an ''all others'' rate in both of these determinations. We note that, to date, the Department has not issued any duty absorption findings in either of these cases.

In their substantive responses, the Committee recommended that, consistent with the *Sunset Policy Bulletin,* the Department provide to the Commission the company-specific margins from the original investigations. Moreover, regarding companies not reviewed in the original investigation, the Committee suggested that the Department report the all others rates included in the original investigations.

The Department agrees with the Committee. The Department finds the margins calculated in the original investigation are probative of the behavior of Korean and Taiwanese producers/exporters if the orders were revoked as they are the only margins which reflect their actions absent the discipline of the order. Therefore, the Department will report to the Commission the company-specific and all-others rates from the original investigations as contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Producer/exporter	Margin (percent)
Korea:	
Bum Koo	31.23
Dae Sung	6.11
Hai Dong	12.14
Kyung Dong	8.36
Namil	0.75
All Others	8.10
Taiwan:	
Golden Lion Metal Industry Co, Ltd.	15.08
Lyi Mean Industrial Co., Ltd.	26.10
Song Far Industry Co., Ltd.	25.90
All Others	22.61

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 21, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19162 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072099A]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Surfclam and Ocean Quahog Committee, Comprehensive Management Committee, Squid-Mackerel-Butterfish Committee and Squid-Mackerel-Butterfish Monitoring Committee, and Executive Committee will hold public meetings.

DATES: The meetings will be held on Monday, August 9, 1999, to Thursday, August 12, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Sheraton Society Hill, One Dock Street, Philadelphia, PA; telephone: 215–238–6000.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Monday, August 9, 1999

10:00 a.m. until noon–-Squid-Mackerel-Butterfish Monitoring Committee

10:00 a.m. until noon—Comprehensive Management Committee

1:00 p.m. until 3:00 p.m.—Surfclam and Ocean Quahog Committee

3:00 p.m. until 6:00 p.m.—Squid-Mackerel-Butterfish Committee

Tuesday, August 10, 1999

8:00 a.m. until 5:00 p.m.–-Council will meet.

Wednesday, August 11, 1999

8:00 a.m. until 4:30 p.m.—Council will meet with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Board

Thursday, August 12,1999

9:00 a.m. until noon—Council will meet with the ASMFC's Summer Flounder, Scup, and Black Bass Board

1:00 p.m. until 3:00 p.m.—Council will meet with the ASMFC's Bluefish Board

The full Council session will continue until 4:00 p.m.

Agenda items for this meeting include: Election of Chairman and Vice Chairman; review process for field program proposals; adoption of 2000 quota and commercial management measures for surfclams and ocean quahogs; development of recommendations for and adoption of 2000 quotas and commercial management measures for Atlantic mackerel, *Loligo* and *Illex* squids and butterfish; adoption of commercial quota, recreational harvest limit, and commercial management measures for summer flounder, scup, and black sea bass for 2000; adoption of bluefish management measures for 2000; and consideration of revised habitat sections for previously disapproved fishery management plans. Other items scheduled on the agenda include: Report of Stock Assessment Review Committee; receipt of committee reports and other fishery management issues.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, such issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 21, 1999.

Gary C. Matlock,

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

[FR Doc. 99–19169 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits and a Guaranteed Access Level for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

July 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits and a guaranteed access level.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

At the request of the Government of Guatemala, the U.S. Government has agreed to increase the current guaranteed access level for Categories 347/348.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63032, published on November 10, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 21, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began on January 1, 1999 and extends through December 31, 1999.

Effective on July 27, 1999, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	1,567,006 dozen.
347/348	1,855,302 dozen.
448	50,286 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

Effective on July 27, 1999, you are directed to increase the guaranteed access level for Categories 347/348 to 1,800,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–19069 Filed 7–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 6, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–19278 Filed 7–23–99; 2:33 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 13, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–19279 Filed 7–23–99; 2:33 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 20, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A.Webb,

Secretary of the Commission.

[FR Doc. 99–19280 Filed 7–23–99; 2:33 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, August 27, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–19281 Filed 7–23–99; 2:33 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Procurement of Goods and Services

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval for a period of three years from the date of approval of a collection of information associated with the procurement of goods and services. Forms used by the Commission for procurement of goods and services request persons who quote, propose, or bid on contracts to provide information needed to evaluate quotes, proposals, and bids in accordance with applicable laws and regulations.

The Commission will consider all comments received in response to this notice before requesting reinstatement of approval of this collection of information from the Office of Management and Budget (OMB).

DATES: The Office of the Secretary must receive comments not later than September 27, 1999.

ADDRESSES: Written comments should be captioned ''Procurement of Goods and Services; Paperwork Reduction Act,'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information call or write Linda L. Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; (301) 504–0416, Ext. 2226.

SUPPLEMENTARY INFORMATION:

The Commission's procurement of goods and services is governed by the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253 *et seq.*). That law requires the Commission to procure goods and services under conditions most advantageous to the government, considering cost and other factors.

A. Information Required by Procurement Forms

The Commission requires persons and firms to submit quotations, proposals, and bids for contracts to provide goods and services on standardized forms. These forms request information from offerors about costs or prices of goods and services to be supplied; specifications of goods and descriptions of services to be delivered; competence of the offeror to provide the goods or services; and other information about the offeror such as the size of the firm and whether it is minority owned. The Commission uses the information provided by offerors to determine the reasonableness of prices and costs and the responsiveness of potential contractors to undertake the work involved so that all bids may be awarded in accordance with Federal procurement laws.

OMB approved the collection of information requirements in the procurement forms used by the Commission under control number 3041–0059. OMB's most recent extension of approval will expire on October 31, 1999. The CPSC now proposes to request extension of approval for the information collection requirements in the forms used for procurement of goods and services. The Commission plans to use the Internet and the General Services Administration's (GSA) GSA Advantage! System for delivery order purchasing. The Internet provides small businesses access to information about the Commission's current needs for goods and services.

B. Information Collection Burden

During fiscal year 1998, approximately 2,457 firms spent about 4,574 hours responding to all Requests for Quotations (RFQ), Invitations for Bids (IFB), and Requests for Proposals (RFP) issued by the Commission. The time required by vendors to respond ranged from as little as 10 to 15 minutes per firm for a simple telephone, e-mail, fax, or Internet response concerning the purchase of a standard item or service, to as much as 250 hours per firm for a complex written offer prepared in response to an RFP. Firms spent an estimated 932 hours responding to oral, electronic, and written RFQs, and approximately 3,642 hours preparing bids and proposals in response to more complex IFBs and RFPs.

The cost of preparing a response to an oral, electronic, or written RFQ is estimated to be approximately $30 to $40 per hour. This estimate is based on the Commission staff's knowledge that responses to RFQs are usually prepared by sales support personnel with some participation by higher-level employees. The cost of preparing a response to an IFB or RFP is estimated to range from $50 to $60 an hour because higher-level employees are the ones who prepare these responses, with some clerical assistance.

The annual cost to all firms for responding to RFQs is estimated to be approximately $37,280. The annualized

cost to all firms for responding to IFBs and RFPs is approximately $218,520. The total annual cost to all firms responding to all RFQs, IFBs, and RFBs issued by the Commission is estimated to be $255,000. The costs are accepted by firms as part of the cost of doing business with commercial and governmental customers.

The total cost to the government for all collections of information by the Commission related to procurement of goods and services is estimated to be about $366,324 a year. This estimate was made by reviewing the Commission's procurement activities in fiscal year 1998. During this period, the Commission processed 744 purchase requests, and performed 75 contract actions.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: July 21, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–19175 Filed 7–26–99; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for National Provider of Training and Technical Assistance to State Commissions

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (Corporation) announces the availability of between $500,000 and $850,000 for an organization selected under this Notice to provide training and technical assistance to state commissions on national and community service. The Corporation will announce competitions to select other providers of training and technical assistance later this year.

DATES: Proposals must be received by the Corporation by 3:00 p.m. Eastern time on September 10, 1999.

ADDRESSES: All proposals should be submitted to the Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525, Attention: Cathy Harrison, Room 9814B.

FOR FURTHER INFORMATION CONTACT: Jim Ekstrom at the Corporation for National and Community Service, (202) 606–5000, ext. 414, TDD (202) 565–2799. This Notice is available on the Corporations website, http://www.nationalservice.org/research.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. The Corporation's national and community service programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as part of a team.

AmeriCorps*State/National, VISTA, and National Civilian Community Corps engage thousands of Americans on a full-or part-time basis at over 1,000 locations to help communities meet their toughest challenges. Learn and Serve America integrates service into the academic life of nearly one million youth in all 50 states. The National Senior Service Corps utilizes the skills, talents and experience of over 500,000 older Americans to help make communities stronger, safer, healthier and smarter.

The Corporation provides assistance to organizations that carry out AmeriCorps*State/National, Learn and Serve America, and National Senior Service Corps programs. AmeriCorps*State/National programs, which involve over 40,000 Americans each year in results-driven community service, are grant programs managed by (1) State commissions that select and oversee programs operated by local organizations; (2) national non-profit organizations that identify and act as parent organizations for operating sites across the country; (3) Indian tribes; or (4) U.S. Territories. Learn and Serve America awards grants to state education agencies; state commissions; schools, colleges and universities; and nonprofit organizations to carry out school-based, community-based and higher-education service-learning programs. The National Senior Service Corps operates through grants to local organizations for Retired Senior Volunteer Programs (RSVP), Foster Grandparents and Senior Companions to provide service to their communities. For additional information on the national service programs supported by the Corporation, go to http://www.nationalservice.org.

In addition, the Corporation supports the AmeriCorps*VISTA (Volunteers in Service to America) and AmeriCorps*NCCC (National Civilian Community Corps) programs. More than 4,000 AmeriCorps*VISTA members serve to develop grassroots programs, mobilize resources and build capacity for service programs across the nation. AmeriCorps*NCCC provides an opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate in a residential program located mainly on downsized military bases.

Responsibilities of the state commissions include, but are not limited to:

- Administering a competitive process to select national service programs to be included in requests to the Corporation for funding or education awards;
- Administering grants received from the Corporation and overseeing and monitoring the performance and progress of funded programs;
- Implementing comprehensive evaluation and monitoring systems;
- Providing training and technical assistance to sub-grantees on implementing and operating high quality programs; and
- Developing and updating a unified state plan for national service that is consistent with the Corporation's broad goals and includes input from Corporation state offices and state education agencies.

II. Eligibility

Public-sector agencies, non-profit organizations, institutions of higher education, Indian tribes, and for-profit companies are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible. The Corporation will consider proposals from single

applicants, applicants in partnership and applicants proposing other approaches to meeting the requirement that are considered responsive to this Notice. Organizations may apply to provide training and technical assistance in partnership with organizations seeking other Corporation funds. Based on previous training and technical assistance competitions and the Corporation's estimate of potential applicants, the Corporation expects fewer than ten applications to be submitted in response to this Notice.

III. Period of Assistance and Other Conditions

A. Cooperative Agreements

Funding awarded under this Notice will be via cooperative agreement. Administration of cooperative agreements is controlled by the Corporation's regulations, 45 CFR part 2541 (for agreements with state and local government agencies) and 45 CFR part 2543 (for agreements with institutions of higher education, non-profit organizations and other entities). The awardee must comply with reporting requirements, including submitting quarterly financial reports and quarterly progress reports linking progress on deliverables to expenditures.

B. Use of Materials

To ensure that materials generated for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation retains royalty-free, non-exclusive, and irrevocable licenses to obtain, use, reproduce, publish, or disseminate products, including data produced under the agreement, and to authorize others to do so. To the extent practicable, the awardee will agree to make products available to the national service field as identified by the Corporation at no cost or at the cost of reproduction. All materials developed for the Corporation will be produced consistent with Corporation editorial and publication guidelines.

C. Time Frame

The Corporation expects that work under the agreement awarded through this Notice will commence on or about December 1, 1999, following the conclusion of the Corporation's selection and award process. The Corporation will make awards covering a period not to exceed three years. Applications must include a proposed budget and proposed activities for the entire award period. If the Corporation approves an application and enters into a multi-year award agreement, at the outset it will provide funding only for the first year of the award period. The Corporation has no obligation to provide additional funding in subsequent years. Funding for the second and third years of an award period is contingent upon satisfactory performance, the availability of funds and any other criteria established in the award agreement.

D. Other Corporation-Sponsored Training and Technical Assistance

In addition to supporting the training and technical assistance provider selected under this Notice, the Corporation currently supports training and technical assistance for national service programs through a network of national providers in the areas of conflict resolution, human relations and diversity, educational success, financial management, supervisory skills, training-materials development, resource center services, organizational development and program management, public safety, risk management, crew-based programming, member development and management, sustainability, and out-of-school time.

IV. Scope of Activities To Be Supported

The National and Community Service Act of 1990, as amended, states that the Corporation for National Service ''shall provide training and technical assistance, where necessary, to * * * State Commissions * * * to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, and for other purposes.'' 42 U.S.C. 12653(e). The areas in which commissions need support services include identifying and developing plans to meet state commission technical assistance needs; strategic planning; monitoring and quality assurance; sustainability; collaborating and networking with other state agencies and national service entities; designing assessment, evaluation, communication and advisory processes; and using resources effectively.

In addressing the tasks listed below the provider will be expected to deliver training that is interactive, experiential, consistent with the principles of adult learning, and sensitive to audience diversity. Further, the provider will develop training activities that take into account the different levels of knowledge and skills on the part of those being trained. Finally, in accordance with Corporation policy, the provider will ensure that all training and technical assistance is accessible to persons with disabilities as required by law.

The Corporation expects the provider selected under this Notice to integrate the following requirements into its service delivery:

1. Developing protocols and other guidelines for delivering and documenting the training and technical assistance services provided to commissions. Examples of focus areas include developing commission training and technical assistance service strategies, planning and executing training and technical assistance interventions, and helping to organize and conduct retreats.
2. Developing and maintaining a network of geographically dispersed experts, that includes staff and commissioners from state commissions and/or Corporation-funded programs. The experts should be individuals who are well experienced in the services offered by the provider. They should be listed in, and their resumes made part of, the application package (see Section V, Application Guidelines, below) to permit review and discussion of their qualifications during the Corporation's selection process.
3. Orienting and training staff and consultants on the Corporation's background and objectives.
4. Developing a plan to promote its services to commissions.
5. Using electronic communication as much as possible to facilitate the delivery of training and technical assistance services and the exchange of information within and among commissions, e.g., via electronic networks and conference calls (the provider should budget for at least two, one-hour conference calls per month per state, each involving at least 15 commissions). The Corporation is especially interested in approaches that expedite service delivery, increase communication and are cost-efficient.
6. Assisting Corporation staff in orienting newly appointed state commissioners and executive directors.
7. Delivering service in a manner that enhances the capacity of state commissions to function effectively. As one approach to meeting this objective, the provider will be expected to use transfer-of-skills methods and train-the-trainer models in delivering its services. Potential focus areas include strategic planning; program monitoring and evaluation; training and technical assistance management, to include needs assessment and resource development; and cross-program collaboration.
8. Developing and managing a peer-to-peer system that makes use of the full

range of service delivery, *i.e.*, phone consultations and other electronic communication, materials development and shipment and site visits (the provider will budget for at least 20 peer site visits per quarter). The provider will be expected to document the system's operation, to include the peer selection criteria, preparation process, and assignment procedure. To facilitate the peer-to-peer process, the provider will be expected to inventory the skills of commission executive directors and commissioners, and publish an annotated listing on the provider's website for review and use by potential commission customers. Following each peer intervention, the provider will require an after-action report outlining the issues addressed, actions taken, results achieved and follow-up actions required.

9. Developing annually, in coordination with the Corporation's program, training and technical assistance and grants staffs, and with commission executive directors, a strategic, training-and-technical-assistance plan for each state commission. The provider will be expected to deliver the services outlined in the plans in a sequence, determined through similar consultation, that provides assistance earliest to those commissions deemed to be in greatest need. This plan will be updated as needed. The provider will budget for at least 43 site visits per quarter.

10. Responding to requests for training and technical assistance from state commissions directly or by facilitating services through other training and technical assistance providers, to include the Corporation's National Service Leadership Institute. In devising responses to such requests, the provider will coordinate with the Corporation's program, training-and-technical-assistance and other staffs, as needed, as well as with commission staff, on the strategy, content, delivery mode, timing and cost-effectiveness of the response. Following delivery of the assistance, the provider will give written feedback to the Corporation and other planning entities on the outcome of the intervention and recommended follow-up action. The provider will also be expected to work with commissions to document the longer-term impact of each intervention.

11. Assisting state commissions in planning, organizing, coordinating and facilitating state-based and cluster-based (regional) training conferences designed to address training needs across service programs as well as those specific to a single service stream. The provider will budget to assist with the convening of at least one cluster-based training conference per year.

12. Assisting commissions in assessing their compliance with State Commission Administrative Performance Standards. (The performance standards, currently in draft form, are available on the Corporation's website, *http://www.nationalservice.org/research*.)

13. Developing and providing training and technical assistance designed to assist commissions in addressing areas of non-compliance with State Commission Administrative Performance Standards. The provider will budget for at least 12 interventions per year.

14. Developing curricula that commissions can request in support of one- to three-day, state-based or regional training conferences on strengthening state commissions. Potential topic areas include commission structure and function, commissioner and staff orientation and training, program support strategies, information flow, unified state planning, and identifying and applying effective practices.

15. Collaborating on training events organized by other training and technical assistance providers including the National Service Leadership Institute.

16. Soliciting an evaluation after each training and technical assistance event using an assessment instrument that is approved by the Corporation. The provider will maintain records of these evaluations and provide them to the Corporation or an authorized representative upon request. The provider will submit aggregate summaries of each training-and-technical-assistance event's evaluations as part of the required quarterly report to the Corporation. The Corporation may conduct independent assessments of the provider's performance at any time.

17. Researching and documenting, for dissemination, effective practices and lessons learned about the operation and technical elements of commissions.

18. Submitting a quarterly report that, at minimum, provides the information below. The provider will develop the capacity to submit this information electronically as stipulated by the Corporation.

a. A comparison of accomplishments with the goals and objectives for the period.

b. An annotated version of the approved budget that compares actual costs with budgeted costs by line item, and explains differences. The explanation should include, as appropriate, an analysis of cost overruns and high-cost units and a description of service requests not anticipated in your original budget.

c. A description of the services provided to include:

(1) Number of requests received by topic area and stream of service;

(2) The activity conducted to address each request (e.g., training, on-site technical assistance, phone consultation and other electronic communication and/or materials development and shipment) and mode of delivery (e.g., staff member, consultant, peer assistant and/or other provider);

(3) The number of participants in each training and technical assistance event;

(4) The cost of responding to each request based on the direct costs to the provider;

(5) Average cost per delivery mode (e.g. on-site consultations, conference calls, cluster meetings, and peer-to-peer interventions);

(6) Client feedback on the services rendered (including the aggregate evaluation of each training event);

(7) Problems encountered in delivering services with recommendations for addressing them.

d. A list of upcoming activities and events;

e. Recommended training and technical assistance focus areas as suggested by analyses of service activity and trends.

f. A discussion of developments that hindered, or may hinder, compliance with the cooperative agreement.

V. Application Guidelines

A. Proposal Content and Submission

Applicants are requested to submit one unbound, original proposal and four copies. Proposals may not be submitted by facsimile. Proposals must include the elements below. To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements relating to page limits, line spacing, and font size.

1. A cover page listing: name, address, phone number, fax number, e-mail address and World Wide Web site (if available) of the applicant organization and contact person; a 50–75 word summary of the proposed training and technical assistance program or activity; and the total funding requested.

2. A narrative of no more than 25 double-spaced, single-sided, typed pages in no smaller than 12-point font describing:

a. Objectives, scope of activities being proposed, and deliverables projected in response to the scope-of-activities

requirements outlined in Section IV of this Notice (e.g., number and duration of training events and number of participants; number of technical assistance visits; number and type of consultations; curricular modules and other materials, etc.).

b. Detailed work plan for accomplishing the objectives to include a timeline for implementing each objective.

c. A plan for regularly evaluating performance and reporting findings and proposed improvements to the Corporation.

3. A narrative of no more than four double-spaced, single-sided, typed pages in no smaller than 12-point font describing the organization's capacity to provide training and technical assistance services nationwide, including descriptions of recent work similar to that being proposed, references that can be contacted related to that work, organizational structure and staff strengths and backgrounds (lists and resumes, along with anticipated rates of pay, of proposed staff and expert consultants shall be included in an appendix; this information is not subject to the page limits that are otherwise applicable).

4. A detailed, line-item budget with hours and costs organized by personnel, task and sub-task and related to the activities and deliverables outlined in the introductory narrative.

a. Include staff and expert-consultant hours and pay rates being proposed by task and sub-task, and indicate by task and sub-task the types and quantities of other direct costs being proposed (for example, amounts of travel; volumes of other task-related resources, such as communications, postage, etc.). Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars.

b. Provide a budget narrative that includes an explanation of the basis for the cost estimates. The organization of the budget narrative should parallel that of the line-item budget. Each of the elements and sub-elements that comprise the totals of the individual budget lines must be fully explained in the narrative. The narrative should show how each cost was derived, using equations to reflect all factors considered. The anticipated unit cost (with derivation) of the various deliverables (such as training events and technical assistance interventions) should be provided.

c. Identify other funding sources, if any, which will be used to support the proposed training and technical assistance services. Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. (Provider match is not required.)

B. Selection Criteria

The Corporation will assess applications based on the criteria listed below.

1. Quality (30%)

The Corporation will consider the quality of the proposed activities based on:

a. Demonstrated understanding of the needs of state commissions, Corporation-funded programs, and the Corporation itself.

b. Descriptions of proposed training and technical assistance techniques, including procedures for testing new curricula and training activities before offering them on a large scale.

c. The degree to which the objectives outlined in the proposal's introductory narrative are addressed through the work plan.

2. Organizational and Personnel Capacity (30%)

The Corporation will consider the organizational capacity of the applicant to deliver the proposed services based on:

a. Demonstrated organizational experience in delivering high-quality training and technical assistance, particularly in the area(s) under consideration, in a flexible, responsive, collaborative and creative manner.

b. Background of the organization's leadership and staff/consultants proposed for the project.

c. Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants and cost accounting.

d. Demonstrated ability to provide training and technical assistance services nationwide on a cost-effective basis.

3. Evaluation (10%)

The Corporation will consider how the applicant:

a. Proposes to assess its services and products delivered under the award.

b. Plans to use assessments of its services and products to modify and improve subsequent services and products.

4. Budget (30%)

The Corporation will consider the budget based on:

a. Scope of the proposed training and technical assistance activity (e.g., the number of states, programs and individuals the proposed activities are intended to reach);

b. Cost-effectiveness of the proposed activity, in part, in consideration of the scale and comprehensiveness of the services proposed for the funding requested.

Authority: 42 U.S.C. 12653(e).

CFDA No. 94.009 Training and Technical Assistance.

Dated: July 20, 1999.

William H. Bentley,

Director, Department of Evaluation and Effective Practices, Corporation for National and Community Service.

[FR Doc. 99–19140 Filed 7–26–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Officer of the Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with section 3506(c)(2) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announced the following proposed renewal of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 27, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy/Military Personnel Policy/Compensation), ATTN: Lt Col Joseph L. Brown, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this

proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 693–1068.

Title, Associated Form, and OMB Control Number: Validation of Public or Community Service Employment Performed by retired Personnel Retired Under the Temporary Early Retirement Authority (TERA) for Increased Retirement Compensation, DD Form 2676, 0704–0357.

Needs and Uses: This information collection requirement is necessary to validate and credit increased retirement compensation for qualifying public or community service employment performed by retired personnel of the Armed Forces who retired under the early retirement program.

Affected Public: Individuals and households; not-for-profit institutions; Federal Government; State, local or Tribal Government.

Annual Budget Hours: 333.

Number of Respondents: 2,000.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: Upon employment, annually, and at the end of employment.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Retired personnel employed by a public or community service employer, listed on the Registry of Public and Community Service Organizations, receive military service credit for all qualifying periods of employment during the enhanced retirement qualification period. This is the period beginning on the date of retirement and ending on the date the retired person would have attained 20 years of creditable service for retired pay purposes. Employers certify full-time, paid employment (full-time employment is defined by the organization concerned, but is typically at least 33 hours per week or 143 hours per month, including paid holidays and paid periods of leave or vacation). Retired personnel then mail the validation form to the Defense Manpower Data Center (DMDC) for review and processing in a data base designed for this purpose. For each qualifying period of employment, the amount of military service credit shall be computed by subtracting the date of the first day of employment or the first day of the enhanced retirement qualification period, whichever is later, from the date of the last day of employment or the last day of the enhanced retirement qualification period, whichever is earlier, and adding 1 day to account for inclusive dates. DMDC will then send retired personnel blank forms for future certification.

Dated: July 21, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–19060 Filed 7–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Ballistic Missile Defense Advisory Committee

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session at the Consolidated Support Facility, 1901 North Moore Street, Suite 750, Arlington, Virginia, on August 5, 1999.

The mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense, through the Under Secretary of Defense (Acquisition and Technology), on all matters relating to BMD acquisition, system development, and technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended by 5 U.S.C., Appendix II, it is hereby determined that this BMD Advisory Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: July 21, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–19059 Filed 7–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: August 11, 1999 from 0830 to 1700 and August 12, 1999 from 0830 to 1300.

Place: Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, Arlington, VA 22203.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kelly, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: July 21, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer; Department of Defense.

[FR Doc. 99–19057 Filed 7–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on August 3, 1999, August 10, 1999, August 17, 1999, August 24, 1999, and August 31, 1999 at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of the Pub. L. 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing

to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: July 21, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–19058 Filed 7–26–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearing for a Joint Draft Environmental Impact Statement/ Environmental Impact Report for Disposal and Reuse of Marine Corps Air Station, Tustin, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy, United States Marine Corps and the City of Tustin, Orange County, California have prepared and filed with the U.S. Environmental Protection Agency, a Joint Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the disposal and reuse of Marine Corps Air Station (MCAS) Tustin, located in Tustin and Irvine, California. In accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations (40 CFR parts 1500–1508) and the California Environmental Quality Act (CEQA) (Calif. Public Resources Code Sec. et seq. 21000), this notice announces the dates and locations of public hearings for the DEIS/EIR.

DATES: The meeting date is Thursday, August 11, 1999, at 7:00 p.m.

ADDRESSES: The meeting location will be held at the Tustin City Council Chambers, Tustin Civic Center, 300 Centennial Way, Tustin, California 92780.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Ms. Melanie Ault, Environmental Planner, Naval Facilities Engineering Command, Base Realignment and Closure Operations Office, 1220 Pacific Highway, San Diego, California 92132–5190, telephone (619) 532–4744.

SUPPLEMENTARY INFORMATION: The Draft EIS/EIR has been distributed to various Federal, state, and local agencies, as well as other interested individuals and organizations. In addition, copies of the Draft EIS/EIR have been distributed to the following libraries for public review: Tustin Library, 345 E. Main Street, Tustin, CA; Heritage Park Regional Library, 14361 Yale Avenue, Irvine, CA; and the University of California, Irvine, Government Information Department, Main Library, contact: Yvonne Wilson, (949) 824–7362. Additional copies may be requested by contacting Mr. Dana Ogdon at (714) 573–3116.

The federal action evaluated in the Draft EIS/EIR is the disposal and reuse of approximately 1585 acres, MCAS Tustin property which has been declared surplus. An approximate 17-acre parcel of MCAS Tustin was not declared surplus and will remain in federal ownership as an Army Reserve Center.

Under NEPA and Defense Base Closure and Realignment Act (DBCRA), the DON has two disposal options for MCAS Tustin; no action or disposal of the surplus 1585 acres.

Under the No Action Alternative, DON would retain ownership of the surplus federal property. DON properties have been closed, all mission-related activities have ceased, and all buildings are vacant. Site environmental cleanup would continue until completed. This caretaker condition would remain indefinitely.

The local action is the reuse of MCAS Tustin under an economically viable and balanced reuse plan that will provide housing and employment opportunities, solve existing community circulation and recreation parkland deficiencies, and generate sufficient revenue to support the investment in infrastructure required for reuse of the site. The City of Tustin, acting as the Local Redevelopment Authority (LRA), included the Army Reserve Center and a privately-owned parcel within the boundaries of the reuse plan in order to provide zoning and general plan designations. Therefore, the local action includes approximately 1602 acres, which includes 95 acres within the City of Irvine.

The City of Tustin, as the local lead agency may certify the EIS/EIR to implement a civilian reuse plan, i.e., amend the City of Tustin General Plan, amend its Zoning Ordinance, and adopt a Specific Plan and other discretionary actions. The City of Irvine has assigned lead agency responsibility for the preparation of the EIS/EIR to the City of Tustin as it affects MCAS Tustin property in Irvine. Under CEQA statute, the City of Irvine is considered a responsible agency, and may certify the EIS/EIR to adopt similar discretionary actions needed to implement the Reuse Plan for MCAS Tustin property located within Irvine's jurisdictional boundary.

Federal disposal would precede implementation of the reuse alternatives. Three reuse alternatives are evaluated in detail in the Draft EIS/EIR: LRA Reuse Alternative; Arterial Grid Pattern/No Core/High Residential; and Arterial Loop Pattern/Reserve Area/Low Residential.

The LRA Reuse Alternative would result in a maximum of 4,601 dwelling units; Transitional/Emergency Housing for the homeless; an Urban Regional Park developed around the northern blimp hangar; a large Community Core developed with mixed uses; and specialized educational, social service, and law enforcement facilities within a Learning Village; and a Golf Village with hotel and ancillary retail uses. It would permit reuse of some of the recreational facilities and 1537 housing units. Approximately 11.4 million square feet of non-residential uses such as commercial business, light industrial, public and recreation uses (approximately 2.2 million feet is existing floor area on the base and 9.2 million square feet is potential new floor area) would be developed. Both of the blimp hangars could be reused, if financially feasible. The project also will include the extension of major arterials through the base including Tustin Ranch Road to Von Karman, Warner Avenue from Red Hill Avenue to west of Jamboree Road and creation of a secondary interior loop roadway and local roadways to facilitate local circulation.

The Arterial Grid Pattern/No Core/ High Residential would result in a maximum of 6205 dwelling units; approximately 9.2 million square feet of commercial and business uses, Village Mixed-Uses, and Public Institutional/ Commercial functions (approximately 1.5 million square feet is existing floor area and 7.7 million square feet is potential new floor area). A large Cultural Center would be developed and the northern blimp hangar would be incorporated, if financially feasible, and be reused to support regional cultural activities in the form of special events center, museum, or other permitted uses. The southern blimp hangar would be demolished. The project also will include the extension of major arterials through the base including Tustin Ranch Road to Von Karman, Warner Avenue from Red Hill Avenue to west of Jamboree Road and creation of a secondary arterial grid pattern road network to facilitate local circulation.

The Arterial Loop Pattern/Reserve Area/Low Residential would result in a maximum of 4340 dwelling units, approximately 10.9 million square feet of commercial, institutional, and

recreational uses (approximately 1.5 million square feet is existing floor area and 9.4 million square feet is potential new floor area). A large Cultural Center would be developed and would incorporate the northern blimp hangar, if financially feasible. It would also include a Reserve Area for residential, commercial/business, and institutional uses in large-scale development. A large golf course would also be developed. The project also will include the extension of major arterials through the base including Tustin Ranch Road to Von Karman, Warner Avenue from Red Hill Avenue to west of Jamboree Road and creation of a secondary interior loop roadway and local roadways to facilitate local circulation.

The Draft EIS/EIR analyses potential environmental impacts relating to land use; socioeconomics; utilities; public services and facilities; aesthetics; cultural and paleontological resources; biological resources; agricultural resources; soils and geology; water resources; hazardous wastes, substances, and materials; traffic/circulation; air quality; and noise. Potentially significant and not mitigable impacts associated with the three reuse alternatives are related to conversion of Farmland, elimination of two historic districts, demolition of historic blimp hangars (possibly one or both hangars), air quality emissions, and traffic/circulation.

The Marine Corps and the City of Tustin will conduct a public hearing on Thursday, August 11, at 7:00 p.m. for those individuals who would like to provide written or oral comments on the Draft EIS/EIR. A brief presentation will precede a request for public information and comments. Marine Corps and City representatives will be available at the hearing to receive information and comments regarding environmental issues of concern. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer. To assure accuracy of the record, all comments should also be submitted in writing. In the interest of time and to ensure all who wish to give an oral statement have the opportunity to do so, speakers are requested to limit their comments to three minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed or faxed to Mr. Dana Ogdon, Senior Project Manager, City of Tustin, 300 Centennial Way, Tustin, California 92780, telephone (714) 573–3116, fax (714) 573–3113.

Written comments must be postmarked by August 22, 1999. All comments, both oral and written, will become part of the public record in the EIS/EIR.

Dated: July 16, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 99–19090 Filed 7–26–99; 8:45 am]

BILLING CODE 3810–FF–P

DENALI COMMISSION

Denali Commission Work Plan for Federal Fiscal Year 1999 and 2000

ACTION: Notice and opportunity for public comment.

SUMMARY: The Denali Commission was established by The Denali Commission Act of 1998 (Pub. L. 105–277, 112 Stat. 2681–637) to deliver the services of Federal Government in the most cost-effective manner practicable to communities throughout rural Alaska, many of which suffer from unemployment rates in excess of 50%. Its purposes include, but are not limited to, providing necessary rural utilities and other infrastructure that promote health, safety and economic self-sufficiency.

The Denali Commission Act requires that the Commission develop proposed work plans for future spending. In accordance with the Act, the Commission solicited project proposals from local governments and other entities, and released its work plans for both Fiscal Year 1999 and Fiscal Year 2000. The Act further requires that the Commission publish the Fiscal Year 2000 work plan in the **Federal Register** for a 30-day period, providing an opportunity for public review and comment.

This **Federal Register** Notice serves to announce the 30-day opportunity for public comment on the Denali Commission Work Plan for Federal Fiscal Year 2000.

FOR FURTHER INFORMATION CONTACT: Jeffrey Staser, Federal Co-Chairman, Denali Commission, 510 L Street, Suite 410, Anchorage, Alaska 99501, Phone: (907) 271–1414, Fax: (907) 271–1415, Email: *JStaser@denali.gov http://www.denali.gov.*

SUPPLEMENTARY INFORMATION: Copies of the Denali Commission Work Plan can be obtained by contacting the Denali Commission as provided in the **FOR FURTHER INFORMATION CONTACT** section above.

Jeffrey Staser,

Federal Co-Chairman.

[FR Doc. 99–19141 Filed 7–26–99; 8:45 am]

BILLING CODE 3300–01–M

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.129C, 84.129D, 84.129E, 84.129F, 84.129H, 84.129J, 84.129N, 84.129P, 84.129Q, and 84.129R]

Rehabilitation Training: Rehabilitation Long-Term Training; Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: September 17, 1999.

Deadline for Intergovernmental Review: November 16, 1999.

Applications Available: July 23, 1999.

Estimated Available Funds: $3,600,000.

Estimated Range of Awards: $75,000 to $100,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 37.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating

the application. You must limit Part III to the equivalent of no more than 35 pages, using the following standards:

(1) A page is 8.5″ x 11″ on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we will not consider your application for funding.

Maximum Award: In no case does the Secretary make an award greater than the amount listed in the Maximum Level of Award column in the following chart for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period, Maximum Number of Awards, Maximum Level of Awards, and Absolute Priorities: The Secretary is conducting a single competition to select a total of 37 awards across the 11 priority areas of personnel shortages related to the public rehabilitation program (section 302(b)(1) of the Rehabilitation Act of 1973, as amended). The project period and maximum level of awards to be made in each priority area are listed in the following chart. The maximum number of awards to be made are listed in the parentheses following each priority area. Applicants must submit a separate application for each area in which they are interested. Under 34 CFR 75.105(c)(3) and 34 CFR 386.1, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that propose to provide training in one of the following areas of personnel shortages:

CFDA No.	Priority area (maximum number of awards in parentheses)	Project period	Maximum level of award
84.129C	Rehabilitation administration (1)	Up to 60 months	$100,000
84.129D1	Physical therapy (3)	Up to 60 months	100,000
84.129D2	Occupational therapy (3)	Up to 60 months	100,000
84.129E	Rehabilitation technology (2)	Up to 60 months	100,000
84.129F	Vocational evaluation and work adjustment (5)	Up to 60 months	100,000
84.129H	Rehabilitation of individuals who are mentally ill (5)	Up to 60 months	100,000
84.129J	Rehabilitation psychology (3)	Up to 60 months	100,000
84.129N	Speech pathology and audiology (2)	Up to 60 months	75,000
84.129P	Specialized personnel for rehabilitation of individuals who are blind or have vision impairments (8).	Up to 60 months	100,000
84.129Q	Rehabilitation of individuals who are deaf or hard of hearing (8)	Up to 60 months	100,000
84.129R	Job development and job placement services to individuals with disabilities (5).	Up to 60 months	100,000

Invitational Priority: Within the absolute priority for CFDA No. 84.129Q, Rehabilitation of individuals who are deaf or hard of hearing, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that would offer training in the special skills and knowledge related to the effective rehabilitation of individuals who are deaf or hard of hearing and low functioning. These are individuals who, in addition to hearing loss, have other physical or mental impairments, learning, language, or educational deficits, and other related conditions that result in multiple ongoing functional limitations.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunication device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–9817. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Ellen Chesley, U.S. Department of Education, 400 Maryland Avenue, SW. (room 3318, Switzer Building), Washington, DC 20202–2649. Telephone (202) 205–9481. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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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 (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 29 U.S.C. 774.

Dated: July 22, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–19117 Filed 7–26–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.264]

Rehabilitation Continuing Education Programs; Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: To support training centers that serve either a Federal region or another geographical area and provide for a broad, integrated sequence of training activities that focus on meeting recurrent and common training needs of employed rehabilitation personnel throughout a multi-State geographical area.

Eligible Applicants: States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education.

Deadline for Transmittal of Applications: September 17, 1999.

Deadline for Intergovernmental Review: November 16, 1999.

Applications Available: July 27, 1999.

Estimated Available Funds: $400,000.

Estimated Range of Awards: $90,000–$100,000.

Note: Applicants should apply for level funding for each project year. Also, applicants are subject to a 10 percent cost-share requirement on awards.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards:

84.264C (Independent living)—2

84.264D (Upgrading skills of State agency personnel)—2

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an initial award greater than $100,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than 45 pages, using the following standards:

(1) A page is 8.5 inches by 11 inches, on one side only with 1 inch margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the résumés, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we will not consider your application for funding.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 389.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority 1 (84.264C)

Under 34 CFR 75.105(c)(3) and 34 CFR 389.10(c) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would develop and conduct training programs for staff of centers for independent living.

Absolute Priority 2 (84.264D)

Under 34 CFR 75.105(c)(3) and 34 CFR 389.10(b) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would provide training opportunities for experienced State agency personnel at all levels of State agency practice to upgrade their skills and to develop mastery of new program developments dealing with significant issues and priorities and legislative thrusts of the public vocational rehabilitation program.

Invitational Priority—Rehabilitation Technology

Within Absolute Priority 2, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that would offer certificate training to State vocational rehabilitation (VR) agency staff on matters regarding rehabilitation technology as it applies to the needs of customers of the public VR program.

Rehabilitation technology, as defined in section 7(30) of the Rehabilitation Act of 1973, as amended, means, ''* * * the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.''

Selection Criteria: In evaluating an application for a new grant under these competitions, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for these competitions will be provided in the application package for these competitions.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW. room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–9817. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Brightly, U.S. Department of Education, 400 Maryland Avenue, SW. (room 3318, Switzer Building), Washington, DC 20202–2649. Telephone (202) 205–9561. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Program Authority: 29 U.S.C. 774.

Dated: July 22, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–19118 Filed 7–26–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

(CFDA No.: 84.129W)

Rehabilitation Training: Rehabilitation Long-Term Training—Comprehensive System of Personnel Development; Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: To assist State vocational rehabilitation agencies in carrying out their Comprehensive System of Personnel Development (CSPD) plans.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Training: Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: September 17, 1999.

Deadline for Intergovernmental Review: November 16, 1999.

Applications Available: July 27, 1999.

Estimated Available Funds: $2,000,000.

Estimated Range of Awards: $75,000–$500,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than 45 pages, using the following standards:

(1) A page is 8.5″ x 11″ on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we won't consider your application for funding.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Priority

The priority in the notice of final priority for this program published in the **Federal Register** on October 16, 1998 (63 FR 55764) applies to this competition.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunication device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–9817. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Beverly Steburg, U.S. Department of Education, Rehabilitation Services Administration, 61 Forsyth Street, SW, room 18T91, Atlanta, Georgia 30303. Telephone (404) 562–6336. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Program Authority: 29 U.S.C. 774.

Dated: July 22, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–19119 Filed 7–26–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129B]

Rehabilitation Training: Rehabilitation Long-Term Training—Vocational Rehabilitation Counseling; Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: September 17, 1999.

Deadline for Intergovernmental Review: November 16, 1999.

Applications Available: July 27, 1999.

Estimated Available Funds: $2,100,000.

Estimated Range of Awards: $90,000 to $100,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 21.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $100,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than 35 pages, using the following standards:

(1) A ''page'' is 8.5″ x 11″, on one side only with 1″ margins at the top, bottom, and both sides.

(2) You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

If you use a proportional computer font, you may not use a font smaller than a 12-point font or an average character density greater than 18 characters per inch. If you use a nonproportional font or a typewriter, you may not use more than 12 characters per inch.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, in order to meet the page limit, you use print size, spacing, or margins smaller than the standards specified in this notice, we will not consider your application for funding.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 386.1(b) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would provide training in vocational rehabilitation counseling, which the Secretary has identified as an area of personnel shortage.

Invitational Priorities: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Master's Program

Projects that would offer training at the master's level through established graduate rehabilitation counseling programs that are accredited by the Council on Rehabilitation Education.

Invitational Priority 2—Doctoral Program

Projects that would offer training at the doctoral level through established graduate rehabilitation counseling programs.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunication device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550.

Telephone: (202) 205–9817. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Sylvia Johnson, U.S. Department of Education, 400 Maryland Avenue, SW. (room 3318, Switzer Building), Washington, DC 20202–2649. Telephone (202) 205–9312. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Program Authority: 29 U.S.C. 774.

Dated: July 22, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–19120 Filed 7–26–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[FE Docket No. 99–1]

Proposed Open Access Requirement for International Electric Transmission Facilities and Delegation to the Federal Energy Regulatory Commission

AGENCY: Department of Energy.

ACTION: Notice of Proposed Amendment to Presidential Permits and Export Authorizations and Delegation and Assignment to the Federal Energy Regulatory Commission.

SUMMARY: Notice is given of the Department of Energy's (DOE or Department) intention to amend existing Presidential permits issued for the construction, operation, maintenance, or connection of facilities at the international border for the transmission of electric energy between the United States and foreign countries to require permit holders to provide non-discriminatory open access transmission services. The open access requirement would also be attached to the permit holder's authorization(s) to export electricity. Notice is also given of the delegation and assignment by the Secretary of Energy (Secretary) to the Federal Energy Regulatory Commission (Commission) of the authority to carry out functions of the Secretary related to the implementation and enforcement of this open access requirement. This delegation and assignment rescinds and supersedes a prior delegation of the Secretary to the Commission, which transferred the authority to effectuate open access over the United States portion of the international transmission lines of the El Paso Electric Company.

DATES: Comments, protests, or requests to intervene must be submitted on or before September 27, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586-9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary has the authority under the Department of Energy Organization Act (DOE Act) (Pub. L. 95–91) to approve or disapprove applications to transmit electricity to a foreign country pursuant to section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)). Moreover, the Secretary has the authority to approve or disapprove applications to construct, operate, maintain, or connect electric transmission facilities at the border between the United States and a foreign country through the issuance of a Presidential permit pursuant to Executive Order (EO) 10485, dated September 3, 1953, as amended by EO 12038, dated February 3, 1978. Under section 202(e) of the FPA, the Secretary may issue necessary or appropriate supplemental orders to modify the terms or conditions of authorizations to export electricity. The export authorizations themselves allow for modification or termination. Under the authority of the EO, the Secretary may attach to the Presidential permit, and the rights granted thereunder, such conditions as the public interest may require.

These functions were originally vested in the Federal Power Commission (FPC). Subsection 301(b) of the DOE Act transferred to, and vested in, the Secretary all the functions of the FPC not specifically vested by the DOE Act in the Commission. The FPC's functions with respect to transmission of electricity to a foreign country and electric transmission facilities at the border were not specifically vested in the Commission by the DOE Act. Furthermore, subsection 402(f) of the DOE Act provides that no function which regulates the export or import of electricity shall be within the jurisdiction of the Commission unless the Secretary assigns such a function to the Commission.

In its Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, FERC Stats. & Regs. ¶31,036 (1996)), the Commission required public utilities to provide comparable open access and non-discriminatory transmission service in interstate commerce in order to promote competition. In a later order in response to a request from Enron Power Marketing, Inc. (EPMI) for transmission access across the international transmission facilities of the El Paso Electric Company (EPE), the Commission expressed the opinion that cross-border electric trade ought to be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce (See Enron Power Marketing, Inc., 77 FERC ¶61,013 (1996)). However, the Commission determined that a gap existed in its authority to require open access from EPE's last substation within the United States up to the border. It further concluded that the Secretary, not the Commission, had the authority to regulate transmission access over the U.S. portion of international transmission lines under section 202(e) of the FPA and under the Executive

Orders authorizing issuance of Presidential permits.

II. Discussion

The Department agrees with these conclusions. As a matter of policy, the Department strongly supports the emergence of a more competitive wholesale electricity market and considers comparable open access and non-discriminatory transmission service for both domestic and international transactions a critical factor in creating and sustaining a competitive market. Thus, the Department supports the application of the Commission's domestic open access policy to the U.S. international transmission facilities. Because the Commission regulates transmission access and the rates, terms, and conditions of transmission service for most of the transmission facilities owned by EPE, the Department concluded that the Commission was the appropriate agency to address the transmission access and related regulatory issues with respect to those cross-border transmission facilities. Therefore, on November 1, 1996, the Secretary delegated and assigned to the Commission the necessary authority to carry out the open access policy and, thus, authorized the Commission to take any further actions that might be necessary to effectuate open access over the United States portion of EPE's cross-border electric transmission lines. (Delegation Order No. 0204–163 (61 FR 56525, November 1, 1996)). In response to that delegation, the Commission ordered EPE to provide non-discriminatory open access transmission services over its international facilities. Consequently, it amended EPE's export authorization (EA–48–I) and EPE's Presidential permits for the lines connecting the Diablo and Ascarate substations in the United States with the Insurgentes and Riverena substations in Mexico (PP–48 and PP–92). (Enron Power Marketing, Inc., 83 FERC ¶61,213 (1998)).

Since the time of that delegation, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated this policy in export authorizations granted to entities requesting authority to export over international transmission facilities. In those authorizations, DOE indicated it expected transmitting utilities owning cross-border facilities constructed pursuant to Presidential permits to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in Commission Order No. 888, as amended.

III. Proposed Amendment to Presidential Permits and Export Authorizations

In furtherance of this policy, DOE now intends to condition existing and future Presidential permits issued for international electric transmission facilities appropriate for third party transmission on compliance with a requirement to provide non-discriminatory open access transmission services. This open access requirement would also be attached to the permit holder's authorization(s) to export electricity.

Notice is hereby being given that DOE proposes to amend the following Presidential permits (PP No.), and export authorizations (EA No.) to add the above open access requirement:

Permittee	PP No.[1]	Voltage	Location	EA No.[1]
CANADA:				
Avista Corporation (formerly Washington Water Power).	PP–86	230 kV	Northport, WA (not built)	EA–98 EA–101
Bangor Hydro-Electric Company	PP–89	345 kV	Baileyville, ME (not built)	
Basin Electric Power Cooperative	PP–64	230 kV	Tioga, ND	IE–78–5
Boise Cascade Corporation	PP–96	115 kV	International Falls, MN	
Bonneville Power Administration	PP–10	2–500 kV	Blaine, WA	
	PP–36	230 kV	Nelway, BC	
	PP–46	230 kV	Nelway, BC.	
Bradfield Electric Corporation	PP–87	69 kV	South Fork Craig River, AK.	
Burke-Divide Electric Cooperative	PP–177	12.47 kV	Burke County, ND	EA–177
Central Maine Power Company	PP–62	120/240 V	Coburn Gore, ME	
Citizens Utilities Company	PP–66	120 kV	Derby Line, VT	EA–66
	PP–80	25 kV	Cannan, VT	EA–80
		25 kV	Norton, VT	
Detroit Edison Company	PP–38	345 kV	St Clair, MI	EA–58
	PP–21	230 kV	Marysville, MI	
		230 kV	Detroit, MI	
	PP–58	345 kV	St. Clair, MI	
Eastern Maine Electric Cooperative	PP–20	6.9 kV	Forest City, ME	E–6853
	PP–32	69 kV	Calasis, ME	
Glacier Electric Cooperative, Inc	PP–18	120/240 V	Carway, Alberta	E–6446
		120/240 V	Del Bonita, Alberta	
Hill County Electric Cooperative	PP–118	69 kV	Wild Horse, Alberta	EA–118
Joint Owners of the Highgate Project	PP–82	120 kV (Built for 345 kV)	Franklin, VT	EA–82
Long Sault Inc.	PP–24	2–115 kV	Massena, NY	E–7022
Maine Electric Power Company	PP–43	345 kV	Houlton, ME	E–7534
Maine Public Service Company	PP–12	69 kV	Limestone, ME	E–6751
		69 kV	Fort Fairfield, MI	IE–78–10
	PP–29	138 kV	Aroostock County, ME	
		2–69 kV	Madawaska, ME	
	PP–81	7.2 kV	River-de-Chute, ME	
Marias River Electric Cooperative	PP–41	6.9 kV	Sweet Grass, MT	IT–6097
Minnesota Power, Inc.	PP–78	115 kV	International Falls, MN	EA–78 EA–196 E–9534

Permittee	PP No.[1]	Voltage	Location	EA No.[1]
Minnkota Power Cooperative, Inc	PP–61	230 kV	Roseau County, MN	E–9535
	PP–70	12 kV	Lake of the Woods County, MN.	E–7482
Netley Corporation	PP–23	4.8 kV	Grindstone Island, NY	E–6616
New York Power Authority	PP–25	2–230 kV	Massena, NY	
	PP–30	230 kV	Devil's Hole, NY	
	PP–56	765 kV	Fort Covington, NY	
	PP–74	2–345 kV	Niagara Falls, NY.	
Niagara Mohawk Power Corporation	PP–13	4.8 kV	Hogansburg, NY	E–6796
	PP–190	230 kV	Devil's Hole, NY	PP–24–B
		115 kV	Buffalo, NY	
		115 kV	Lewiston, NY	
		69 kV (25 Hz)	Devil's Hole, NY	
		69 kV (25 Hz)	Lewiston, NY	
		38 kV (25 Hz)	Buffalo, NY	
		13–12 kV (25 Hz)	Rainbow Bridge, NY	
North Central Electric Cooperative	PP–67	12.5 kV	Dunseith, ND.	
Northern Electric Cooperative, Inc	PP–28	3–7.2 kV	Valley County, MT	E–6670
	PP–44	12.4 kV	St. Louis County, MN	
	PP–60	2–14.4 kV	St. Louis County, MN	
Northern States Power Company	PP–45	230 kV	Red River, ND	E–7482
	PP–63	500 kV	Roseau County, MN	IE–78–6
Public Utility District No. 1 of Pend Oreille County, WA.	PP–34	7.2 kV	Point Roberts, WA.	
Puget Sound Energy	PP–6	25 kV	Point Roberts, WA	EA–98
Roseau Electric Cooperative, Inc	PP–42	7.2 kV	Roseau County, MN	E–8361
	PP–55	25 kV	Roseau County, MN	
St. Clair Tunnel Company	PP–99	4.8 kV	St Clair, MI	EA–99
Vermont Electric Cooperative, Inc	PP–69	25 kV	Derby Line, VT	
		2–14.4 kV		
Vermont Electric Transmission Company, Inc	PP–76	±450 kV DC	Norton, VT	EA–76
		345 kV	Millbury, MA	
		345 kV	West Medway, MA	
MEXICO:				
Arizona Public Service Company	PP–106	34.5 kV	San Louis, AZ	EA–98
	PP–107	34.5 kV	Douglas, AZ	EA–104
	PP–108	34.5 kV	San Louis, AZ	EA–106
				EA–107
				EA–108
				EA–134
Central Power & Light Company	PP–94	69 kV	Brownsville, TX	EA–94 [2]
		138 kV		
Citizens Utilities Company	PP–16	13 kV	Nogales, AZ	E–6431
	PP–40	2.3 kV		E–7370
		13.8 kV	Lochiel, AZ	
Comision Federal de Electricidad.[2]	PP–03	12.5 kV	Presidio, TX	
	PP–50	138 kV	Eagle Pass, TX	
	PP–51	7.2 kV	Redford, TX	
	PP–57	138 kV	Laredo, TX	
	PP–59	12 kV	Del Rio, TX	
	PP–75	7.2 kV	Comstock, TX	
El Paso Electric Company[3]	PP–48	115 kV	El Paso, TX	EA–48
	PP–92	115 kV	Sunland Park, NM	EA–98
Imperial Irrigation Districit	PP–90	34.5 kV	Calexico, CA	
	PP–174	2–34.5 kV	Calexico, CA	
NRG Energy, Inc.[4]	PP–192	500 kV	Calexico, CA	
Public Service Company of New Mexico.[4]	PP–197	345 kV AC, or + 400 kV DC.	Nogales or Sasabe, AZ	EA–98
Rio Grande Electric Cooperative, Inc	PP–33	14.4/24.9 kV	Health Crossing, TX	E–6868
	PP–53	14.4 kV	Lajitas, TX	E–7688
		14.4 kV	Castolon, TX	
		14.4 kV	Candelaria, TX	
San Diego Gas & Electric Co	PP–49	12 kV	Tijuana, MX	PP–49–A
		12 kV	Tecate, MX	PP–68EA
	PP–68	230 kV	Tijuana, MX	PP–79EA
	PP–79	230 kV (twinned)	La Rosita, MX	EA–100
Trico Electric Coop., Inc	PP–35	4.8 kV	Sasabe, AZ	E–7073

[1] These Presidential permit and export authorization numbers refer to the generic DOE number and are intended to include any subsequent amendments.

[2] CFE has a 138 kV line at Falcon Dam, Texas, that was authorized by a treaty. EA–94 authorized Central Power & Light to export over this line.

[3] As discussed herein, El Paso's Presidential permits and its export authorization have already been amended by the FERC to include an open access requirement.

[4] These Presidential permits have not been issued yet. Notices of the applications requesting the permits have appeared in the **Federal Register**. (PP–192—63 FR 46426, 9/1/98; PP–197—64 FR 2476, 1/14/99)

DOE has determined that the open access requirement will not be added to the following Presidential permits, because the lines authorized by those permits are not currently connected to the U.S. domestic electric power system and, thus, are not appropriate for third party transmission.

Permittee	PP No.[1]	Voltage	Location
Boise Cascade Corp.	PP–39	6.6 kV	International Falls, MN
British Columbia Hydro & Power Authority	PP–22	2–132 kV 1–260 kV	Galiano Island, BC
Dynegy Power Corporation[2]	PP–188	230 kV	Santa Teresa, NM
Fraser Paper Limited	PP–11	6.6 kV 69 kV	Madawaska, ME
Presley, E.T.	PP–54	4.8 kV	Wellesley Island, NY
Sumas Energy 2, Inc.[2]	PP–204	2–230 kV	Sumas, WA
Westmin Mines, Inc.	PP–85	35 kV	Hyder, AK
Frontera Generation LP	PP–206	2–230 kV	Hidalgo County, TX
Wilson-7 Energy Systems[2]	PP–195	±600 kV DC	Fort Hancock, TX

[1] These Presidential permit numbers refer to the generic DOE number and are intended to include any subsequent amendments.
[2] These Presidential permits have not been issued yet. Notices of the applications requesting the permits have appeared in the FEDERAL REGISTER. (PP–188—63 FR 37097, 7/9/98; PP–195—63 FR 68260, 12/10/98; PP–204—64 FR 9324, 2/25/99)

DOE is interested in public comments on the proposed action. Any permit holder that believes the open access requirement should not be applied to its facilities should specify in its comments why application of the requirement would not be appropriate or in the public interest. Any holders of Presidential permits that disagree with any of the above information regarding their permits, export authorizations, or international facilities should specify those areas of disagreement and provide any necessary documentation.

IV. Delegation Order

Section 642 of the DOE Act permits the Secretary to delegate any of the Secretary's functions to any officer or employee of the Department the Secretary may designate, including the Commission. Also, the Secretary's authority to regulate exports of electricity may be assigned in whole or in part to the Commission under subsections 402(e) and (f) of the DOE Act, after public notice of the assignment.

Pursuant to these provisions of the DOE Act, public notice is given that the Secretary delegates and assigns to the Commission the authority to carry out certain functions vested in the Secretary. The assignment is in the form of a delegation, which is effective upon publication of this notice. (see Attachment)

In order to permit uniform implementation and enforcement of the domestic and international open access policy, the Department believes the Commission is the appropriate agency to address the transmission access and related regulatory issues with respect to international transmission of electricity over cross-border facilities. Accordingly, the Secretary is delegating to the Commission the authority under the FPA and EO 10485, as amended by EO 12038, to implement and enforce the requirement imposed by the Department on those international electric transmission lines appropriate for third party transmission to provide non-discriminatory open access transmission services. Specifically, this delegation gives the Commission the authority to regulate access to, and the rates, terms, and conditions for, transmission services over those permitted international electric transmission facilities subject to that requirement to the extent the Commission finds it necessary and appropriate to the public interest. The delegation does not give the Commission authority to revoke, amend, or otherwise modify Presidential permits or electricity export authorizations issued by the Secretary. It also does not give the Commission authority to order expansion of international electric transmission facilities. However, DOE expects the Commission to advise DOE if it concludes that further action by DOE in a particular case is necessary.

This delegation rescinds and supersedes the Secretary's specific delegation to the Commission (Delegation Order No. 0204–163 mentioned above), which was limited to authority over the international transmission lines of EPE; however, it does not rescind, amend or supersede any orders issued by the Commission under that earlier delegation. This delegation amends to the limited extent, but does not otherwise rescind or supersede, the Secretary's prior delegation of authority to regulate exports of electricity to the Assistant Secretary for Fossil Energy (Delegation Order No. 0204–127, February 7, 1989), subdelegated to the Manager, Electric Power Regulation (Delegation Order dated February 7, 1997).

Procedural Matters

Any person desiring to become a party to this proceeding should file a petition to intervene at the address provided above in accordance with section 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Any person desiring to be heard regarding this proposed action to amend the Presidential permits or export authorizations may file written comments or protests at the address provided above in accordance with section 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Fifteen copies of such petitions and comments or protests should be filed with the DOE on or before the date listed above. Filings should be clearly marked with this docket number and reference the specific Presidential permit or export authorization to which the intervention, comment, or protest should be applied.

DOE has determined the proposed action is in the public interest and will not adversely impact on the reliability of the U.S. electric power supply system. However, a final decision on the proposed action will not be made until

the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on amending the Presidential permits.

Issued in Washington, D.C., on July 21, 1999.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

Attachment—Department of Energy Delegation Order No. 0204–170 to the Federal Energy Regulatory Commission

Pursuant to the authority vested in me as the Secretary of Energy (Secretary) by sections 642 and 402(e) of the Department of Energy Organization Act (DOE Act) (42 U.S.C. 7252, 7172(e)), there is hereby delegated and assigned to the Federal Energy Regulatory Commission (Commission) the authority to carry out such functions as are necessary to implement and enforce the Secretary's policy requiring holders of Presidential permits authorizing the construction, operation, maintenance, or connection of facilities for the transmission of electric energy between the United States and foreign countries to provide non-discriminatory open access transmission services.

In exercising the authority delegated by this Order the Commission is specifically authorized to utilize the authority of the Secretary under Executive Order (EO) 10485, dated September 3, 1953, as amended by EO 12038, dated February 3, 1978, and section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and such other sections of the FPA vested in the Secretary as may be relevant, to regulate access to, and the rates, terms, and conditions for, transmission services over permitted international electric transmission facilities to the extent the Commission finds it necessary and appropriate to the public interest. This authority is delegated to the Commission for the sole purpose of authorizing the Commission to take actions necessary to implement and enforce non-discriminatory open access transmission service over the United States portion of those international electric transmission lines required by the Secretary to provide such service. Nothing in this delegation shall allow the Commission to revoke, amend, or otherwise modify Presidential permits or electricity export authorizations issued by the Secretary. The authority delegated to the Commission may be further delegated within the Commission, in whole or in part, as may be appropriate.

All actions taken pursuant to authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless and until rescinded, amended, or superseded.

Nothing in this Order shall preclude the Secretary from exercising or further delegating any of the authority hereby delegated, whenever, in the Secretary's judgment, the exercise or further delegation of such authority is necessary or appropriate to administer the functions vested in the Secretary.

This Order hereby rescinds and supersedes the previous Secretarial delegation and assignment to the Commission in Delegation Order No. 0204–163, dated November 1, 1996.

This Order is effective on July 27, 1999.

Bill Richardson,

Secretary of Energy.

[FR Doc. 99–19168 Filed 7–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–579–000, Docket No. CP99–580–000, Docket No. CP99–581–000, Docket No. CP99–58279–000]

Southern LNG Inc.; Notice of Applications for Section 7 Certificates and A Section 3 Authorization

July 21, 1999.

Take notice that on July 13, 1999, Southern LNG Inc. (Southern LNG), AmSouth-Sonat Tower, 1900 Fifth Avenue, North, Birmingham, Alabama 35203, filed applications for authority to re-commission its marine import terminal on Elba Island, Georgia (Elba Island Terminal). These proposals are fully set forth in the applications, which are on file with the Commission and open to public inspection in Washington, DC. These applications may be viewed on the Commission's website at http://ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Southern LNG has also made a complete copy of the application available to the Chatham-Effingham-Liberty Regional Library at the Savannah/Oglethorpe Mall branch (reference section, 912–925–5432). Further, the name, address, and telephone number of an authorized Southern LNG company contact person are: Patrick B. Pope, Associate General Counsel, Southern Natural Gas Company, PO Box 2563, Birmingham, Alabama 35202, (205) 325–7126.

Specifically, Southern LNG seeks several authorizations pursuant to Sections 7(c) and 3(a) of the Natural Gas Act. In Docket No. CP99–580–000, Southern LNG seeks a certificate of public convenience and necessity to construct certain new facilities at the Elba Island Terminal and to operate (re-commission) the entire Elba Island Terminal. In Docket No. CP99–581–000, Southern LNG requests a blanket certificate pursuant to Subpart F of Part 157 of the Commission's Regulations under which Southern LNG will perform routine activities and operations. In Docket No. CP99–582–000, Southern LNG seeks a blanket certificate pursuant to Subpart G of Part 284 of the Commission's Regulations under which Southern LNG will provide open-access terminal service to its customers. Finally, in Docket No. CP99–579–000, Southern LNG requests Section 3 authorization under Subpart B of Part 153 of the Commission's regulations for siting of natural gas import facilities. Southern LNG also requests any waivers that may be necessary to implement the proposal, and it makes a request for approval of; (i) certain specific accounting treatment of the original costs of the Elba Island Terminal; (ii) a revised depreciation rate for original and new facilities' costs; and, (iii) the definition of the new ''in-service date''.

Southern LNG proposes to re-commission the Elba Island Terminal to provide open-access service to shippers importing LNG. Southern LNG proposes to repair, improve and upgrade various control, LNG flow and safety systems, and renew dredging in LNG tanker docking and turn-around areas. Southern LNG states that it held an open-season in June 1999, and that it has executed a binding precedent agreement for a primary term of 22 years with the successful bidder, Sonat Energy Services Company (Sonat Energy Services) for 100% of the capacity of the Elba Island Terminal. Sonat Energy Services will be able to store up to 4 Bcf of natural gas in LNG form, and receive up to 330 MMcf per day of natural gas in vaporized form. Sonat Energy Services expects its source of imported LNG to be from Trinidad and Tobago, and Sonat Energy Services will sell such vaporized LNG to its customers.

Southern LNG estimates the total capital cost of re-commissioning the Elba Island Terminal will be about $26 million, and the annual cost-of-service will be about $23 million. Specific initial rates and charges based on these

costs have been derived by Southern LNG, as shown in Exhibit P of its application. However, Southern LNG has also agreed to a limited 7- to 10-year rate moratorium with its customer, Sonat Energy Services, which Southern LNG says increases the risk that it will face cost-of-service increases with only limited rights to recover those costs. Southern LNG's proposes to place the Elba Island Terminal in service on the date of first commercial delivery of LNG, estimated to begin in the third quarter of 2002. Southern LNG requests that the Commission issue a preliminary determination on non-environmental issues no later than December 31, 1999, and final authorizations before March 31, 2000.

Any person desiring to be heard or to make any protest with reference to said applications should, on or before August 13, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules. A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status. Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 3, 7, and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and authorizations is required by the public convenience and necessity and the public interest. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern LNG to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–19075 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–606–001]

Texas Eastern Transmission Corporation; Notice of Fuel Calculation

July 21, 1999.

Take notice that on July 19, 1999, Texas Eastern Transmission Corporation (Texas Eastern) submitted a report detailing the amount of fuel to be used and setting forth an incremental fuel charge (Fuel Filing) pursuant to Ordering Paragraph (G) of the Commission's June 18, 1999 order (June 18 order) in Docket No. CP96–606–001. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Texas Eastern's Fuel Filing reflects the incremental fuel to be used in connection with capacity leased to CNG Transmission Corporation (CNG) which was approved in the June 18 order. Texas Eastern projects an annual average incremental fuel usage of 251 Mcf/d (or 1.28%) in connection with 19,500 Dth/d of capacity leased to CNG.

Any person desiring to be heard or to make any protest with reference to said filing should on or before July 29, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

David P. Boergers,

Secretary.

[FR Doc. 99–19074 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

July 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11779–000.

c. *Date filed:* June 28, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississippi Lock and Dam #3 Hydroelectric Project.

f. *Location:* On the Mississippi River in Goodhue County, Minnesota. The project would utilize the Corp of Engineers' Mississippi Lock and Dam #3

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Gregory S. Feltenberger, Universal Electric Power

Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Héctor M. Pérez, hector.perez@ferc.fed.us, 202–219–2843, or Robert Bell, robert.bell@ferc.fed.us, (202) 210–2806.

j. *Deadline for filing motions to intervene, protest and comments:* 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 in the official service list for the project. Further, if an intervener 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. The project would consist of the following facilities: (1) Four 80-foot-long and 96-inch-diameter steel penstocks at the outlet works; (2) a powerhouse with four turbine generator units with a total installed capacity of 5 megawatts; (3) a tailrace consisting of an exhaust apron; (4) 14.7–kV, 1,200-foot-long transmission lines, and (5) other appurtenances.

l. 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 http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. a copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–19076 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11780–000.

c. *Date filed:* June 28, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Pleasant Hill Dam Hydroelectric Project.

f. *Location:* On Clear Fork of Mohican River, Ashland County, Ohio. The project would utilize the U.S. Army Corps of Engineer's Pleasant Hill Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)-825(r).

h. *Applicant Contact:* Gregory S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Héctor M. Pérez, hector.perez@ferc.fed.us, 202–219–2843, or Robert Bell, robert.bell@ferc.fed.us, 202–219–2806.

j. *Deadline for filing motions to intervene, protest and comments:* 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 in the official service list for the project. Further, if an intervener 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. The project would use the U.S. Army Corps of Engineer's Pleasant Hill Dam and would consist of the following facilities: (1) A new 80-foot-long, 96-inch-diameter penstock at the outlet works; (2) a new powerhouse containing one generating unit with an installed capacity of 1.16 MW; (3) a new tailrace; (4) a new 500-foot-long, 14.7–KVtransmission line; and (5) other appurtenances.

The project would have an annual generation of 7,100 MWh and project power would be sold to a local utility.

l. 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 http://www.ferc.fed.us/rims.htm (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICAITON'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–19077 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Accepted For Filing and Soliciting Motions To Intervene, Protests, and Comments

July 21, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11781–000.

c. *Date filed:* June 28, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississippi Lock and Dam #4.

f. *Location:* On Mississippi River, Buffalo County, Wisconsin. The project would utilize the U.S. Army Corps of Engineers' Mississippi Lock and Dam #4.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gregory S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Héctor M. Pérez, hector.perez@ferc.fed.us, 202–219–2843, or Robert Bell, robert.bell@ferc.fed.us, 202–219–2806.

j. *Deadline for filing motions to intervene, protest and comments:* 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 in the official service list for the project. Further, if an intervener 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. The project would use the U.S. Army Corps of Engineers' Mississippi Lock and Dam #4 and would consist of the following facilities: (1) five new 80-foot-long, 96-inch-diameter penstock at the outlet works; (2) a new powerhouse containing 5 generating units having a total installed capacity of 5 MW; (3) a new tailrace; (4) a new 300-foot-long, 14.7-KV transmission line; and (5) other appurtenances.

The project would have an annual generation of 31,000 MWh and project power would be sold to a local utility.

l. 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 http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary

[FR Doc. 99–19078 Filed 7–26–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6408–2]

Proposed Administrative Penalty Assessments and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed assessment of Clean Water Act Class I administrative penalty and opportunity To comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty in a ''Class I'' administrative penalty proceeding. Class I proceedings under section 309(g) are conducted in accordance with proposed consolidated rules of practice governing the administrative assessment of civil penalties, published at 63 FR 9464 (Feb. 25, 1998).

EPA is providing notice of the following proposed Class I penalty proceeding initiated by the Water

Division, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105:

In the Matter of Arizona Dairy Co., Docket No. CWA–09–99–0002, filed July 14, 1999; proposed penalty, $18,000; for unauthorized discharge from Arizona Dairy Co., 19135 E. Elliot Rd., Higley, AZ 85236, on March 31 and April 14, 1998, to Warner Road Alignment Wash and the Eastern Maricopa Floodway.

Procedures by which the public may comment on a proposed Class I penalty or participate in a Class I penalty proceeding are set forth in the proposed consolidated rules. The deadline for submitting public comment on a proposed Class I penalty is thirty days after issuance of public notice. The Regional Administrator of EPA, Region 9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in the proposed consolidated rules.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of the proposed consolidated rules, review the complaint, proposed consent order, or other documents filed in the proceeding, comment upon the proposed penalty, or participate in any hearing that may be held, should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105, (415) 744–1391. Documents filed as part of the public record in the proceeding are available for inspection during business hours at the office of the Regional Hearing Clerk.

In order to provide opportunity for public comment, EPA will not take final action in the proceeding prior to thirty days after issuance of this notice.

Dated: July 16, 1999.

John Ong,

Acting Director, Water Division.

[FR Doc. 99–19157 Filed 7–26–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 21, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 27, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0362.

Title: Inspection of Radio Installation on Large Cargo and Small Passenger Ships.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; and Federal, State, local, or Tribal government(s).

Number of Respondents: 11,318.

Estimate Time per Response: 4.48 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 44,478.

Total Annual Cost: None.

Needs and Uses: The FCC adopted Rules that privatized inspections of ships subject to the inspection requirements of the Telecommunications Act of 1996, as amended, and the International Convention for the Safety of Life at Sea, 1974 (Safety Convention). The Communications Act requires the Commission to inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act. Small passenger ships must be inspected at least once every five years. The Safety Convention (to which the United States is a signatory) also requires an annual inspection; however, the Safety Convention permits an Administration to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. The Rules require this inspection to be conducted by an FCC-licensed technician. This change reduces the administrative burden on the public and the Commission. To ensure that vessel safety is not adversely affected by this proposal, the FCC adopted Rules that private sector technicians certify that the ship passed an inspection and issue the ship a safety certificate. The Rules also state that the inspecting technician and the ship's owner, operator, or captain each certify in the ship's station log that the vessel has passed a safety inspection. Therefore, the United States can have other entities conduct the radio inspection of vessels for compliance with Safety Convention. The Commission adopted Rules that FCC-licensed technicians provide a summary of the results of the inspection in the ships's log and provide the vessel with a ship inspection safety certificate. This ensures that the inspection was successful so that passengers and crew members of certain United Sates ships have access to distress communications in an emergency.

Federal Communications Commission.

William F. Caton,

Assistant Secretary.

[FR Doc. 99–19064 Filed 7–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–98; DA 99–1380]

Public Utility Commission of Texas Petition Requesting Additional Authority To Implement Telecommunications Numbering Conservation Measures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On July 14, 1999, the Commission released a public notice requesting public comment on a petition from the Public Utility Commission of Texas (''Petition'') requesting additional authority to implement measures related to conservation of telecommunications numbering resources. The intended effect of this action is to make the public aware of, and to seek public comment on, this request.

FOR FURTHER INFORMATION CONTACT: Al McCloud at (202) 418–2320 or amccloud@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW, Suite 6–A320, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On September 28, 1998, the Federal Communications Commission (''Commission'') released an order in the matter of a Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration,* FCC 98–224, CC Docket No. 96–98, 63 FR 63613, NSD File No. L–97–42 (rel. September 28, 1998) (''Pennsylvania Numbering Order''). The Pennsylvania Numbering Order delegated additional authority to state public utility commissions to order NXX code rationing, under certain circumstances, in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods.

The Public Utility Commission of Texas has filed a request for additional delegation of authority to implement number conservation methods in their state. *See* Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures, *Public Notice,* NSD File No. L–99–55, DA 99–1380 (rel. July 14, 1999).

Many of the additional authority measures sought by the Texas Commission relate to issues under consideration in the *Numbering Resource Optimization Notice.* Numbering Resource Optimization, *Notice of Proposed Rulemaking,* CC Docket No. 99–200, FCC 99–122 (rel. June 2, 1999), 64 FR 32471. Because the Texas Commission faces immediate concerns regarding the administration of telecommunication numbering resources in Texas, we find it to be in the public interest to address this petition as expeditiously as possible, prior to completing the rulemaking proceeding.

We hereby seek comment on the issues raised in the Texas Public Utility Commission's petition for delegated authority to implement various number conservation measures. A copy of this petition will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Suite CY–A257, Washington, DC 20554, (202) 418–0267.

Interested parties may file comments concerning these matters on or before August 16, 1999. All filings must reference NSD File Number L–99–55 and CC Docket 96–98. Send an original and four copies to the Commission Secretary, Magalie Roman Salas, Portals II, 445 12th Street, SW, Suite TW–A325, Washington, DC 20554 and two copies to Al McCloud, Network Services Division, Portals II, 445 12th Street, SW, Suite 6A–320, Washington, DC 20554.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, including ''get form <your e-mail address>'' in the body of the message. A sample form and directions will be sent in reply. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

This is a ''permit but disclose'' proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR 1.1200–1.1216. As a ''permit but disclose'' proceeding, *ex parte* presentations will be governed by the procedures set forth in section 1.1206 of the Commission's rules applicable to non-restricted proceedings. 47 CFR 1.1206.

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. For further information contact Al McCloud of the Common Carrier Bureau, Network Services Division, at (202) 418–2320 or amccloud@fcc.gov. The TTY number is (202) 418–0484.

Federal Communications Commission.

Blaise A. Scinto,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 99–19063 Filed 7–26–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act Systems of Records; Amendment to an Existing Routine Use

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of proposed amendments to the system purpose, and existing routine use with request for comments.

SUMMARY: In compliance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, we (FEMA) give notice of a proposed new routine use to be added to our existing system of records entitled, FEMA/REG–2, Disaster Recovery Assistance Files. This change will permit us to disclose information from these records to federal, state, and local governments to help develop hazard mitigation measures for community hazard mitigation planning, and to assure building practices consistent with hazard specific building codes, standards, and ordinances. Additionally, minor modifications include the simplification of routine use language for uses listed in Appendix A, and an update to regional office addresses listed in Appendix AA. We also clarify the format and language of the existing routine use related to eligibility to better distinguish the two eligibility-related uses.

EFFECTIVE DATE: The amended routine use and other minor modifications to

this system are effective September 7, 1999.

ADDRESSES: We invite comments on this routine use. Please send any comments to the Rules Docket Clerk, Federal Emergency Management Agency, Office of General Counsel, room 840, 500 C Street SW., Washington, DC 20472, or (email) *rules@fema.gov*. Comments received will be available for public inspection at FEMA from 9 a.m. to 4 p.m., Monday through Friday (except for legal holidays).

FOR FURTHER INFORMATION CONTACT: Sandra Jackson, FOIA/Privacy Specialist, at (202) 646–3840, or (email) *sandra.jackson@fema.gov*.

SUPPLEMENTARY INFORMATION:

We published notices of systems of records on January 5, 1987, 52 FR 324; February 3, 1987, 52 FR 3344; March 5, 1987, 52 FR 6875, September 7, 1990, 55 FR 37182; and September 23, 1996, 61 FR 49777.

The altered system of records report, as required by 5 U.S.C. 552a(r), is being simultaneously submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix 1 to OMB Circular A–130.

We are making the following major modifications to this system:

Purpose of Collection

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act), encourages hazard mitigation measures to reduce losses from disasters, including hazard mitigation planning and enforcement of hazard-specific building codes, standards, and ordinances. By this notice we amend the ''Purpose(s)'' section of our system of records to reflect our statutory mandate to promote hazard mitigation.

Amended Routine Use

Since the 1993 Midwest Flooding, there has been a substantial increase in the number of requests to FEMA for information on applicants for disaster assistance. Such information is covered by the Privacy Act. Almost all requests are from State or local governments to evaluate disaster damages and their impacts on communities for planning purposes, and to ensure individuals' compliance with hazard-specific codes, standards, and ordinances when rebuilding after disaster damage. Although disclosure of information in such cases may benefit both FEMA and individuals receiving assistance, there is no current routine use permitting us to release applicant specific information for these purposes. By this notice we provide for such a routine use.

We amend the current routine use to permit disclosure of a record from the Disaster Recovery Assistance Files to Federal, State, and local government agencies that are charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. FEMA may disclose necessary information from this system of records for purposes of planning projects implemented under Federal, State, or local government hazard mitigation programs or to verify and enforce local buildings codes, standards, and ordinances.

Under this routine use FEMA may disclose this information for hazard mitigation planning purposes to assist States and communities in identifying high-risk areas and preparing mitigation plans that target those areas for future mitigation projects providing the most appropriate solution to the affected area. Hazard mitigation measures may include:

- The acquisition, relocation or elevation of structures;
- Storm water management or drainage improvement projects;
- Structural retrofitting projects to increase resistance to earthquake, wind, flood or other hazard, or other appropriate projects that will increase structures' disaster resistance.

Mitigation projects focusing on those areas or properties that sustain the greatest disaster damage on a repetitive basis have a high potential for cost-effectiveness and, therefore, may significantly reduce or eliminate repeated federal disaster relief and assistance payments.

Under this routine use, FEMA may also disclose this information for enforcement purposes to enable States and communities to ensure property owners repair or rebuild their structures in conformance with applicable hazard-specific building codes, standards, and ordinances. Rebuilding structures to conform to these requirements will increase the structures' disaster resistance and, thus, significantly reduce or eliminate repeated payments out of federal disaster relief and assistance funds.

Dated: July 21, 1999.

Ernest B. Abbott,

General Counsel.

The entire text of the system of records affected by this notice and Appendixes A and AA to FEMA/REG–2 follow:

FEMA/REG–2

SYSTEM NAME:

Disaster Recovery Assistance Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FEMA National Processing Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for disaster recovery assistance following Presidentially declared major disasters or emergencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records of registration for assistance (FEMA Form 90–69, Disaster Assistance Registration/Application includes names, addresses, telephone numbers, social security numbers, insurance coverage information, household size and composition, type of damage incurred, income information, programs to which we refer applicants for assistance, flood zones, preliminary determinations of eligibility for disaster assistance).

(b) Inspection reports (FEMA Form 90–56, Inspection Report) contain identification information, and results of surveys of damaged property and goods.

(c) Temporary housing assistance eligibility determinations (FEMA Forms 90–11 through 90–13, 90–16, 90–22, 90–24 through 90–28, 90–31, 90–33, 90–41, 90–48, 90–57, 90–68 through 90–70, 90–71, 90–75 through 90–78, 90–82, 90–86, 90–87, 90–94 through 90–97, 90–99, and 90–101). These apply to approval and disapproval of temporary housing assistance: general correspondence, complaints, appeals, and resolutions, requests for disbursement of payments, inquiries from tenants and landlords, general administrative and fiscal information, payment schedules and forms, termination notices, and information shared with the temporary housing program staff from other agencies to prevent duplication of benefits, leases, contracts, specifications for repair of disaster damaged residences, reasons for eviction or denial of aid, sales information after tenant purchase of housing units, and status of disposition of applications of housing.

(d) Eligibility decisions from other agencies (for example, the disaster loan program administered by the Small Business Administration, and decisions of the State-administered Individual and Family Grant program) as they relate to

determinations of eligibility for disaster assistance programs.

(e) State files containing related, but independently kept, records of persons who request Individual and Family Grants, and administrative files and reports FEMA requires. As to individuals, we keep the same type of information as described above under registration, inspection, and temporary housing assistance records. As to administrative and reporting requirements, we use FEMA Forms 76–27, 76–28, 76–30, 76–32, 76–34, 76–35, 76–38. We also use State administrative planning formats.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288 as amended; Reorganization Plan No. 3 of 1978.

PURPOSE(S):

To register applicants needing disaster assistance, to inspect damaged homes, to verify information provided by the applicant, to make eligibility determinations for that assistance, and to identify and implement measures to reduce future disaster damage.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) When an applicant seeks assistance from another Federal agency, a State government, local government, or volunteer agency charged with administering disaster relief programs, and FEMA receives a written request from that agency, we may disclose applicant information to that agency as necessary to prevent a duplication of efforts in determining eligibility. We may disclose only information from this system of records relevant to that agency's particular assistance program(s). The requesting agency is not permitted to change disclosed FEMA records.

(b) To the extent that eligibility, in whole or in part, for a disaster assistance program depends on eligibility for assistance from another program or receipt of benefits from another source for the same purpose, we may, in response to a written request, disclose information to relevant agencies, organizations, and institutions only as necessary to determine and prevent duplication of benefits (section 3l2 of the Stafford Act).

(c) In response to a written request, we may disclose information from this system of records to Federal, State, or local government agencies charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. We may disclose only information necessary for the following purposes:

- *For hazard mitigation planning purposes* to assist States and communities in identifying high-risk areas and preparing mitigation plans that target those areas for hazard mitigation projects implemented under Federal, State or local hazard mitigation programs; and
- *For enforcement purposes* to enable State and communities to ensure that owners repair or rebuild structures in conformance with applicable hazard-specific building codes, standards, and ordinances.

(d) Additional routine uses may include those uses identified at Nos. 1, 2, 3, 5, 6, and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Under 5 U.S.C. 552a(b)(12): We may make disclosures from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f) or the Debt Collection Act of 1982.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interactive database; computer discs, records in file folders.

RETRIEVABILITY:

By name, address, social security number, case file numbers.

SAFEGUARDS:

Hardware and software computer security measures; paper files in locked file cabinets or rooms; buildings are secured during non-business hours by building guards.

RETENTION AND DISPOSAL:

Because of varying record schedules applicable to this system of records, we have broken down the paragraphs under the categories of records section for easy reference. Records covered by paragraphs (a) through (d) are covered by FEMA Records Schedule N1–311–86–1, Item 8b(l) and are destroyed 6 years and 3 months after the files are consolidated. Records covered by paragraph (e) are covered by FEMA Records Schedule N1–311–86–1, Item 7 and are destroyed 3 years after the disaster contract is terminated.

SYSTEM MANAGER(S) AND ADDRESS:

We list the addresses of Regional Directors of FEMA in Appendix AA; the Director, Human Services Division, Response and Recovery Directorate, 500 C Street SW., Washington, DC 20472.

NOTIFICATION PROCEDURES:

You should address Inquiries to the appropriate system manager. Written requests should be clearly marked, ''Privacy Act Request'' on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, you should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure above. The letter should state clearly and concisely what information you are contesting, the reasons for contesting it, and the proposed amendment to the information that you seek. FEMA Privacy Act regulations are at 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Applicants for disaster recovery assistance; credit rating bureaus, financial institutions, insurance companies and agencies providing disaster relief.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A

Introduction to Routine Uses: We have identified certain routine uses that are applicable to many of our systems of record notices. We will list the specific routine uses applicable to an individual system of record notice under the ''Routine Use'' section of the notice itself, which will correspond to the numbering of the routine uses published below. We are publishing these uses only once in the interest of simplicity and economy, rather than repeating them in every individual system notice.

1. *Routine Use—Law Enforcement:* We may disclose as a routine use a record from any of our system of records that indicates either by itself or in combination with other information that we have, a violation or potential violation of law, whether civil, criminal or regulatory, and whether arising by general statute, or by regulation, rule or order. We may disclose these records to the appropriate agency whether Federal, State, territorial, local or foreign, or foreign agency or professional organization, responsible for enforcing, implementing, investigating, or prosecuting such violation or for implementing the statute, rule, regulation or order.

2. *Routine Use—Disclosure When Requesting Information:* We may disclose as a routine use a record from our system of records to a Federal, State, or local agency maintaining civil, criminal, regulatory,

licensing or other enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning hiring or retention of an employee, issuance of a security clearance, letting of a contract, or issuance of a license, grant, or other benefit.

3. *Routine Use—Disclosure of Requested Information:* We may disclose as a routine use a record from our system of records to a Federal agency in response to a written request in connection with hiring or retaining an employee, an investigation of an employee, letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision.

4. Routine Use—Grievance, Complaint, Appeal: We may disclose as a routine use a record from our system of records to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official investigating or settling a grievance, complaint, or appeal filed by an employee. We may also disclose as a routine use a record from this system of records to the Office of Personnel Management under that agency's responsibility to evaluate Federal personnel management.

To the extent that official personnel records in our custody are covered within systems of records published by the Office of Personnel Management as government-wide records, we will consider those records as a part of that government-wide system. We may transfer as a routine use to the Office of Personnel Management under official personnel programs and activities other official personnel records covered by notices that we published and that we consider are separate systems of records.

5. *Routine Use—Congressional Inquiries:* If the individual subject of the record asks us to disclose the information, we may disclose as a routine use a record from our system of records to a Member of Congress or to a congressional staff member in response to an inquiry from the congressional office.

6. *Routine Use—Private Relief Legislation:* We may disclose as a routine use the information contained in our system of records to the Office of Management and Budget at any stage of the legislative coordination and clearance process set out in OMB Circular No. A–19.

7. *Routine Use—Disclosure to the Office of Personnel Management:* We may disclose as a routine use a record from our system of records to the Office of Personnel Management concerning information on pay and leave benefits, retirement deductions, and any other information concerning personnel actions.

8. *Routine Use—Disclosure to National Archives and Records Administration:* We may disclose as a routine use a record from our system of records to the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 12906.

9. *Routine Use—Grand Jury:* We may disclose as a routine use a record from our system of records to a grand jury agent under a Federal or State grand jury subpoena, or under a prosecution request that we release such record for introduction to a grand jury.

Appendix AA

Addresses for FEMA Regional Offices:

Region I—Regional Director, FEMA, room 442, J.W. McCormack Post Office and Courthouse Building, Boston, MA 02109–4595;

Region II—Regional Director, FEMA, 26 Federal Plaza, room 1338, New York, NY 10278–0002;

Region III—Regional Director, FEMA, Liberty Square Building (Second Floor), 105 South Seventh Street, Philadelphia, PA 19106–3316;

Region IV—Regional Director, FEMA, 3003 Chamblee-Tucker Road, Atlanta, GA 30341;

Region V—Regional Director, FEMA, 175 West Jackson Blvd., 4th Floor, Chicago, IL 60604–2698;

Region VI—Regional Director, FEMA, Federal Regional Center, 800 North Loop 288, Denton, TX 76201–3698;

Region VII—Regional Director, FEMA, 2323 Grand Boulevard, room 900, Kansas City, MO 64108–2670;

Region VIII—Regional Director, FEMA, Denver Federal Center, Building 710, Box 25267, Denver, CO 80225–0267;

Region IX—Regional Director, FEMA, Building 105, Presidio of San Francisco, CA 94129–1250;

Region X—Regional Director, FEMA, Federal Regional Center, 130 228th Street, SW, Bothell, WA 98021–9796;

[FR Doc. 99–19142 Filed 7–26–99; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY:

Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before September 27, 1999.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, with revision the following report:

1. Report title: Application for a Foreign Organization to Become a Bank Holding Company.

Agency form number: FR Y-1f.

OMB control number: 7100-0119

Frequency: Event-generated.

Reporters: Foreign Banking Organizations.

Annual reporting hours: 280 hours.

Estimated average hours per response: 70 minutes.

Number of respondents: 4 foreign banking organizations.

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 1842(a) and 1844(a) and (c) and by Regulation Y (12 CFR 225.5(a) and 225.11(f)). The information provided in the application is not confidential unless the applicant specifically requests it and the Board approves the request.

Abstract: Under the Bank Holding Company Act (BHCA), submission of this application is mandatory for any company organized under the laws of a foreign country seeking initial entry into the United States through the establishment or acquisition of a U.S. subsidiary bank. Applicants provide financial and managerial information and must discuss the competitive effects of the proposed transaction and how the proposed transaction would enhance the convenience and needs of the community to be served.

2. Report title: Consumer Satisfaction Questionnaire.

Agency form number: FR 1379.

OMB control number: 7100-0135.

Frequency: Event-generated.

Reporters: Consumers.

Annual reporting hours: 60 hours.

Estimated average hours per response: 20 minutes.

Number of respondents: 180 consumers.

Small businesses are affected.

General description of report: This information collection is voluntary (15 U.S.C. 57 (a)(f)(1)) and is not given confidential treatment however, some respondents may provide information not specifically solicited on the form which may be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552 (b)(4), (b)(6), and (b)(7)).

Abstract: The FR 1379 is used to determine whether complainants are satisfied with the way the Federal Reserve System handled their complaints and to solicit suggestions for improving the complaint-handling process. The proposed revised questionnaire has been designed to collect more details related to the information already requested in the current questionnaire and to capture information about the demographic characteristics of consumers who file complaints about state member banks. Currently, the questionnaire is sent to consumers whose complaints against state member banks were referred by the Board of Governors to the appropriate Federal Reserve Bank for resolution. The Board plans to extend distribution of the questionnaire to all consumers who have complaints against state member banks.

Board of Governors of the Federal Reserve System, July 21, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–19088 Filed 7–26–99; 8:45AM]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 10, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Daniel S. Buford, Stephen R. Buford, Sam D. Buford, and Sharon L. Buford, all of Tulsa, Oklahoma; to acquire voting shares of Pawnee Holding Company, Pawnee, Oklahoma, and thereby indirectly acquire The Pawnee National Bank, Pawnee, Oklahoma.

Board of Governors of the Federal Reserve System, July 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–19049 Filed 7–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Compass Bancshares, Inc., Birmingham, Alabama; to acquire 100 percent of the voting shares of Hartland Bank, National Association, Austin, Texas.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Bern Bancshares, Inc., Bern, Kansas; to merge with Axtell Agency, Inc., Axtell, Kansas, and thereby indirectly acquire State Bank of Axtell, Axtell, Kansas.

Board of Governors of the Federal Reserve System, July 21, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–19048 Filed 7–26–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Region 10

Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: General Service Administration (GSA).

ACTION: The U.S. General Service Administration (GSA) hereby gives notice that it intends to prepare an Environmental Impact Statement (EIS) pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR parts 1500–1508), for the construction of a new Port of Entry facility at Peace Arch in Blaine, Whatcom County, Washington.

PROCEDURES: This project is at the feasibility stage and has not been approved by Congress. The scoping meeting is being held at this time to ensure that all significant environmental issues are identified and thoroughly studied as part of the environmental analysis. When the prospectus for the project is submitted to Congress for approval and funding, it will take into consideration these significant issues. When the project is approved by Congress, the EIS will be prepared based upon the scoping report. The EIS will evaluate the proposed project, including all reasonable alternatives identified through the scoping process and a no-action alternative. Scoping will be accomplished through direct mailing correspondence to interested persons, agencies, and organizations and through a Public Scoping Meeting. The public scoping meeting will be held on August 11th, 1999 at the Peace Arch State Park, Kitchen Shelter meeting room, Blaine, WA, (tel. 360–332–8221) at 6:30 p.m. following an open house beginning at 6:00 p.m. GSA will publish a public notice of the meeting in Blaine newspapers approximately two weeks prior to the events.

Public meetings will be held after the release of the Draft Environmental Impact Statement and GSA will respond to all relevant comments received during the 45-day public comment period in the Final Environmental Impact Statement. After a minimum 30-day period following publication of the Final Environmental Impact Statement GSA will issue a Record of Decision that will identify the alternative selected.

SUPPLEMENTARY INFORMATION: GSA, assisted by Herrera Environmental Consultants, will prepared the Environmental Impact Statement to acquire land, design, and construct a new Peace Arch Port of Entry Facility. GSA will serve as the lead agency and scoping will be conducted consistent with NEPA regulations and guidelines. GSA invites interested individuals, organizations, and federal, state, and local agencies to participate in defining and identifying any significant impacts and issues to be studied in the EIS, including social, economic, or environmental concerns. Scoping will be limited to identifying significant issues to be analyzed in the environmental document and commenting on alternatives and the merit of the proposal.

Project Purpose, Historical Background, and Description

The US Customs, Immigration and Naturalization Service, and Dept. of Agriculture are currently located in the existing Peace Arch Port of Entry facility. The existing facility does not currently meet the tenant agencies space requirement due to the present configuration of the site. The existing facility cannot be adapted to accommodate the required space needs of the agency tenants.

Alternatives

The EIS will examine the short- and long-term impacts on the natural and physical environment. The impact assessment will include but not be limited to impacts such as social environment, changes in land use, aesthetics, changes in traffic and parking patterns, economic impacts, and consideration of city planning and zoning requirements.

The EIS will examine measures to mitigate significant adverse impacts resulting from the proposed action. Concurrent with NEPA implementation, GSA will also implement its consultation responsibilities under section 106 of the National Historical Preservation Act to identify potential impacts to existing historic or cultural resources.

The EIS will consider a no-action alternative and action alternatives. The no-action alternative would continue the occupancy in the existing Peace Arch Port of Entry facility in Blaine. The action alternatives will consist of three different configurations for construction of a new port of entry facility.

ADDRESSES: In addition to the public scoping process, you may send written comments on the scope of alternatives and potential impacts to the following address: Michael D. Levine, Regional Environmental Program Manager, 10PCB, General Service Administration, 400 15th Street SW, Auburn, WA, 98001, or fax: Michael D. Levine at 253–931–7308, or e-mail at *Michael.Levine@GSA.GOV*. Written comments should be received no later than September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Peter Sparhawk at Herrera Environmental Consultants, 2200 Sixth Ave., Suite 601, Seattle, Washington, 98121 or call 206–441–9080; or Michael D. Levine, GSA (253) 931–7263.

MAILING LIST: If you wish to be placed on the project mailing list to receive further information at the EIS process develops, contact Peter Sparhawk at the address noted above.

Dated: July 13, 1999.

William Dubray,

Executive Director.

[FR Doc 99–18639 Filed 7–26–99; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–99–24]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the

proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are Invited on

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

1. Proposed Project

Psychometric Study of the Youth Risk Behavior Survey (YRBS)—New—The National Center for Chronic Disease and Health Promotion, Division of Adolescent and School Health. The purpose of this study (1) the test-retest reliability of the questions contained on the YRBS questionnaire and (2) the validity of selected YRBS items. The YRBS is a biennial survey administered to students attending public and private schools in grades 9–12 nationwide. The questionnaire measures priority health risk behaviors related to the major preventable causes of mortality, morbidity, and social problems among both youth and adults in the U.S. OMB clearance to conduct the national YRBS will expire in January, 2000 (OMB No. 0920–0258, expiration 1/00). Data on the health risk of adolescents is the focus of at least 26 national health objectives in Healthy People 2000: Midcourse Review and 1995 Revisions. The YRBS is providing end-of-decade data to help measure these objectives as well as baseline data to measure many new national health objectives for 2010. A study of the test-retest reliability of the original YRBS questionnaire was conducted several years ago. In 1997–1998 an extensive review of the YRBS was undertaken and then a modified YRBS questionnaire was fielded nationally in 1999. This psychometric study will provide data on the test-retest reliability of the new modified questionnaire and provide data on the validity of selected questions (such as self-reported height and weight). The results will be used to improve the widely-used YRBS questionnaire. The total estimated cost to respondents is $43,048 assuming a minimum wage of $5.25 per hour for students and $34.00 per hour for administrators during the 1999–2000 school year.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
students—time 1 survey	5,280	1	0.75	3,960
students—height and weight measurement	5,280	1	0.05	264
students—time 2 survey	4,800	1	0.75	3,600
school administrators	116	1	0.50	58

Dated: July 21, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–19085 Filed 7–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, National Center for Environmental Health (NCEH): Teleconference

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following teleconference.

Name: Advisory Committee to the Director, NCEH.

Time and Date: 10:30 a.m.–11:30 a.m. (EST), August 12, 1999.

Place: The teleconference will originate at the Centers for Disease Control and Prevention in Atlanta, Georgia. Please see ''Supplementary Information'' for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation, the Director, Centers for Disease Control and Prevention, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to (1) conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in the prevention of infectious diseases and other preventable conditions, and in the promotion of health and well being; and (3) train State and local personnel in health work.

Matters to be Discussed: The teleconference will consist of discussing the agenda for the November 22–23, 1999, Advisory Committee Meeting. Agenda items will include communication, research agenda, update on bioterrorism, and committee issues (i.e., Charter, increasing membership, subcommittees, etc.)

SUPPLEMENTARY INFORMATION: This teleconference is scheduled to begin at 10:30 am (EST). To participate in the teleconference, please dial 1–800–311–3437 and enter code 116484. You will then be automatically connected to the call.

CONTACT PERSON FOR MORE INFORMATION: Marilyn R. DiSirio, Designated Federal Official, CDC, 4770 Buford Highway, NE, M/S F–29, Atlanta, Georgia 30341–3724, telephone 770/488–7020, fax 770/488–7024, e-mail: mrd2@cdc.gov.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 21, 1999.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 99–19084 Filed 7–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Workshop; The National Vaccine Program Office, National Vaccine Advisory Committee Announces the Following Workshop.

Name: Thimerasol in Vaccines.

Times and Dates: 9 a.m.–5 p.m., August 11, 1999, 9 a.m.–1 p.m., August 12, 1999.

Place: National Institutes of Health, Lister Hill Auditorium, Bethesda, Maryland.

Status: Open to the public, limited only by the space available.

Purpose: The agenda will include discussions on thimerasol in vaccines and its reduction and elimination from vaccines. Agenda items are subject to change as priorities dictate.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the National Institutes of Health by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Alicia Postema, National Vaccine Program Office, CDC, 1600 Clifton Road, NE, M/S A–11, Atlanta, Georgia 30333, telephone 404/639–4450.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: July 20, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–19086 Filed 7–26–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–99–6000]

Memorandum of Understanding Between the Food and Drug Administration and the Federal Aviation Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Federal Aviation Administration (FAA). The purpose of the MOU is to act in cooperation to reduce the incidents of aircraft illumination by laser projections into navigable airspace.

DATES: The agreement became effective November 25, 1998.

FOR FURTHER INFORMATION CONTACT: Casper E. Uldricks, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4692.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20. 108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: May 11, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

225-99-6000

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION AND THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES FOOD AND DRUG ADMINISTRATION

This interagency Memorandum of Understanding (MOU) is between the U.S. Department of Health and Human Services, Food and Drug Administration (FDA), and the U.S. Department of Transportation, Federal Aviation Administration (FAA).

WHEREAS, it is a purpose of the FDA to regulate electronic products pursuant to the Radiation Control for Health and Safety Act of 1968, as amended, 21 U.S.C. §§360hh-ss. The FDA Center for Devices and Radiological Health (CDRH) establishes and carries out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation.

WHEREAS, it is a purpose of the FAA, Office of Airspace Management, to establish administrative policy, criteria, and procedures for managing the navigable airspace, and to regulate civil and military operations in that airspace in the interest of safety as provided in 49 U.S.C. Subtitle VII with designated responsibility to its FAA Regional Offices and, when necessary, its local FAA offices or facilities.

WHEREAS, laser projection into navigable airspace pose potential safety hazards to aviation in that such projections may have harmful or adverse effects on the vision of aircraft pilots, crewmembers, and passengers.

WHEREAS, FAA and FDA agree to act in cooperation to reduce the incidents of aircraft illumination by laser projections into navigable airspace.

NOW THEREFORE:

The FAA and the FDA have regulatory responsibilities concerning laser products that project into navigable airspace, including demonstration laser products such as laser light shows and displays, and other products used in scientific and research applications.

For their respective authorities, the agencies agree as follows:

I. Purpose and Scope

A. The purpose of this MOU is to coordinate existing FAA and FDA regulatory programs applicable to laser light shows and displays, as well as scientific or research operations, which may project laser light radiation into navigable airspace during any part of their operation. Regulatory programs include activities for evaluating the manufacture and production of laser products.

B. Laser products affected by this MOU include, but are not limited to: outdoor, unenclosed Class IIIb or IV laser light shows; permanent outdoor, unterminated laser displays; outdoor displays employing 'soft' diffusing objects such as smoke, clouds, water sprays, foliage, etc, which cannot provide well determined scattering effects; laser 'beacons'; and scientific, research, or other laser display configurations which could project lasers into navigable airspace.

II. Authority and Regulatory Program

A. FDA

FDA is responsible for establishing and carrying out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation.

FDA/CDRH

FDA/CDRH regulates electronic products under the Radiation Control for Health and Safety Act of 1968, which is incorporated into the Food, Drug, and Cosmetic Act (FDCA) at 21 U.S.C. §§360hh.

21 U.S.C. §360hh defines "electronic product radiation" and "electronic product" as follows:

(1) "The term 'electronic product radiation' means --

(A) any ionizing or non-ionizing electromagnetic or particulate radiation, or
(B) any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product;"

(2) "The term 'electronic product' means--

(A) any manufactured or assembled product which, when in operation,
(i) contains or acts as part of an electronic circuit and
(ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or

(B) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in clause (A) and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation."

21 U.S.C. §360kk provides:

"The Secretary shall by regulation prescribe performance standards for electronic products to control the emission of electronic product radiation from such products if he/[she] determines that such standards are necessary for the protection of the public health and safety."

21 C.F.R. §5.10 delegates responsibility for the promulgation of performance standards to FDA.

Pursuant to 21 U.S.C §360kk, the FDA/CDRH promulgated the Federal laser product performance standard, 21 C.F.R. §1040.10 and §1040.11. This standard specifies certain performance, labeling, and information requirements suited to the degree of hazard that a laser product may present.

The terms "laser product" and "demonstration laser product" are defined in the laser product performance standard as follows:

> 21 C.F.R. §1040.10(b)(21) " 'Laser product' means any manufactured product or assemblage of components which constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product shall itself be considered a laser product."
>
> 21 C.F.R. §1040.10(b)(13) " 'Demonstration laser product ' means any laser product manufactured, designed, intended, or promoted for purposes of demonstration, entertainment, advertising display, or artistic composition."

FDA/CDRH programs intended to ensure compliance of laser products and of the operations of laser product manufacturers with all applicable regulations include, but are not limited to the following:

1. Review of product reports to assure that the products are designed and manufactured to be compliant with the laser product performance standard;

2. Review of requests for variances to deviate from specific requirements of the laser product performance standard to assure that suitable alternate means of radiation protection are provided in lieu of meeting the specific requirements identified in the variance request;

3. Requirements for holders of approved variances to provide written notice to the FAA of any outdoor laser shows or displays. The notices are to be submitted 30 days in advance of the activity to the FAA regional office where the show is to occur;

4. Technical assistance to FAA as requested in the analysis of proposed display(s) or scientific/research operations and the development of policies; and

5. General enforcement activities such as routine and directed inspections, field tests, surveillance, compliance testing program disapproval's, variance withdrawals, recalls, warning letters, other adverse findings letters, and case actions such as injunction and civil penalties.

B. FAA

FAA is responsible for establishing administrative policy, criteria, and procedures for management of navigable airspace and for the protections of users of the National Airspace System (NAS). The FAA's authority is set forth in 49 U.S.C. Subtitle VII - Aviation Programs, Part A - Air Commerce and Safety.

The Administrator of the FAA may prescribe standards and issue orders as necessary to carry out the duties and powers assigned to him/[her]in 49 U.S.C. Subtitle VII. 49 U.S.C. §§106 (g) (A), 40113.

> 49 U.S.C.§40102(a) defines the following terms:
>
> 49 U.S.C. §40102(a)(6) " 'aircraft' means any contrivance invented, used, or designed to navigate, or fly in the air."
>
> 49 U.S.C. §40102(a)(9) " 'airport' means a landing area used regularly by for receiving or discharging passengers or cargo."

49 U.S.C. §40102(a)(20) " 'Federal airway' means a part of navigable airspace that the Administrator designates as a Federal airway" (e.g., Jet route or Victor airway).

49 U.S.C.§40102(a)(28) " 'landing area' means a place on land or water including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo."

49 U.S.C. §40102(a)(30) " 'navigable airspace' means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft."

FAA Order (FAAO) 7400.2, Procedure for Handling Airspace Matters, prescribes policy, criteria, and procedures for management of navigable airspace.

FAAO 7400.2, Miscellaneous Procedures, specifically addresses Outdoor Laser Operations, and terms associated with laser activities.

The FAA conducts an aeronautical study of all proposals received for outdoor laser activities to determine the potential effect upon aircraft operations. The FAA aeronautical study is intended to ensure adequate protection of users of the NAS. Specific requirements of the aeronautical studies can be found in FAA Order 7400.2.

FAA activities associated with aeronautical studies include but are not limited to the following:

1. providing the expertise and knowledge of known airport locations, flight paths, and traffic patterns in the areas surrounding the site of the laser display which may be in use during the time of the display;

2. coordination with the military liaisons stationed in the region or locale of the show to include consideration of the effects on military flight operations which may occur in the area of the display during the time of its operation;

3. review of proposed laser light show operations producing projections into airspace in accordance with FAAO 7400.2;

4. issuing the appropriate determination letter (OBJECTION or NON-OBJECTION, including any applicable conditions in the latter case) to the laser light show proponent; and

5. discussing the reasons for an objection with a laser light show proponent and negotiating possible suitable modifications or limitations of the proposed show with the goal of resolving the reasons for objection.

III. Elements of Coordination

A. Notifications of Proposed Outdoor Laser Light Shows

Variances from the FDA laser product performance standard for laser light shows and displays will contain a requirement to notify FAA in accordance with the effective FAAO 7400.2 and/or other FAA policy and guidance criteria for any laser light show or display which may project laser light into airspace at any time during its deployment (testing, installation, setup, rehearsals, and show operations.) An attachment to the variance will incorporate at least the content and processing parts of Miscellaneous Procedures of FAAO 7400.2.

When processing a variance request for a permanent (i.e., of indefinite duration at one particular location) outdoor display, FDA will confirm FAA notification and response prior to granting any variance for a display in an airspace area. As part of the process of deciding whether to grant the variance, FDA may also directly request advice from the FAA regional office concerning the possible effects of such a laser display on airspace usage.

B. Technical Analysis of Laser Shows or Displays

Upon request, the FDA will assist the FAA to the fullest extent possible with the technical analysis of proposed laser operations. This analysis shall include confirmation of an alternate nominal ocular hazard distance analysis provided by the proponent for pulsed laser operations. The FDA will also advise FAA concerning the adequacy of the hazard analyses and control measures submitted for proposed scientific/research laser operations in navigable airspace.

Upon request, the FAA will assist and advise the FDA concerning the nature of airspace usage in the vicinity of a proposed laser light show. This information may be requested, when considered relevant, as part of the process of review of a variance application to determine whether it is appropriate to grant the variance.

C. Support for Research to Determine Suitable Visual Impairment Limits

FAA and FDA will provide support to the fullest extent possible for a research program led by FAA in cooperation with FDA and other governmental or private agencies to check the suitability of the limits adopted in FAAO 7400.2 for protection against temporary visual impairments such as flashblindness, afterimage, glare, etc.

D. Notification of Aircraft Illumination Incidents

FAA in cooperation with FDA and other governmental or private agencies will develop an appropriate incident reporting system to help pilots or other crew members provide information on aircraft illumination incidents.

FAA will provide information concerning illumination incidents from lasers and other high intensity light sources to FDA as it is received or extracted from the data in the reporting system.

FDA will in turn alert FAA to any reports it may receive, in case the information wasn't reported in the above reporting system.

E. Coordination of Investigations

Upon request, FDA and FAA will assist each other, to the fullest extent possible, in the investigation of incidents or complaints involving aircraft illuminations and the effects on the pilots, crewmembers, or passengers. For purposes of this MOU, investigations will be considered to include inspections in response to incidents or events, as well as formal investigations initiated in accordance with each agency's internal procedures. During the term of this agreement, joint inspections or observer invitations can be requested or extended by either agency, when deemed necessary, to ensure that information obtained from an investigation is collected, shared, and acted upon in a timely and coordinated manner. Both agencies will make every reasonable effort to accommodate joint inspection or observer requests depending upon availability of personnel and current FDA or FAA priorities. Each agency will assign one or more persons to assure that investigations are coordinated in a manner that maximizes regulatory efficiency and minimizes duplication of effort. Each agency will promptly notify the other when there is a change in an assigned contact person.

F. Investigation Information Exchange

Both agencies agree to an exchange of information with respect to investigations. The purpose of these exchanges is to provide expert technical assistance to either agency and to assist either agency by reducing or eliminating any duplication of effort. The sharing of information between FDA and FAA will be exercised to the extent authorized by law, and by FAA and FDA directives, and regulations, and will be consistent with the missions of both agencies.

Both agencies recognize the need to protect trade secret, confidential commercial or financial, and confidential personal or medical information from public disclosure. However, the agencies believe that an exchange of data and information to the extent allowed by law is necessary to achieve the ends of this agreement. Therefore, to the extent allowed under 21 U.S.C. §§331(j), §360ee(d), nn(e), and 360j(c), 18 U.S.C. §1905, 5 U.S.C. §552a(b), and 21 C.F.R. pt 20, the agencies agree to exchange information such as outlined below.

If FDA provides FAA with trade secret information, there shall be an exchange of letters between the appropriate liaison officers in accordance with 21 C.F.R. §20.85. If a request calls for a disclosure determination regarding proprietary information such as a Freedom of Information Act request, response to a Congressional inquiry, or in cases where either agency must comply with various regulatory or public information responsibilities for any such information obtained from the other agency, that agency will be notified of the request. The notified agency will be responsible for making any needed contact with the submitter of the protected information and accept the responsibility for evaluating the submitter's comments prior to rendering the disclosure determination.

To preserve the right of maximum control over actual disclosure of its own records, each agency shall retain legal authority and the commensurate responsibility over disclosure of those documents provided to the other agency.

Upon request, FDA and FAA will:

a. provide each other copies of Establishment or Field Test Inspection Reports;

b. provide each other copies of all analytical data and correspondence of significance related to investigations or activities associated with an illumination incident or event;

c. provide each other copies of official legal or compliance actions taken against firms or variance holders of mutual interest; and

d. participate in meetings with regulated industry covering issues of mutual regulatory concern.

G. Product Report and Variance Request Information Exchange

To the extent practicable, the two agencies will share information concerning new laser light show or display technology or methods under development or review, including laser projection systems, lasers, aircraft avoidance technologies for use with laser displays, etc., for which regulations have not yet been developed, or is related to the mission of the other agency. Both agencies agree to exchange proprietary information in accordance with applicable regulations. If FDA provides FAA with trade secret information, there shall be an additional written agreement in the form of an exchange of letters between the appropriate liaison officers in accordance with 21 C.F.R. §20.85.

This information may include, but is not limited to:

a. the product reports covering the lasers, laser projection system, and the laser light show;

b. the variance request;

c. any related correspondence requesting additional information; and

d. product report supplements providing additional information.

H. Sharing of Other Information

FDA and FAA will offer each other the opportunity to comment on special notifications to laser light show product manufacturers, operators, variance holders, facility owners, etc. FDA and FAA will also offer each other the opportunity to comment on regulations, regulatory guides, or other communications that refer to activities, policies, or regulations of the other agency as appropriate. Either agency may request additional information when deemed necessary to complete its mission.

I. Advisory Committees

FAA and FDA will make the other agency aware of, and, to the extent possible, allow participation by a representative from the other agency in, any Advisory Committee which advises on issues related to the MOU (e.g., Society for Automotive Engineering, Flight Deck Hazards Safety Committee).

IV. Names and Addresses of Participating Agencies

Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

V. Liaison Officers

Each liaison officer will establish and maintain a call list of the names and current work and home phone numbers of responsible persons within his or her organization. These call lists will designate specific persons for day-to-day contact on matters related to the MOU. The lists will be exchanged between the liaison officers. The lists will be updated every six months or whenever a liaison officer's or day-to-day contact person's phone number changes.

Liaison officers are as follows:

A. For the Food and Drug Administration

Director, Office of Compliance, HFZ-300
Ms. Lillian Gill
Center for Devices and Radiological Health
2098 Gaither Road
Rockville, MD 20850
Telephone: (301) 594-4692

B. For the Federal Aviation Administration

Program Director, Office of Airspace Management, ATA-1
Mr. John S. Walker
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591
Telephone: (202) 267-9205

VI. Annual Inter-Agency Meeting

The liaison officers shall meet at least annually to evaluate the activities related to the MOU and make reports to agency heads on its effectiveness. FDA and FAA will host the meeting on alternating years.

VII. Other Laws and Matters

Nothing in the Memorandum of Understanding shall be deemed to restrict, modify, or otherwise limit the application or enforcement of any laws of the United States with respect to matters specified herein, nor shall anything in the memorandum be construed as modifying the existing authority of either agency.

VIII. Effective Date, Modification and Termination of MOU

This MOU will take effect when it has been signed by the authorized representatives of FDA and FAA. It may be modified by mutual written consent or terminated by either agency upon a sixty (60) day advance written notice to the other agency. The agencies agree to evaluate the agreement every three (3) years, at which time either agency would have the option of renewing, modifying, or canceling the MOU.

APPROVED AND ACCEPTED FOR THE FEDERAL AVIATION ADMINISTRATION	APPROVED AND ACCEPTED FOR THE FOOD AND DRUG ADMINISTRATION
BY Ronald E Morris	BY Lillian J. Gill
TITLE Director of Air Traffic, FAA	TITLE Director, Office of Compliance, CDRH/FDA
DATE November 25, 1998	DATE July 24, 1998

[FR Doc. 99–19105 Filed 7–26–99; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2214]

Antimicrobial Food Additives—Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food And Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Antimicrobial Food Additives—Guidance.'' This document is intended to clarify FDA's jurisdiction over antimicrobials that are used in or on food, including those used in or on edible food, in water that contacts edible food, and those used in the manufacture of, or in or on, food-contact articles, subsequent to the enactment of the Food Quality Protection Act of 1996 (FQPA), and the Antimicrobial Regulation Technical Corrections Act of 1998 (ARTCA).

DATES: Written comments concerning this guidance may be submitted at any time.

ADDRESSES: Written comments concerning this guidance may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit written requests for single copies of the guidance to the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St. SW., Washington DC 20204, or by telephone to the Office of Premarket Approval at 202–418–3100 (voice), or FAX 202–418–3131. All requests should identify the guidance by its title of ''Antimicrobial Food Additives—Guidance.'' See the **SUPPLEMENTARY INFORMATION** section for electronic access to this guidance.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 200 C St. SW., Washington DC 20204–0001, 202–418–3098.

SUPPLEMENTARY INFORMATION:

I. Background

The FQPA, enacted on August 3, 1996, changed, among other things, the definitions of ''food additive'' and ''pesticide chemical'' in the Federal Food, Drug, and Cosmetic Act (the act) (section 201(s) and (q) respectively (21 U.S.C. 321(s) and (q)). These changes had a significant impact on the regulatory authority for many antimicrobial products that are used in food-contact applications. ARTCA, enacted on October 30, 1998, further amended the definition of a ''pesticide chemical,'' under section 201(q) of the act, and the transitional provisions under section 408(j) of the act (21 U.S.C. 340a(j)). ARTCA, in part, transferred authority for certain food-contact antimicrobials from the Environmental Protection Agency (EPA) back to FDA.

FDA is announcing availability of a guidance document entitled ''Antimicrobial Food Additives—Guidance'' that is intended to clarify FDA's jurisdiction over antimicrobials, subsequent to the passage of FQPA and ARTCA, that are used in food, or that may become components of food as a result of their intended use. The food-related uses of antimicrobial products that have been specifically excluded from FDA's regulatory authority by ARTCA are also discussed. In addition, this document provides guidance on the meaning of certain terms that are important in delineating the jurisdiction of FDA and EPA.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the agency's regulatory authority over certain antimicrobials used in or on food, or as food-contact substances. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

The guidance document entitled ''Antimicrobial Food Additives—Guidance'' is a level 1 guidance under the agency's good guidance practices (62 FR 8961, February 27, 1997). Level 1 guidance documents are generally subject to public comment prior to finalizing. However, public comment prior to implementation of this guidance document is not required because there is a new statutory requirement that requires immediate implementation.

III. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding the guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Such comments will be considered when determining whether to amend the guidance.

IV. Electronic Access

The guidance may also be accessed at the Center for Food Safety and Applied Nutrition home page on the World Wide Web at ''http:// www.fda.gov/cfsan''.

Dated: July 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–19061 Filed 7–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–194]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Medicare Disproportionate Share Adjustment Procedure and Criteria and Supporting Regulations in 42 CFR, Section 412.106;

Form No.: HCFA R–194;

Use: Regulation sets up an alternative process for hospitals that choose to have their disproportionate share adjustment statistics calculated based on their cost reporting periods rather than the Federal fiscal year.

Frequency: On occasion;

Affected Public: Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 100;

Total Annual Responses: 100;

Total Annual Hours Requested: 100.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 12, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–19050 Filed 7–26–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1999.

Name: Advisory Committee on Infant Mortality (ACIM).

Date and Time: September 23, 1999; 9:00 a.m.–5:00 p.m.; September 24, 1999; 8:30 a.m.–3:00 p.m.

Place: Holiday Inn at Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814, (301) 652–2000.

The meeting is open to the public.

Agenda: Topics that will be discussed include: Early Postpartum Discharge; Low-Birth Weight; Disparities in Infant Mortality; and the Healthy Start Program.

Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone: (301) 443–2170.

Agenda items are subject to change as priorities dictate.

Dated: July 21, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–19104 Filed 7–26–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4527–N–01]

Notice of Proposed Information Collection: Comment Request Forms for Large-Scale Computer Matching Income Verification

AGENCY: The Real Estate Assessment Center, 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 Date: September 27, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to Wanda Funk, U.S. Department of Housing and Urban Development, Real Estate Assessment Center, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20224–2135; telephone Customer Service Center at 1–888–245–4860 (this is a toll-free number).

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from David Decker, U.S. Department of Housing and Urban Development, Real Estate Assessment Center, 451 Seventh Street, SW, Room 5156, Washington, DC 20410–5000.

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). The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (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.

This notice also lists the following information:

Title of Proposal: Forms for Large-Scale Computer Matching Income Verification.

OMB Control Number, if applicable: Not Available.

Description of the need for information and proposed use: A notice, published December 9, 1998 (63 FR 68129), describes the computer matching program applicable to this information collection requirement. HUD has recently transferred the responsibility for the computer matching income verification program described in that notice to its Real Estate Assessment Center.

REAC has developed the Tenant Assessment Subsystem (TASS) to identify potential sources of income discrepancies between income reported by tenants and submitted by Public Housing Agencies and owners and agents (POAs) with Federal tax data provided by the Internal Revenue Service and the Social Security Administration. The process of comparing these two sources of income information is referred to as computer matching income verification (CMIV). TASS will be used to identify potential income discrepancies for tenants receiving assistance under HUD's Public Housing (Low Rent), Section 8 Tenant-Based, and Section 8 Project-Based programs. Through the use of CMIV, TASS will:

- Identify potential income discrepancies;
- Generate letters to be sent to tenants identifying possible income discrepancies;
- Prepare notifications of possible tenant income discrepancies for POA processing and resolution; and
- Track POA discrepancy resolution and recovery of excessive rental assistance provided to tenants due to underreported income.

POAs will be required to resolve potential discrepancies through the identification of both positive and false positive discrepancies, and to adjust or terminate tenant rental assistance for verified discrepancies. Recovery involves a prudent attempt by POAs to obtain full repayment of excess tenant rental assistance through repayment agreements or prospective adjustments to future rental assistance.

The REAC has developed three forms to help capture and summarize data concerning POA income discrepancy resolution and recovery of excessive

rental assistance. The first form is a case tracking form to be used by POAs to report the status of discrepancy cases. The second form is a PHA recertification policy form to be used to gather data related to the PHA's interim recertification policies. The third form is a request to POAs for tenant source documentation for an annual sample of 1,000 randomly selected households.

These forms will be used by the two primary component processes of nationwide CMIV: (1) the nationwide large-scale matching of all tenants, and (2) the estimation of total excessive rental assistance paid annually through the use of a nationwide sample of tenant households. This second process is required by HUD's Office of Inspector General to satisfy financial reporting requirements.

Agency form numbers, if applicable: Not Available.

Members of the affected public: Public Housing Agencies (PHAs). Owner/Agents (O/As).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

REAC is requesting Paperwork Reduction Act approval on the three forms discussed above. The following parameters apply to the calculation of respondent burdens. Nationwide Large-Scale CMIV

- Number of PHAs—4,000.
- Number of OAs—20,000.
- Number of potential discrepancies at the thresholds agreed on by OMB and HUD—350,000.

Nationwide Sample CMIV:

- Sample size—1,000 households.
- Estimated number of households identified with potential income discrepancies for annual 1,000 household sample—300.

Shown below are the estimated burdens imposed on the respondents.

Status Report—Tenant Income Discrepancy Resolution and Funds Recovery.

- Time to complete each form—three minutes.
- Average number of tracking cycles before a case is resolved—three.
- Total time to complete the tracking form until case resolution—nine minutes.
- Total number of cases to be resolved annually—350,000.

The total annual nationwide respondent burden imposed will be 3,150,000 minutes or 52,500 hours. On average, the burden imposed per POA will be approximately 2¼ hours. This will vary significantly depending on the size of the POA.

PHA Interim Recertification Policies

- Number of PHAs—4,000.
- Time to complete form is 15 minutes.

The respondent burden imposed will be approximately 60,000 minutes or 1,000 hours for year one. The form needs to be completed once for each POA and, as such, the total burden per PHA for year one will be 15 minutes. Beyond year one, the respondent burden per POA will be directly related to the number of times the POA changes its interim recertification policy.

Request for POA Tenant Source Documentation

- Total number of source documents requested is approximately 300. There will be several documents for each household.
- Time to compile, photocopy, and mail documentation is 15 minutes.

The respondent burden imposed will be approximately 60,000 minutes or 1,000 hours for year one. The form needs to be completed once for each POA and, as such, the total burden per PHA for year one will be 15 minutes. Beyond year one, the respondent burden per POA will be directly related to the number of times the POA changes its interim recertification policy.

Status of the proposed information collection:

Has not started.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 19, 1999.

Barbara L. Burkhalter,

Deputy Director, Real Estate Assessment Center.

[FR Doc. 99–19135 Filed 7–26–99; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–39]

Submission for OMB Review: Request for Release of Documents, ACH Debit Authorization, Master Agreements for Servicer's P&I Custodial Account, Servicer's Escrow Account

AGENCY: Office of Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: This forms are used to provide Ginnie Mae evidence of an agreement between the issuer, banking institution, document custodian and Central Paying and Transfer Agent's responsibilities to maintain P&I and Escrow funds to pay securities holders.

DATES: Comments Due Date: August 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0017) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 20, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Commitment to Guarantee Mortgage-Backed Securities.

Office: Government National Mortgage Association.

OMB Approval Number: 2503–0017.

Description of the Need for the Information and Its Proposed Use: This

forms are used to provide Ginnie mae evidence of an agreement between the issuer, banking institution, document custodian and Central Paying and Transfer Agent's responsibilities to maintain P&I and Escrow funds to pay securities holders.

Form Number: HUD–11708, 11709, 11709–A, 11715 and 11720.

Respondents: Business or Other For-Profit and the Federal Government.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	556		1		.07		39

Total Estimated Burden Hours: 39.

Status: Extension.

Contact: Sonya K. Suarez, HUD, (202) 708–2772, Joseph F. Lackey, Jr., OMB, (202) 395–7316

[FR Doc. 99–19136 Filed 7–26–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–38]

Submission for OMB Review: Commitment To Guarantee Mortgage-Backed Securities

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: This form is used by Ginnie Mae's issuers to apply for commitment authority to guarantee mortgage-backed securities.

DATES: Comments Due Date: August 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0001) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 20, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Commitment to Guarantee Mortgage-Backed Securities.

Office: Government National Mortgage Association.

OMB Approval Number: 2503–0001.

Description of the Need For The Information and Its Proposed Use: This form is used by Ginnie Mae's issuers to apply for commitment authority to guarantee mortgage-backed securities.

Form Number: HUD–11704.

Respondents: Business or Other For-Profit and the Federal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hours per response	=	Burden hours
HUD–11704	625		4		.25		2,496

Total Estimated Burden Hours: 2,496.

Status: Extension.

Contact: Sonya K. Suarez, HUD, (202) 708–2772, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 99–19137 Filed 7–26–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of intent To prepare Comprehensive Conservation Plans for Lower Suwannee and Cedar Keys National Wildlife Refuges

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare comprehensive conservation plans and environmental documents (environmental assessments) for Lower Suwannee National Wildlife Refuge in Dixie and Levy Counties, Florida, and Cedar Keys National Wildlife Refuge in Levy County, Florida. The Service is furnishing this notice in compliance with Service comprehensive conservation planning policy and the National Environmental Policy Act and implementing regulations.

Public scoping meetings will be held in the near future for both of these refuges. An announcement of the meeting will appear in the **Federal Register**.

ADDRESSES: Comments and requests for information concerning either refuge may be addressed to: Refuge Manager, Lower Suwannee National Wildlife Refuge, 16450 NW 31st Place, Chiefland, Florida 32626–4874.

SUPPLEMENTARY INFORMATION: It is the policy of the Fish and Wildlife Service to have all lands within the National Wildlife Refuge System managed in accordance with an approved comprehensive conservation plan. The plan guides management decisions and identifies refuge goals, objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The plan will provide other agencies and the public with a clear understanding of the desired conditions of the refuge and how the Service will implement management strategies. Some of the issues to be addressed in the plan include the following:

(a) Public use management;

(b) Habitat management;

(c) Wildlife population management; and

(d) Cultural resource identification and protection.

Alternatives that address the issues and management strategies associated with these topics will be included in the environmental documents. A separate plan will be prepared for each refuge.

The Lower Suwannee National Wildlife Refuge was established on April 10, 1979, under the authority of the Fish and Wildlife Act to protect the lower Suwannee River ecosystem. The 52,935-acre refuge, which is predominantly wetlands, is bisected by 20 miles of Stephen Foster's famous Suwannee River and includes 26 miles of the Gulf Coast.

The Cedar Keys National Wildlife Refuge was established by Executive Order 5158 on July 16, 1929, as a breeding ground for migratory birds. The refuge supports one of the largest nesting colonies of pelicans, herons, egrets and ibis in north Florida, and consists of 12 islands ranging in size from 1 to 120 acres.

Dated: July 12, 1999.

Sam D. Hamilton,

Regional Director.

[FR Doc. 99–19053 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Environmental Assessment and Preliminary Finding of No Significant Impact, and Receipt of Applications for an Incidental Take Permit and an Enhancement of Survival Permit for a State-wide Conservation Plan for the Red-Cockaded Woodpecker on Private Lands in the State of Georgia

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice

SUMMARY: The Georgia Department of Natural Resources (GDNR) (Applicant) has applied for an Incidental Take Permit (ITP) and an Enhancement of Survival Permit (ESP) from the U.S. Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) and Section 10(a)(1)(A), respectively, of the Endangered Species Act of 1973 (Act), as amended. The proposed action would involve approval of the Applicant's Conservation Plan (CP) which will be administered by the Applicant to eligible landowners, which is defined in the Applicant's CP, and involves two conservation options termed the Mitigated Incidental Take (MIT) and Safe Harbor Management Agreement (SHMA) options. The subject permits would authorize take of the red-cockaded woodpecker (Picoides borealis) (RCW), a federally listed endangered species, on private lands in Georgia that (1) are isolated, remnant groups of RCWs (for ITP issuance) or (2) are new RCW groups created above SHMA baselines (for ESP issuance). Under the authority of the issued permits from the Service, the Applicant would encourage eligible landowners to participate in the two RCW conservation options via ''Certificates of Inclusion'' (or CI). Eligible landowners can be issued a CI in one or both of the CP's options with the goal to provide landowners with land management flexibility that balances each landowner's economic expectations with RCW conservation and recovery. The proposed taking would be incidental to otherwise lawful activities including typical forest management actions, land development activities, and other actions on private land and other non-federal lands in Georgia. The mitigation and minimization measures outlined in the Applicant's CP to address the effects of the CP to protected species are described further in the **SUPPLEMENTARY INFORMATION** section below.

This notice advises the public that the Service has opened the comment period on the permit applications, the draft environmental assessment (EA), and the preliminary Finding of No Significant Impact (FONSI). The permit applications include the Applicant's CP (with appendices). This notice is provided pursuant to Section 10(a) of the Act and National Environmental Policy Act of 1969 (NEPA) regulations (40 CFR 1506.6) and advises the public that the Service has made a preliminary determination that issuing the ITP and ESP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. The FONSI is based on information contained in the draft EA and CP. The final determination on this action will be made no sooner than 30 days from the date of this notice.

The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and Section 10(a) of the Act. If it is determined that the requirements are met, the requested permits will be issued for the incidental take of RCW groups subject to the provisions of the Applicant's CP. The final NEPA and permit determinations will not be completed until after the end of a 30-day comment period and will fully consider all comments received. The Service will also evaluate whether the issuance of the requested permits complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The resulting Section 7 biological opinion, in combination with the above types of evaluation requirements, will be used in the final analysis to determine whether or not to issue the requested permits.

DATES: Written comments on the permit applications, CP, and draft EA should be sent to the Service's Southeast Regional Office (see **ADDRESSES**) and should be received on or before August 26, 1999.

ADDRESSES: Persons wishing to review the permit applications, CP, draft EA, and preliminary FONSI may obtain a copy by writing the Service's Southeast Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 52560, Fort Benning, Georgia 31995–2560. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office. Written data or comments concerning the permit

applications, CP, or EA should be submitted to the Regional Office. Comments or requests for the documentation must be in writing to be processed. Please reference permit number TE014977–0 in such comments, or in requests for the documents discussed herein. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public, subject to the requirements of the Privacy Act and Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Andrews, Supervisory Fish and Wildlife Biologist, at either address listed above (see **ADDRESSES**) or telephone (706) 544–6428.

SUPPLEMENTARY INFORMATION: The Georgia state-wide RCW CP is intended to establish mechanisms to allow incidental take of: (1) MIT option RCW groups that will minimize and mitigate loss of isolated RCW groups and (2) SHMA option RCW groups that represent population expansions resulting from voluntary RCW habitat development and maintenance. The Applicant's CP estimates that there are approximately 11 private landowners and 19 groups of RCWs occupying the habitat of those landowners that will be initially eligible for incidental take under the MIT option. However, it is important to note that all incidental take proposed under the Applicant's CP may or may not ever occur. While landowners will be permitted to carry out activities under this plan that could result in the incidental taking of RCWs, they may choose not to do so or not to do so for many decades. The Applicant and the Service believe that the implementation of this program will result in maintenance of the RCW population levels on private lands in Georgia and an increase in the amount of available and potentially-suitable RCW habitat. Further, all translocation of RCW groups will be to other suitable private or state lands.

The geographic scope of the Applicant's CP is the entire State of Georgia but would only authorize incidental take on specific lands enrolled in the CP for which a respective CI has been signed. Lands potentially eligible for inclusion in the CP include (1) all privately-owned lands and public lands owned by cities, counties, and municipalities where isolated, remnant groups of RCWs exist and (2) lands covered under the SHMA option of the CP. Priority will be placed on developing CIs with landowners where loss of RCW groups is likely due to isolation from other RCW populations and where development of SHMA CIs would enroll land that has potential to benefit RCWs, particularly land with abandoned or inactive clusters or land that is near existing RCW populations.

Landowners with RCWs on their property will apply to GDNR for inclusion under the permit. If a RCW group meets the criteria of isolation and non-viability described in the Applicant's CP, the landowner will be eligible to participate under the MIT option ITP. These landowners will select from several mitigation alternatives to minimize and mitigate the effects of incidental take, and, once all mitigation criteria have been met, the landowner will be allowed to commence with RCW habitat alterations. Any landowner with potentially suitable RCW habitat can participate in SHMA option.

The duration of the ITP is 30 years and it would allow incidental take of up to 19 RCW groups; the ESP will be valid for 99 years and would allow incidental take of up to 38 RCW groups. This CP may be amended in the future to cover a higher level of incidental take if additional RCW groups are located that are eligible for coverage in the CP, although it is unlikely that additional landowners will significantly add to the number of those already identified as eligible. Landowners who are identified as having RCWs in the future will have the option, if eligible under the CP, to be included through CP modification with Service approval, or landowners may elect to pursue the development of landowner-specific conservation plans.

The proposed RCW conservation options complement the ongoing development of an overall conservation strategy for RCW populations in Georgia by representatives from the Service, U.S. Forest Service, GDNR, and private industry. Implementation of this plan should alleviate many of the concerns about endangered species conservation efforts on private lands by providing private landowners with relief from potential regulatory burdens while promoting voluntary enhancement and restoration of RCW habitat. RCW groups determined to be isolated from other RCW populations will be used for augmentation of or translocation to non-federal mitigation sites. Among the minimization measures proposed by the Applicant are no take of RCWs during the breeding season, consolidation of small, isolated RCW populations at identified sites capable of supporting a viable RCW population, and measures to improve current and potential habitat for the species.

Several alternatives to the proposed action were evaluated by Service. The alternative of the Service paying landowners for desired management practices was evaluated and could be accomplished without incidental take occurring. However, such a program would be expensive, and funding is not currently available. An alternative where RCW mitigation would occur on federal lands was investigated but determined to be inappropriate, because federal lands are already mandated to recover the species. A no action alternative was also explored, but this alternative would not increase the probability of isolated RCW group survival nor would it alleviate landowner conflicts. Instead, the incentive proposed here, although it authorizes future incidental take, is expected to attract sufficient interest among Georgia landowners to generate significant benefits for the RCW. The Applicant's CP was developed in an adaptive management framework to allow changes in the program based on new scientific information including, but not limited to, biological needs and management actions proven to benefit the species or its habitat.

The CP was prepared by GDNR and sent to the Service for authorization of the CP's ITP and ESP as per Section 10(a)(1)(B) and Section 10(a)(1)(A), respectively, of the Act. Section 10(a)(1)(B), a 1982 Act amendment, was created to help resolve land use conflicts resulting from the presence of listed species on private land by issuance of a permit authorizing take for those species. As specified by the ESA, permitted take must be ''incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.'' In order to obtain an ITP, the applicant must submit, in part, a conservation plan specifying ''the impact which will likely result from such taking; what steps the applicant will take to minimize and mitigate such impacts; and the funding that will be available to implement such steps; what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and such other measures the Secretary {of the U.S. Department of the Interior} may require as being necessary or appropriate for purposes of the plan.'' These requirements are addressed in this document. Section 10(a)(1)(A) authorizes ESPs related to the Service's recently-implemented Safe Harbor policy (**Federal Register**, Vol. 64, No. 116, 32717–32726).

The Service continues to critically evaluate any potential or real biological costs and conservation benefits of current RCW management and research programs. This ensures continuation of

activities proven to directly benefit or contribute to species conservation and recovery. Currently acceptable management activities may be modified or eliminated based upon research findings and/or evaluation of the biological costs versus the conservation benefits. The 1985 Red-cockaded Woodpecker Recovery plan is currently undergoing revision to reflect advances in red-cockaded woodpecker management in the last 12 years. All interested agencies, organizations, and individuals are urged to provide comments on the permit applications and NEPA documents. All comments received by the closing date will be considered in finalizing NEPA compliance and permit issuance or denial. The Service will publish a record on its final action in the **Federal Register**.

Dated: July 21, 1999.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 99–19087 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–55–P

UNITED STATES GEOLOGICAL SURVEY

Technology Transfer Act of 1986

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of proposed cooperative research and development agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Alden Research Laboratory, Inc. to jointly perform environmental hydraulics research at the Conte Anadromous Fish Research Center.

INQUIRES: If any other parties are interested in similar activities with the USGS, please contact: Dr. Mufeed Odeh, 413–863–8994 Ext. 43.

BUREAU CLEARANCE OFFICER: John Cordyack 703–648–7313.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: July 14, 1999.

Byron K. Williams,

Acting Chief Biologist

[FR Doc. 99–19055 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–9–1990–00 24–1A]

Extension of Currently Approved Information Collection, OMB Approval Number 1004–0114

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval to collect certain information from the owners of unpatented mining claims, mill sites, and tunnel sites to allow the BLM to record such claims and sites, determine the land status at the time of location, collect annual maintenance and location fees, process annual waiver from such fees, process annual affidavits of labor or notices of intent to hold a mining claim or site, process requests for deferments from assessment work, process transfers of interest, and generally adjudicate such claims and sites for compliance with the 1872 Mining Law, as amended and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended.

DATES: Comments on the proposed information collection must be received by September 27, 1999.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street, NW., Room 401 LS, Washington, DC 20240. Comments may be sent via Internet to: *WOComment@blm.gov*. Please include ''Attn: 1004–0114'' and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Roger A. Haskins, (202) 452–0355, roger__haskins@blm.gov.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.8(d), BLM is required to provide 60-day notice in the **Federal Register** concerning a proposed collection of information to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information of 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. BLM will analyze any comments sent in response to this notice and include them with its request for extension of approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Recording Claims

Under sections 314 (a) and (b) of FLPMA (43 U.S.C. 1744), owners of unpatented mining claims, mill sites, and tunnel sites located on federal lands must notify BLM of the location of the claim or site within 90 days after it has been filed under State law. Under the implementing regulations at 43 CFR 3833.1–2, the claim owner must provide the name or number of the claim, the name and address of the claim owner(s), the type of claim, the date of location, and a description of the claim or mineral survey.

Maintenance Fee Waiver

Under 30 U.S.C. 28f (Pub. L. 105–277, 112 Stat. 2681–235), owners of unpatented mining claims, mill sites, and tunnel sites must pay an annual maintenance fee of $100 per claim or site, unless the fee is waived. The fee is in lieu of the requirement to perform and record annual assessment work. Under BLM's implementing regulations at 43 CFR 3833.1–7, owners of no more than ten mining claims can annually apply for and obtain from BLM a maintenance fee waiver by submitting the following information: (1) The mining claim and names and BLM serial numbers, (2) a declaration of owning no more than ten claims and sites, (3) a declaration of having complied with the assessment work requirements, (4) the names and addresses of all owners of the claims and sites, and (5) the owners' signatures. BLM uses Form 3830–2 to simplify the collection of the required information. Any interested member of the public may request and obtain, without charge, a copy of Form 3830–2 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

Annual Assessment Work

Under section 314(a) of FLPMA and 30 U.S.C. 28f, owners of unpatented mining claims, mill sites, and tunnel sites who qualify for a waiver of the

maintenance fee must annually file either evidence of annual assessment work for each claim and site or a notice of intention to hold for each claim and site. Under BLM's implementing regulations at 43 CFR 3833.2–4, evidence of annual assessment work must be in the form of either (a) a copy of the evidence of work performed and filed under applicable State law, BLM serial number for each claim and site, and any changes in the owner's mailing address or (b) a copy of any geological, geochemical, and geophysical surveys filed according to State law, along with the BLM serial number of the claim or site, and any mailing address changes. Under 43 CFR 3851.2, the surveys must contain the location of the work performed in relation to the claim boundaries; the nature, extent, and cost of the work performed; the basic findings of the survey(s); and the name, address, and professional background of the person(s) performing the work.

Notice of Intent To Hold

Under BLM's implementing regulations at 3833.2–5, the notice of intention to hold one or more mining claims must be in the form of either (a) A copy of the document filed under applicable State law containing the BLM serial number(s) of the claim(s) and any change in the mailing address of the owner(s) of the claim(s), (b) a reference to the BLM decision deferring annual assessment work, or (c) a reference to a pending petition for deferment of annual assessment work. Under 43 CFR 3852, a claimant may request deferment of assessment work by filing with BLM a petition containing the names of the claims, dates of location, and the date of the beginning of the requested one-year deferment period. A notice of intention to hold one or more mill or tunnel sites must contain the BLM serial number assigned to each site and any change in the mailing address of the site owner(s).

Transfer of Interest

Under 43 CFR 3833.3, whenever the owner of an unpatented mining claim, mill site or tunnel site sells, assigns, or otherwise conveys any interest in a claim or site, the person receiving the claim site must file the following information with BLM: the BLM serial number of the claim, the name and address of the person receiving an interest in the claim, and a copy of the document transferring the interest under applicable State law. The same information must be submitted to BLM if someone inherits an interest in a claim or site.

Notice of Intent To Locate

In 1993, Congress amended section 9 of the Stock Raising Homestead Act (39 Stat. 864, 43 U.S.C. 299) to require anyone desiring to explore for or locate a mining claim on a stock raising homestead to file with BLM a notice of intent if the mineral activities related to the exploration cause no more than a minimal disturbance of surface resources and do not involve the use of heavy equipment, explosive, road construction, drill pads or hazardous materials (Pub. L. 103–23, 107 Stat. 60). Under BLM's implementing regulations at 43 CFR 3833.0–3(g) and 3833.1–2(c) and (d), the notice of intent must contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. Those desiring to explore for or locate a mining claim must also provide the surface owner with a brief description of the proposed mineral activities; a map and legal description of the lands to be subject to mineral exploration; the name, address, and phone number of the person managing the activities; and the date(s) on which the activities will take place. BLM uses form 3830–3 (formerly 3814–4) to simplify the collection of the required information. Copies of the form may be obtained without charge by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

Use of Information

BLM will use all of the information collection described above to determine the number and location of unpatented mining claims, mill sites and tunnel sites located on federal lands to assist in the surface management of these lands and any minerals found there; to remove any cloud on the title to those lands due to abandoned mining claims; to provide information as to the location of active claims; and to keep informed about transfers of interest and ownership. If BLM did not collect this information, the rights of surface and mineral owners would not be protected, the government's ability to locate and control surface disturbance would be compromised, and opportunities for mineral exploration and development would be unnecessarily circumscribed.

Public Reporting Burden

Based on BLM's experience administering FLPMA and the general mining laws, BLM estimates the public reporting burden for this information collection to average 8 minutes per response. The respondents are owners of unpatented mining claims, mill sites, and tunnel sites located on the public domain and individuals or organizations who seek to explore for or locate a mining claim on lands subject to the Stock Raising Homestead Act, as amended. The frequency of response is once, upon recording, and annually thereafter, and in the case of lands subject of the Stock Raising Homestead Act, one per entry. The number of responses per year is estimated to be about 364,000. The estimated total annual burden on new respondents collectively is about 48,545 hours. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: July 20, 1999.

Carole J. Smith,

Information Collection Officer.

[FR Doc. 99–19052 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–61455]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described land in Elko County, Nevada has been examined and found suitable for classification for purchase under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et. seq.). The lands will not be offered for purchase until at least 60 days after the date of publication of this Notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 34 N., R. 56 E.
Section 18, Lots 1–2, E½NW¼.
Containing 160.00 acres, more or less.

DATES: The land will become segregated on July 27, 1999. Comments are due in this office by September 10, 1999.

FOR FURTHER INFORMATION: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The City of Elko intends to use the land for a Class I landfill. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act, applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereof for ditches and canals constructed by the authority

of the United States; Act of August 30, 1890 (43 U.S.C. 945).

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable laws and regulations to be established by the Secretary of Interior.

The grant of herein described lands is subject to any other reservations, provisions or covenants provided by the Recreation and Public Purposes Act that the authorized officer deems appropriate, including the following provision:

A statement from the City of Elko indemnifying the United States harmless against any legal liability or future costs directly or indirectly attributable to the disposal of solid waste or release of hazardous substances on the subject land.

The land is not required for any Federal purpose. The classification and subsequent conveyance are consistent with the Bureau's planning for the area.

Upon publication of this Notice of Realty Action in the **Federal Register**, the subject lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except for recreation and public purpose . The segregative effect shall terminate upon issuance of a patent or as specified in an opening order to be published in the **Federal Register**, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Elko Field Office, 3900 Idaho Street, Elko, NV 89801. Any objections will be evaluated by the State Director, who may sustain, vacate or modify this realty action. In the absence of timely filed objections, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Classification Comments

Interested parties may submit comments involving the suitability of the land for conveyance under the Recreation and Public Purposed Act. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Class I landfill.

Dated: July 16, 1999.

David J. Vandenberg,

Acting Field Manager.

[FR Doc. 99–19051 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), DOI.

ACTION: Notice of Information Collection.

SUMMARY: Under the Paperwork Reduction Act of 1995, we are soliciting comments on two information collections—Safety Net Report (OMB Control Number 1010–0103) and Certification for not Performing Accounting for Comparison (OMB Control Number 1010–0104)—both expire on November 30, 1999.

FORM: MMS–4411, Safety Net Report; MMS–4410, Certification for not Performing Accounting for Comparison.

DATES: Written comments should be received on or before September 27, 1999.

ADDRESSES: Comments sent via the U.S. Postal Service should be sent to Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; courier address is Building 85, Room A613, Denver Federal Center, Denver, Colorado 80225; e-mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, FAX (303) 231–3385, e-mail Dennis.C.Jones@mms.gov.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The Department of the Interior (DOI) is the department within the Federal Government responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. MMS performs the royalty management functions for the Secretary.

OMB Control Number 1010–0103

The safety net calculation establishes the minimum value for royalty purposes. This requirement will assist the Indian lessor in receiving all the royalties that are due and aid MMS in its compliance efforts. The safety net price will be calculated using prices received for gas sold downstream of the index point. It will include only the lessee's or lessee's affiliate's arm's-length contracts and will not require detailed calculations for the costs of transportation. By June 30 of each calendar year, the lessee will be required to calculate for each month of the calendar year a safety net price. This must be calculated for each index zone where the lessee has an Indian lease. The safety net price will capture the significantly higher values for sales occurring beyond the first index pricing point. The lessee will submit its safety net price to MMS annually (by June 30) using the Safety Net Report, Form MMS–4411.

The Safety Net Report will allow MMS and the tribes to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms. In the safety net calculation, the lessee will only include sales under those arm's-length contracts that establish a delivery point beyond the first index pricing point to which the gas flows. Moreover, those contracts must include any gas produced from or allocable to one or more of the lessee's

Indian leases in the index zone. Information provided on the form may be used by MMS auditors, the Royalty Valuation Division, and the Office of Indian Royalty Assistance.

There are 700 companies that pay royalties on approximately 4,511 tribal and allotted Indian leases; we estimate that 20 percent of the companies (140 companies) have sales beyond the first index pricing point. Therefore, 560 reports from 140 companies for 4 index zones will be required annually. We estimate that it will take a company 24 hours to report the data required at proposed 30 CFR 206.172(e) (reference 63 FR 7089) and a recordkeeping burden of 1 hour per report annually. Therefore, we estimate that the annual burden for this information collection is 14,000 hours (560 reports × 25 hours).

OMB Control Number 1010–0104

Accounting for comparison (dual accounting) is required by the terms of most Indian leases when gas produced from the lease is processed. To not perform dual accounting, a lessee must certify, on Form MMS–4410, Certification For Not Performing Accounting For Comparison, that the gas was never processed prior to entering the pipeline with an index located in an index zone or into a mainline pipeline not in an index zone. The lessee will be required to sign the certification form for each lease having production that is exempt from dual accounting. This is a one-time certification that will remain in effect until there is a change in lease status or ownership. This certification will allow MMS and the tribes to better monitor compliance with the dual accounting requirement of Indian leases.

In most cases, the lessee will directly know the disposition of the gas. If gas is sold at the wellhead, the lessee may have to consult with the purchaser of the gas to determine its disposition. Information provided on the form may be used by MMS auditors, the Royalty Valuation Division, and the Office of Indian Royalty Assistance.

There are approximately 4,511 tribal and allotted Indian leases and 700 payors comprising the Indian lease universe. We estimate that 30 percent of the Indian leases, or 1,353 leases, would not require accounting for comparison. A certification form will be required for each lease, and the certification will remain in effect until there is a change in lease status or ownership. This one-time filing as required by proposed 30 CFR 206.172(b)(ii) (reference 63 FR 7089) will require 3 hours per certification report to extract the data from company records or obtain the information from the purchasers and a recordkeeping burden of 1 hour per report annually. Therefore, we estimate that the total annual burden for this information collection is 5,412 hours (1,353 reports × 4 hours).

Dated: July 21, 1999.

Joan Killgore,

Acting Associate Director for Royalty Management.

[FR Doc. 99–19081 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 17, 1999. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by August 11, 1999.

Carol D. Shull,

Keeper of the National Register.

ILLINOIS

Cook County

Four Nineteen Building, 419 W. 83rd St., Chicago, 99000973

Northeast Evanston Historic District, Roughly bounded by Emerson St., Sherman Ave., Sheridan Pl., Lake Michigan, Sheridan Rd., and Orrington Ave., Evanston, 99000979

Wheeler—Kohn House, 2018 S. Calumet Ave., Chicago, 99000975

Macon County

Decatur and Macon County Welfare Home for Girls, 736 S. Martin Luther King Jr. Dr., Decatur, 99000982

Pike County

Griggsville Landing Lime Kiln, IL 490, N of Napoleon Hollow, Valley City vicinity, 99000974

Pulaski County

Illinois Central Railroad Depot, Jct. of Central Ave. and Ullin Ave., Ullin, 99000978

St. Clair County

Berger—Kiel House, 931 N. 6th St., Mascoutah, 99000977

Warren County

Pike—Sheldon House, 406 S. Third St., Monmouth, 99000976

Winnebago County

Rockford Morning Star Building, 127 N. Wyman St., Rockford, 99000972

LOUISIANA

Vermilion Parish

St. Mary Congregational Church, 213 S. Louisiana Ave., Abbeville, 99000983

MARYLAND

Washington County

Cedar Grove, 15435 Dellinger Rd., Williamsport, 99000984

Baltimore Independent City

Riviera Apartments, 901 Druid Park Lake Dr., Baltimore, 99000985

MISSISSIPPI

Lafayette County

Falkner, Maud Butler, House, 510 S. Lamar Blvd., Oxford, 99000986

MISSOURI

Cape Girardeau County

Wichterich, Robert Felix and Elma Taylor, House, 300 Good Hope St., Cape Girardeau, 99000987

MONTANA

Mineral County

Savenac Nursery Historic District, I–90, S of Haugan, Haugan vicinity, 99000988

NEW YORK

Allegany County

McKinney Stables of Empire City Farms, 105 South St., Cuba, 99001000

Fulton County

Chamberlain, Benjamin, House, 100 Market St., Johnstown, 99000989

St. Lawrence County

Wanakena Footbridge, Over Oswegatchie R., bet. Front St. and South Shore Rd., Fine, 99001001

Sullivan County

Jewish Community Center of White Sulphur Springs, Briscoe Rd., White Sulphur Springs, 99000991

Tefereth Israel Anshei Parksville Synagogue, Dead End St., Parksville, 99000990

Ulster County

Davis Stone House (Rochester MPS), 4652 NY 209, Rochester, 99000995

Sahler Stone House (Rochester MPS), Kyserike Rd., Rochester, 99000992

Sahler Stone House and Dutch Barn (Rochester MPS), Winfield Rd., Rochester, 99000998

Stilwell Stone House (Rochester MPS), 189 Old Kings Highway, Rochester, 99000996

Stilwill—Westbrook Stone House (Rochester MPS), 482 Old Kings Highway, Rochester, 99000997

Van Wagenen Stone House and Farm Complex (Rochester MPS), 2732 Lucas Turnpike, Rochester, 99000994

Van Wagenen, Jacobus, Stone House (Rochester MPS), 2659 Lucas Turnpike, Rochester, 99000999

Winfield Corners Stone House (Rochester MPS), Winfield Rd., Rochester, 99000993

OREGON

Coos County

Gearhart, John Neal and Dora, House, Address Restricted, Myrtle Point vicinity, 99001003

Marion County

Witten, T.M., and Emma, Drug Store—House, 104 N. Main St., Jefferson, 99001002

UTAH

Washington County

Grafton Historic District, 1861 townsite of Grafton, Rockville, 99001007

VIRGINIA

Page County

Printz, Abram and Sallie, Farm, 597 Rosedale Ln., Luray vicinity, 99001006

Manassas Independent City

Cannon Branch Fort (Civil War Properties in Prince William County MPS), Address Restricted, Manassas vicinity, 99001004

Suffolk Independent City

Professional Building, 100 N. Main St., Suffolk vicinity, 99001005

WASHINGTON

Pierce County

Sandberg–Schoenfeld Buildings, 1411–1423 Pacific Ave., Tacoma, 99001008

Whatcom County

Pioneer Park, 2002 Cherry St., Ferndale, 99001009

A request for REMOVAL has been made for the following resources:

ALASKA

Dillingham County

Fishermen's Co-op 247 Main St. Dillingham, 95000400

TEXAS

Tom Green County

House at 410 Summit St. 410 Summit St. San Angelo, 88002591

[FR Doc. 99–19072 Filed 7–26–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 6, 1999 at 11:00 a.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. Nos. 303–TA–23 and 731–TA–566–570 and 641 (Final) (Reconsideration) (Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on August 20, 1999.)
5. Outstanding action jackets:
   (1.) Document No. GC–99–065: Regarding Inv. No. 337–TA–380 (Certain Agricultural Tractors Under 50 Power Take-Off Horsepower) (Enforcement Proceeding).

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.

By order of the Commission.

Issued: July 22, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19277 Filed 7–23–99; 12:41 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 19, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB 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 submission of responses.

Agency: Mine Safety and Health Administration.

Title: Quarterly Mine Employment and Coal Production Report.

OMB Number: 1219–0006.

Frequency: Quarterly.

Affected Public: Business or other for-profit.

Collection	Quarterly response	Total annual responses	Average time per response (in minutes)	Burden hours
7000–2 mailed	17,203	68,812	30	34,406
7000–2 faxed	1,912	7,646	30	3,823
7000–2 electronic	624	2,496	15	624
Verify Data Mailer	n/a	10,000	30	5,000
Correct Data Mailer	n/a	247	15	62
Totals		89,205		43,915

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $22,791.

Description: Requires mine operators to report to MSHA quarterly employment levels and coal production. Employment and production data when correlated with accident and injury data provide information for making decisions on improving safety and health enforcement programs, focusing education and training efforts, and establishing priorities in technical assistance activities in mine safety and health.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–19112 Filed 7–26–99; 8:45 am]

BILLING CODE 4510–13–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 21, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E–Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB 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 submission of responses.

Agency: Mine Safety and Health Administration.

Title: Mine Accident, Injury, and Illness Report.

OMB Number: 1219–0007.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Regulatory reference	Responses	Frequency	Annual responses	Average time per response	Burden hours
50.10 Immediate Notification	91 fatals 2,156 other	One-time	2,247	30 minutes	1,124
50.11(b) Investigation of Accidents/Occupational Injuries.	48 fatals 20,670 nonfatal 1,611 other	One-time	22,329	80 hours 2 hours 3 hours	50,013
50.11(b) Separate Reports <20 employees.	43 fatals 545 other	One-time	588	40 hours 3 hours	3,355
50.20 Reports	22,997 initial 11,937 follow-up	One-time	34,934	30 minutes 20 minutes	15,438
Verify Data Mailer	10,000	Annually	10,000	30 minutes	5,000
Correct Data Mailer	246	Annually	246	15 minutes	62
Totals			70,344		74,992

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $19,199.

Description: Mine operators are required to submit Form 7000–1 to MSHA to report on accidents, injuries, and illnesses at their mines within 10 working days after an accident or injury has occurred or a work-related illness has been diagnosed. The use the form provides for uniform information gathering.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–19113 Filed 7–26–99; 8:45 am]

BILLING CODE 4510–13–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–29; Exemption Application No. D–10747]

Bankers Trust Co., New York, New York, BT Alex Brown Inc., and Deutsche Bank AG

AGENCY: Pension and Welfare Benefits Administration, Department of Labor

ACTION: Grant of Individual Exemption.

SUMMARY: This document contains a final exemption from certain of the

prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and the Internal Revenue Code of 1986 (the Code). The final exemption, granted by the Department of Labor (the Department) to Bankers Trust Company, BT Alex Brown and Deutsche Bank AG, provides that those entities shall not be precluded from functioning as a ''qualified professional asset manager'' pursuant to Prohibited Transaction Exemption 84–14 (49 FR 9494, March 13, 1984)(PTE 84–14) solely because of a failure to satisfy section I(g) of PTE 84–14 as a result of Bankers Trust Company's conviction for felonies described in a March 11, 1999 felony information.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams-Lavigne of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 7, 1999, the Department published a notice in the **Federal Register** of the pendency before the Department of a proposed exemption requested by Bankers Trust Company and Deutsche Bank AG. The Department proposed the exemption in response to an application dated March 12, 1999, which was submitted on behalf of Bankers Trust Company and its future affiliates pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart (55 FR 32836, 32847, August 10, 1990).[1]

The notice set forth a summary of the facts and representations contained in the application for exemption and also invited interested persons to submit comments or requests for a hearing on the pending exemption to the Department.

The applicants agreed to provide notice to interested persons within three days of the date that the proposal appeared in the **Federal Register**. The applicants have represented that notice was furnished to five interested persons two days later than that date. As a result, the comment period was extended for two additional days. The applicants represent that notice to all other interested persons was furnished in a timely manner. All comments and requests for hearing were due by July 12, 1999.

The Department received eleven comments from interested persons on the proposed exemption. The Department forwarded copies of the comments to the applicants and requested that the applicants address in writing the various concerns raised by the commentators. Most of the comments fell into broad categories that the applicants responded to in a general fashion. Where a single commentator raised a specific issue, such issue was responded to individually. A description of the comments and the applicants' responses are summarized below.

One commentator urged that the exemption not be granted because he had not received all of his benefits under a plan maintained by Bankers Trust Company. Bankers Trust Company notes that the former participant enclosed with his comment a copy of the check receipt that he had received at the time of the distribution. Bankers Trust Company believes that the participant received the full amount of his benefit at the time he received his check receipt.

Five comments urged denial of the exemption because of the commentators' belief that Bankers Trust Company has failed to meet the highest standard as a fiduciary. Deutsche Bank AG responded that it is committed to maintaining the highest fiduciary standards on which Bankers Trust Company was organized in 1903, and intends to bring together the best of the long traditions of service of each organization, building on the organizational changes described in the exemption application and the new policies and procedures put in place in the recent past.

One commentator suggested that not all employees have received certain ethics training. Deutsche Bank AG represents that it will verify that all Global Institutional Services (GIS) employees have received the appropriate training.[2] Another commentator was concerned that the legal protections of the Act and the Code would be eliminated if the exemption was granted. Deutsche Bank AG responded that it understands that all of the legal requirements of the Act and the Code continue to apply to the employee benefit plans of Bankers Trust Company and, as sponsor of those plans, represents that it will fully comply with all laws respecting its plans.

Two commentators opposed the granting of the exemption because they had unanswered questions about their pension benefits. While these comments did not relate to the terms of the exemption, Deutsche Bank represents that it will contact those commentators and attempt to resolve their questions.

Another commentator argued that the exemption ought to be denied because, in the commentator's view, Deutsche Bank AG discriminates against members of the Church of Scientology. Deutsche Bank AG states that it maintains strict policies against discrimination on the basis of sex, race, creed or national origin and believes that those policies have been adhered to. Another commentator argued that the exemption should be denied because, in the past, Bankers Trust Company merged two of its employee benefit plans inappropriately. Bankers Trust Company responds that its actions in merging its plans were fully in compliance with the law.

In addition to comments, questions and requests for a hearing, the Department also received a comment letter, dated July 13, 1999, from Deutsche Bank AG. Deutsche Bank AG notes that Paragraph 2 of the Facts and Representations of the Notice states that BT Alex Brown is a subsidiary of Bankers Trust Corporation. Deutsche Bank AG noted that while that fact was true as of the date of the proposed exemption, BT Alex Brown is now a subsidiary of Deutsche Bank Securities, Inc.

Two commentators also requested a hearing on the proposal. The Department believes that the issues raised by the commentators are outside the scope of the proposed exemption. Accordingly, the Department does not believe that any issues have been identified which would require the convening of a hearing and has determined not to hold a public hearing.

Accordingly, after giving full consideration to the entire record, including the comments by the commentators, and the responses of the applicants, the Department has determined to grant the exemption. In this regard, the comments submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5507, U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20010.

[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of Treasury to issue exemptions of the type proposed to the Secretary of Labor.

[2] The March 11, 1999 felony information related to the conduct of certain employees in Bankers Trust Company's processing services business. This unit was subsequently restructured as part of GIS.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and/or 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and/or the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary provisions of section 404 of the Act which, among other things, requires a fiduciary to discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to and not in derogation of any other provisions of the Act and/or Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete and accurately describe all material terms of the transaction which is the subject of this exemption.

Exemption

Section I. Bankers Trust Company

Bankers Trust Company shall not be precluded from functioning as a ''qualified professional asset manager'' pursuant to Prohibited Transaction Exemption 84–14 (49 FR 9494, March 13, 1994) (PTE 84–14) for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company [3] pled guilty on March 11, 1999 and ending five years [4] from the date of publication of the final exemption in the **Federal Register**, solely because of a failure to satisfy section I(g) of PTE 84–14 as a result of the conviction of Bankers Trust Company for felonies described in the March 11, 1999 felony information (the Information) entered in the U.S. District Court for the Southern District of New York, provided that:

(a) This exemption is not applicable if Bankers Trust Company becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84–14; and

(b) This exemption is not applicable if Bankers Trust Company is convicted of any of the crimes described in section I(g) of PTE 84–14, other than those felonies discussed in the Information;

(c) The custody operations that were part of Bankers Trust Company at the time of the March 11, 1999 information, and which have subsequently been reorganized as part of Global Institutional Services (GIS), are subject to an annual examination of its abandoned property and escheatment policies, procedures and practices by an independent public accounting firm. The examination required by this condition shall determine whether the written procedures adopted by Bankers Trust Company are properly designed to assure compliance with the requirements of ERISA. The annual examination shall specifically require a determination by the auditor as to whether the Bank has developed and adopted internal policies and procedures that achieve appropriate control objectives and shall include a test of a representative sample of transactions, fifty percent of which must involve ERISA covered plans, to determine operational compliance with such policies and procedures. The auditor shall issue a written report describing the steps performed by the auditor during the course of its examination. The report shall include the auditor's specific findings and recommendations. This requirement shall continue to be applicable to the custody operations that were part of Bankers Trust Company as of March 11, 1999, notwithstanding any subsequent reorganization of the custody operation function during the term of the exemption.

(d) With respect to the independent audit report described in section I(c) above:

(1) Bankers Trust Company shall provide notice to the Department of any instances of the Bank's noncompliance with the written policies and procedures reviewed by the auditor within 10 business days after such noncompliance is determined by the auditor notwithstanding the fact that the examination may not have been completed as of that date. Upon request, the auditor shall provide the Department with all of the relevant workpapers reflecting the instances of noncompliance. The workpapers should identify whether and to what extent the assets of ERISA plans were involved in the instances of noncompliance, and

(2) Any information relating to the Bank's noncompliance with the written policies and procedures that is required by Federal and/or state banking authorities to be reported to the state and/or Federal banking agencies shall also be reported by Bankers Trust Company to the Department within the same time frames that such information is otherwise required to be reported to those agencies.

(e) The annual examination described in section I(c) above will be provided to the Department not later than 90 days following the 12 month period to which it relates, and will be unconditionally available for examination by any duly authorized employee or representative of the Department, Internal Revenue Service, Securities and Exchange Commission or Department of Justice or other relevant regulators and any fiduciary of a plan for which Bankers Trust Company performs services.

Section II

BT Alex. Brown Incorporated and its subsidiaries and Deutsche Bank AG shall not be precluded from functioning as a ''qualified professional asset manager'' pursuant to PTE 84–14 for the period beginning on the date of sentencing with respect to the charges to which Bankers Trust Company pled guilty on March 11, 1999 and ending ten years from the date of publication of the final exemption in the **Federal Register**, solely because of a failure to satisfy section I(g) of PTE 84–14 as a result of an affiliation with Bankers Trust Company, provided that:

(a) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84–14; and

(b) This exemption is not applicable if BT Alex. Brown Incorporated, its subsidiaries or Deutsche Bank AG is convicted of any of the crimes described in section I(g) of PTE 84–14.

Section III. Definitions

(a) For purposes of this exemption, the term ''Bankers Trust Company'' includes Bankers Trust Company and any entity that was affiliated with Bankers Trust Company prior to the

[3] On June 4, 1999, Bankers Trust Corporation, the parent of Bankers Trust Company, was acquired by Deutsche Bank AG. Bankers Trust Company, now a subsidiary of Deutsche Bank AG, continues to offer banking services to its clients.

[4] Prior to the expiration of this exemption, Bankers Trust Company may apply for an extension of the exemption.

date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, other than BT Alex. Brown Incorporated and its subsidiaries.

(b) For purposes of this exemption, ''Deutsche Bank AG'' includes Deutsche Bank AG and any entity that was affiliated with Deutsche Bank AG prior to the date of the acquisition of Bankers Trust Corporation by Deutsche Bank AG, and any future affiliates, other than Bankers Trust Company, as defined in subsection (a).

(c) The term ''affiliate'' of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and,

(4) Any employee or officer of the person who—

(A) is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person) or,

(B) has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 22nd day of July, 1999.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–19152 Filed 7–26–99; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–30; Exemption Application No. D–10669, et al.]

Grant of Individual Exemptions; Premier Funding Group, Inc.; Employees Profit Sharing Plan, et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Premier Funding Group, Inc. Employees Profit Sharing Plan (the P/S Plan) and the Money Purchase Pension Plan for Employees of Premier Funding Group, Inc. (the M/P Plan, collectively; the Plans) Located in Arlington, Texas

[Prohibited Transaction Exemption 99–30; Exemption Application Nos. D–10669 and D–10670]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply as of February 1, 1999, to a lease (the Lease) of certain second-floor space (the Leased Premises) in a building by the Plans to LM Holdings, Inc., a party in interest with respect to the Plans; provided that the following conditions are satisfied:

(a) All terms and conditions of the Lease are at least as favorable to the Plans as those which the Plans could obtain in an arm's-length transaction with an unrelated party;

(b) The fair market rental amount for the Lease has been determined by an independent qualified appraiser;

(c) Each Plan's allocable portion of the fair market value of both the Leased Premises and the building where the Leased Premises are located represents no more than 20 percent (20%) of the total assets of each Plan throughout the duration of the Lease;

(d) The interests of the Plans under the Lease are represented by an independent, qualified fiduciary (the Independent Fiduciary);

(e) The fees received by the Independent Fiduciary, combined with any other fees derived from any related parties, will not exceed 1% of that person's annual income for each fiscal year that such person continues to serve in the independent fiduciary capacity with respect to the Lease;

(f) The Independent Fiduciary evaluated the Lease and deemed it to be administratively feasible, protective and in the best interest of the Plans;

(g) The Independent Fiduciary monitors the terms and the conditions of the exemption and the Lease throughout its duration, and takes whatever action is necessary to protect the Plans' rights;

(h) At the discretion of the Independent Fiduciary, the Lease can be extended for two additional five-year terms, provided that the Independent Fiduciary requires independent appraisals of the Leased Premises to be performed at the time of each extension of the Lease so as to ensure that LM Holdings continues to pay fair market

rent, and such rent is not less that either the initial base rent or the amount paid during the most recent annual term; and

(i) Within 90 days of publication in the **Federal Register** of this exemption, LM Holdings files with the Internal Revenue Service (IRS) Form 5330 (Return of Initial Excise Taxes for Pension and Profit Sharing Plans) and pays all excise taxes applicable under section 4975(a) of the Code that are due by reason of the existence of the Lease as a prohibited transaction prior to February 1, 1999.

EFFECTIVE DATE: This exemption is effective as of February 1, 1999.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 3, 1999 at 64 FR 29906.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

The Unaka Company, Incorporated Employees' Profit Sharing Plan and Trust (the Plan) Located in Greenville, Tennessee

[Prohibited Transaction Exemption 99–31; Application No. D–10722]

Exemption

The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: [1]

(a) The assignment (the Assignment) by the Plan to the Unaka Company, Incorporated (Unaka), the sponsoring employer and a party in interest with respect to the Plan, of any and all claims, demands, and/or causes of action which the Plan may have against certain members of the Plan Administrative Committee (the PAC) and other involved parties (collectively, the Responsible Fiduciaries) for breach of fiduciary duty under the Act, during the period from July 1, 1996 to July 31, 1998;

(b) In exchange for the Assignment, described in paragraph (a), above, the interest-free, non-recourse loan (the Loan) by Unaka to the Plan in an amount equal to the difference between $413 and the fair market value per share for the common stock of Unaka (the Stock) held by the Plan, in connection with the sale of such Stock by the Plan to Unaka, pursuant to the statutory exemption, as set forth in section 408(e) of the Act; [2]

(c) The possible repayment of such Loan to Unaka from the cash proceeds of the recovery, if any, from a judgment or settlement of the litigation against the Responsible Fiduciaries;

(d) The interest-free, non-recourse extension of credit (the Extension of Credit) by Unaka to the Plan of certain expenses arising out of the litigation against the Responsible Fiduciaries, effective as of, May 1, 1999, the date when expenses incurred by the Plan in bringing such litigation were first paid by Unaka; and

(e) The possible receipt by Unaka of reimbursement of such litigation expenses from the cash proceeds of the recovery, if any, from a judgment or settlement of the litigation against the Responsible Fiduciaries; provided that the following conditions are satisfied:

(1) The Plan will pay no interest in connection with the Loan or the Extension of Credit;

(2) None of the assets of the Plan will be pledged to secure either the amount of the Loan or the amount of the Extension of Credit;

(3) Repayment to Unaka of the amount of the Loan and reimbursement to Unaka of the amount of the Extension of Credit shall be restricted solely to the cash proceeds of the recovery, if any, from a judgment or settlement of the litigation against the Responsible Fiduciaries;

(4) To the extent the amount of the cash proceeds, if any, from any judgment or settlement of the litigation against the Responsible Fiduciaries is equal to or less than the amount due to Unaka as repayment for the Loan and reimbursement of the Extension of Credit, the Plan shall not be liable to Unaka for any amount;

(5) To the extent the cash proceeds, if any, from any judgment or settlement of the litigation against the Responsible Fiduciaries exceeds the total amount of the Loan, plus the amount of the Extension of Credit, such excess amount will be allocated to the accounts of the participants of the Plan; with the exception that no such allocation will be made to the account of Robert Austin, Jr. in the Plan;

(6) The transactions which are the subject of this exemption do not involve any risk of loss either to the Plan or to any of the participants and beneficiaries of the Plan;

(7) The Plan will not incur any expenses as a result of the transactions which are the subject of this exemption;

(8) Notwithstanding the Assignment by the Plan of its rights against the Responsible Fiduciaries, the Plan does not release any claims, demands, and/or causes of action which it may have against Unaka and/or its affiliates;

(9) All of the terms of the transactions are at least as favorable to the Plan as those which the Plan could obtain in similar transactions negotiated at arm's-length with unrelated third parties;

(10) The Plan receives no less than the fair market value for the Assignment, as of the date of the closing on the transfer of the Assignment;

(11) Prior to the Plan's entering the transactions, an independent, qualified fiduciary (the I/F), who is acting on behalf of the Plan and who is independent of Unaka and its affiliates, reviews, negotiates, and approves the terms and conditions of the Loan, the Assignment, and the Extension of Credit and determines that such transactions are prudent, administratively feasible, in the interest of the Plan and its participants and beneficiaries, and protective of the participants and beneficiaries of the Plan;

(12) Throughout the duration of the transactions, the I/F monitors the prosecution of the lawsuit against the Responsible Fiduciaries, including but not limited to monitoring all costs and fees incurred in connection with any litigation related to the transactions, monitors the division of the recovery, if any, from any judgment or settlement of the litigation against the Responsible Fiduciaries to ensure that the Plan receives the portion to which it is entitled and that the Plan's interests are served, and monitors the terms and conditions of the transactions to ensure that such terms and conditions are at all times satisfied;

(13) The I/F, acting on behalf of the Plan, shall have final approval authority over any settlement of any legal proceedings against the Responsible Fiduciaries brought pursuant to the terms of the Assignment; and

(14) In the event the I/F resigns, is removed, or for any reason is unable to serve, including but not limited to the death or disability of such I/F, or if at any time such I/F does not remain independent of Unaka and its affiliates, such I/F will be replaced by a successor: (i) Who is appointed immediately upon the occurrence of such event; (ii) who is independent of Unaka and its affiliates; (iii) who is qualified to serve as the I/

[1] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] The Department, herein, expresses no opinion as to the applicability of the statutory exemption provided by section 408(e) of the Act to the sale by the Plan of its Unaka Stock to Unaka or as to whether the conditions set forth in such statutory exemption are satisfied in the execution of such transaction. Further, the Department, herein, is offering no relief for transactions other than the transactions described in this exemption.

F; and (iv) who assumes all the duties and responsibilities of the predecessor I/F.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on June 3, 1999. All comments and requests for a hearing were due by July 19, 1999.

During the comment period, the Department received no requests for a hearing. However, on June 16, 1999, the Department did receive a favorable comment letter from one commentator. In this regard, the commentator noted that the exemption would move the Plan away from the internal family lawsuits and the transactions posed no risk of loss to the Plan or any of the participants.

After giving full consideration to the entire record, including the written comment from the commentator, the Department has decided to grant the exemption. In this regard, the comment letter submitted to the Department has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U. S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on June 3, 1999, at 64 FR 29908.

FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 22nd day of July, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–19153 Filed 7–26–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* August 2, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for University Teachers in Political Science, International Affairs, and Jurisprudence, submitted to the Division of Research Programs at the May 1, 1999 deadline.

2. *Date:* August 3, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for University Teachers in American History and Studies II, submitted to the Division of Research Programs at the May 1, 1999 deadline.

3. *Date:* August 4, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Music, Film, and Theater, submitted to the Division of Research Programs at the May 1, 1999 deadline.

4. *Date:* August 5, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Languages and Literatures II, submitted to the Division of Research Programs at the May 1, 1999 deadline.

5. *Date:* August 5, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Languages and Literatures I, submitted to the Division of Research Programs at the May 1, 1999 deadline.

6. *Date:* August 6, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in

Philosophy, submitted to the Division of Research Programs at the May 1, 1999 deadline.

7. *Date:* August 9, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for University Teachers in American Studies, Rhetoric, Communication, and Media, submitted to the Division of Research Programs at the May 1, 1999 deadline.

10. *Date:* August 9, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in History of Art and Architecture, submitted to the Division of Research Programs at the May 1, 1999 deadline.

11. *Date:* August 10, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for University Teachers in Modern European Languages, Literatures, and Criticism, submitted to the Division of Research Programs at the May 1, 1999 deadline.

12. *Date:* August 11, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for College Teachers and Independent Scholars in Classical and Medieval Studies, submitted to the Division of Research Programs at the May 1, 1999 deadline.

13. *Date:* August 11, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for University Teachers in Classical, Medieval, and Renaissance Studies, submitted to the Division of Research Programs at the May 1, 1999 deadline.

14. *Date:* August 12, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Fellowships for University Teachers in History of Art and Architecture, submitted to the Division of Research Programs at the May 1, 1999 deadline.

15. *Date:* August 12, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for University Teachers in American Literature, Linguistics, and Theory, submitted to the Division of Research Programs at the May 1, 1999 deadline.

16. *Date:* August 13, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowships for College Teachers and independent scholars in Sociology, psychology, and Education, submitted to the Division of Research Programs at the May 1, 1999 deadline.

Nancy E. Weiss,
Advisory Committee Management Officer.
[FR Doc. 99–19121 Filed 7–26–99; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacturing, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act, (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacturing, and Industrial Innovation (#1194).
Date & Time: Augsut 4, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30, and 31, 1999 8:30 a.m.–5 p.m.
Place: Rooms 340, 360, 370 and 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Joseph Hennessey, Program Manager, Small Business Innovation Research and Small Business Technology Transfers Programs, Room 590, Division of Design, Manufacturing, and Industrial Innovation, National Science Foundation, 4201 Wilson Boulevard, VA 22230, Telephone (703) 306–1395 x 5283.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 22, 1999.

[FR Doc. 99–19148 Filed 7–26–99; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences, Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geoscience (1755).
Date & Time: August 11, and 12, 1999—8:30 a.m.-5 p.m. each day.
Place: Rm. 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Part-Open (see Agenda, below).
Contact Person: Dr. Richard Behnke, Section Head for the Upper Atmospheric Research Section, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1518.
Purpose of Meeting: To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

Agenda

Closed: August 11 from 1 p.m.-5 p.m. and August 12 from 8:30 a.m.-5 p.m. To review the merit review processes covering funding decisions made during the immediately preceding three fiscal years of the Upper Atmospheric Research Section.
Open: August 11 from 8:30-12. To assess the results of NSF program investments in the Upper Atmospheric Research Section. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.
Reason for Closing: During the closed session, the Committee will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: July 22, 1999.

Karen J. York,
Committee Management Officer.
[FR Doc. 99–19149 Filed 7–26–99; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (#1756)
Date and time: August 13, 1999; 8 a.m.to 5 p.m.
Place: Room 770; National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Clifford Jacobs, Section Head, UCAR and Lower Atmosphere Facilities Oversight Section, Room 775, Division of Atmospheric Sciences, National Science Foundation, 4201 Wilson Blvd.,

Arlington, VA 22230, telephone: (703) 306–1521.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the UNIDATA Equipment Proposals as part of the selection process for awards.

Reason for closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: July 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–19147 Filed 7–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee Social, Behavioral, and Economic Sciences; Notices of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Committee for Social Behavioral and Economic Sciences (#1171)

Date and Time: August 11–13, 1999; 9 a.m. to 5 p.m.

Place: Rooms 970, 920, and 130, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Steven J. Breckler, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 306–1728.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments and other privileged materials.

Agenda: To provide oversight review of the Programs of the Cognitive, Psychological and Language Sciences Cluster.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–19146 Filed 7–26–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

U.S. National Assessment Synthesis Team; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: U.S. National Assessment Synthesis Team (#5219).

Date and Time: August 10, 1999, 10 a.m. to 1 p.m.; August 11–19, 1999, 8:30 a.m. to 2:30 p.m. and 5 p.m. to 7 p.m. each day; August 20, 1999, 8:30 a.m. to 2 p.m.

Place: J. Erik Jonsson Woods Hole Center, National Academy of Science, Marine Biological Laboratory, Woods Hole, Massachusetts.

Type of Meeting: Open.

Contact Person: Melissa J. Taylor, Office of the U.S. Global Change Research Program (USGCRP), 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. Tel: 202–314–2230; Fax: 202–488–8681; Email: mtaylor@usgcrp.gov. Interested persons should contact Ms. Taylor as soon as possible to assure space provisions are made for all participants and observers.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the interagency Subcommittee on Global Change Research on the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Agenda

Day 1 (August 10) Discussion of overview and goals of meeting and reading of revised documents.

Days 2–5 (August 11–14) Review and revision of Overview document.

Days 6–11 (August 15–20) Review and revision of Foundation document.

Dated: July 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–19150 Filed 7–26–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 35, ''Medical Use of Byproduct Material.''

3. The form number if applicable: None.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as needed due to a change in programs or as events occur.

5. Who will be required or asked to report: Physicians and medical institutions who are applicants for, or hold, an NRC license authorizing the administration of byproduct material, or its radiation to humans for medical use.

6. An estimate of the number of responses: 1,907,515 NRC licensee responses and 4,768,739 Agreement State responses annually.

7. The estimated number of annual respondents: 1,891 NRC licensees and 4,728 Agreement State licensees.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 369,916 hours for NRC licensees and 924,765 hours for Agreement State licensees, for a total burden of 1,294,681 hours (196 hours per licensee).

9. An indication of whether Section 3507(d), Public Law 104–13 applies: N/A

10. Abstract: 10 CFR Part 35, ''Medical Use of Byproduct Material,'' contains requirements that apply to NRC licensees who are authorized to administer byproduct material or its radiation to humans for medical use. The information in the required reports and records is used by the NRC to ensure that the health and safety of the public is protected, and that the licensee's possession and use of byproduct material is in compliance with the license and regulatory requirements. The revision is a net decrease adjustment in burden resulting from a decrease in the number of affected licensees.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for

60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 25, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0010), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of July 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–19132 Filed 7–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320]

GPU Nuclear, Inc., Three Mile Island, Unit 2; Exemption

I

GPU Nuclear, Inc. (the licensee), is the holder of Facility Operating License No. DPR–73, which authorizes the licensee to possess the Three Mile Island Nuclear Station, Unit 2 (TMI–2). The license states, in part, that the facility is subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a pressurized-water reactor located at the licensee's site in Dauphin County, Pennsylvania. The facility is permanently shut down and defueled and the licensee is no longer authorized to operate or place fuel in the reactor.

II

Section 50.54(w) of Title 10 of the Code of Federal Regulations, part 50 (10 CFR part 50) requires power reactors to maintain onsite property damage insurance coverage in the amount of $1.06 billion. The NRC may grant exemptions from the requirements of 10 CFR part 50 of the regulations, pursuant to 10 CFR 50.12(a), which (1) are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security and (2) present special circumstances. Special circumstances exist when application of the regulations in the particular circumstance would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of § 50.54(w) is to provide sufficient property damage insurance coverage to ensure funding for onsite post-accident recovery, stabilization, and decontamination costs in the unlikely event of an accident at a nuclear power plant.

III

On March 9, 1999, the licensee requested exemption from the financial protection requirement limits of 10 CFR 50.54(w). The licensee requested that the amount of insurance coverage that it is required to maintain be reduced to $50 million for onsite property damage. The licensee stated that special circumstances exist because of the permanently shutdown and defueled condition of TMI–2.

The financial protection limits of 10 CFR 50.54(w) were established to require a licensee to maintain sufficient insurance to cover the costs of a nuclear accident at an operating reactor. Those costs were derived from the consequences of a release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences can be large. In an operating plant, the high temperature and pressure of the reactor coolant system, as well as the large inventory of relatively short-lived radionuclides, contribute to both the risk and consequences of an accident. In a permanently shutdown and defueled reactor facility, the reactor coolant system will never be operated and contains no short-lived radionuclides, which eliminates the possibility of reactor accidents. A further reduction in risk occurs when fuel is shipped offsite as in the case at TMI–2, where over 99 percent of the fuel has been removed and shipped offsite.

Along with the reduction in risk, the consequences of potential releases decrease after a reactor permanently shuts down and defuels. The short-lived radionuclides contained in the fuel, particularly volatile components such as iodines and noble gases decay, thereby, reducing the inventory of radioactive materials that are readily dispersible and transportable in air.

Although the risk and consequences of radiological releases decline substantially after a plant permanently defuels the reactor, they are not completely eliminated. There are potential onsite and offsite radiological consequences that can be associated with storage of activated reactor components, contaminated materials, and the remaining fuel debris at TMI–2. In addition, an inventory of liquid and solid radioactive wastes can be created during the future decontamination phases of the TMI–2 decommissioning process. For the purposes of modifying the amount of insurance coverage maintained by the licensee, the potential consequences, despite the very low risk, are an appropriate consideration.

In order to determine the insurance coverage sufficient for a permanently defueled facility, the cost of recovery from potential accident scenarios must be evaluated. At TMI–2, greater than 99 percent of the fuel debris has been removed and transported offsite. The remaining fuel debris is stored dry with no need for forced cooling. Loss of spent fuel cooling water accident scenarios are not applicable to the TMI–2 plant condition. In SECY 96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996, the NRC staff estimated the onsite cleanup costs of accidents considered to be the most costly at a permanently shut down reactor with spent fuel stored in the spent fuel pool. The staff found that the onsite recovery costs for a fuel handling accident could range up to $24 million. The estimated onsite cleanup costs to recover from the rupture of a large liquid radwaste storage tank could range up to $50 million. The licensee's proposed level of $50 million for onsite property insurance is sufficient to cover these estimated cleanup costs.

IV

The NRC staff has completed its review of the licensee's request to reduce financial protection limits to $50 million for onsite property insurance. The requested reductions are consistent with SECY 96–256. The Commission informed the staff in a staff requirements memo dated January 28, 1997, that it did not object to the insurance reductions recommended in SECY 96–256. The licensee's proposed financial protection limits will provide sufficient insurance to recover from the limiting hypothetical events, if they occur. Thus, the underlying purposes of the regulations will not be adversely affected by the reductions in insurance coverage.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption to reduce onsite property insurance to $50 million is

authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, special circumstances are present, as set forth in 10 CFR 50.12(a)(2)(ii). Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.54(w).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant effect on the quality of the human environment (64 FR 39178). This exemption is effective immediately.

Dated at Rockville, MD., this 21st day of July 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19161 Filed 7–26–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–245]

Northeast Nuclear Energy Company, et al.; Millstone Nuclear Power Station, Unit 1; Notice of Public Meeting on the Post-Shutdown Decommissioning Activities Report

The U.S. Nuclear Regulatory Commission (NRC) staff will conduct a public meeting at the Waterford Town Hall, 15 Rope Ferry Road, Waterford, Connecticut, on August 25, 1999, to provide an opportunity for members of the public to raise issues and concerns related to the Millstone, Unit 1 Post-Shutdown Decommissioning Activities Report (PSDAR). The PSDAR was submitted to the NRC by Northeast Nuclear Energy Company (NNECO, the licensee) on June 14, 1999.

The PSDAR is available for public inspection at the Commission's Public Document Room located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. The NRC has also placed the PSDAR on the Internet at

[http://www.nrc.gov/OPA/reports/ms1061499.htm] (cover letter) and [http://www.nrc.gov/OPA/reports/1061499a.htm] (attached report).

Millstone, Unit 1, is located at a three-unit site operated by NNECO near the town of Waterford, Connecticut. The PSDAR focuses on decommissioning activities for Unit 1 only. It does not provide information on the operating activities related to Millstone Units 2 and 3. The August 25, 1999, meeting will be limited to issues related to Millstone, Unit 1 and the PSDAR. The meeting is scheduled for 7 p.m.-10 p.m., and will be moderated by Mr. Tony Sheridan, First Selectman, Town of Waterford. This meeting is a formal part of the NRC decommissioning process. There will be an opportunity for members of the public to ask questions of the NRC staff and NNECO representatives and to make comments related to the PSDAR. The meeting will be transcribed.

For more information, contact Louis L. Wheeler, Project Directorate IV & Decommissioning, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1444.

Dated at Rockville, Maryland, this 21st day of July 1999.

For the Nuclear Regulatory Commission.

Louis L. Wheeler,

Senior Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19131 Filed 7–26–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, August 5, 1999
Thursday, September 16, 1999
Thursday, September 23, 1999

The meetings will start at 10:00 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meetings either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Public Law 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: July 21, 1999.

John F. Leyden,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 99–19046 Filed 7–26–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41634; File No. SR–NYSE–97–31]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Relating to Voluntary Delistings by Listed Companies

July 21, 1999.

I. Introduction

On November 17, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the procedures a NYSE-listed company must follow to voluntarily delist its securities from the Exchange. On December 3, 1997, the NYSE submitted Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, as amended, was published for comment in the **Federal Register** on December 10, 1997.[4] The Commission received 23 comment letters on the proposal.[5] On February 13, 1998, the NYSE submitted its response to the comment letters received by the Commission.[6] On November 9, 1998, the NYSE submitted Amendment No. 2 to the proposed rule change.[7] Amendment No. 2 was published for comment in the **Federal Register** on November 18, 1998.[8] The Commission received 16 comment letters on Amendment No. 2.[9] For the reasons discussed below, this order approves the proposed rule change, as amended.

II. Background

According to the Exchange, the NYSE adopted the existing Rule 500 in 1939 as a corporate governance safeguard. At that time, an issuer's decision to delist from the NYSE generally resulted in the loss of a public market for a security. NYSE Rule 500 requires supermajority shareholder approval (*i.e.*, , two-thirds of outstanding shares) before a listed company could delist its securities.[10] In addition, no more than ten percent of the issuer's shareholders may object to the delisting. The NYSE states that these provisions ensured that shareholders had a voice in a public company's decision to leave the NYSE.

With the development of other established securities markets, many of the concerns that gave rise to the adoption of Rule 500 were rendered obsolete. Indeed, over the past decade, a number of markets have challenged the NYSE for listings. One of these, the Nasdaq Stock Market, approaches, and by some measures, has surpassed the NYSE in the number of companies and annual share volume.[11] In this environment, the NYSE's Rule 500 has been challenged as a deterrent to intermarket competition rather than a necessary investor protection provision.

Over the past sixty years, only one issuer[12] has delisted its securities from the NYSE. Recognizing the potential anti-competitive impact of the rule, the Commission and its staff have repeatedly encouraged the NYSE to amend Rule 500 to enhance intermarket competition for listings. For example, in January 1994, Commission staff published a study that reviewed, among other things, market practices and

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated December 1, 1997 (''Amendment No. 1''). In Amendment No. 1, the NYSE proposed to amend the proposal to require an issuer to provide the Exchange with a copy of the notice provided to its shareholders and a copy of the delisting application submitted to the Commission.

[4] *See* Securities Exchange Act Release No. 39394 (December 3, 1997), 62 FR 65116.

[5] *See* Letters to Jonathan G. Katz, Secretary, Commission, from: Junius W. Peake, Monfort Distinguished Professor of Finance, University of Northern Colorado, dated December 12, 1997; Frank G. Zarb, Chairman, President and Chief Executive Officer, National Association of Securities Dealers, Inc., dated January 6, 1998 (''NASD I''); Sarah A.B. Teslik, Executive Director, Council of Institutional Investors, dated January 12, 1998 (''CII''); George B. Brunt, Vice President, Secretary and General Counsel, DSC Communications Corporation, dated January 20, 1998 (''DSC''); James J. Angel, Ph.D., Assistant Professor of Finance, Georgetown University School of Business, dated January 22, 1998; William G. Christie, Associate Professor of Management, Vanderbilt University, dated January 25, 1998; John Markese, Ph.D., President, American Association of Individual Investors, dated January 26, 1998 (''AAII''); John J. McConnell, Professor of Finance, Purdue University, dated January 21, 1998; Eric D. Roiter, Vice President and General Counsel, Fidelity Management and Research Company, dated January 30, 1998 (''Fidelity I''); Bernard W. Schotters, Senior Vice President and Treasurer, Tele-Communications, Inc., dated January 30, 1998 (''TCI''); Jim Tolonen, Chief Financial Officer, Novell, dated February 2, 1998 (''Novell''); John C. Wilcox, Esq., Chairman, and Dr. Richard A. Wines, Senior Managing Director, Georgeson & Company, Inc., dated February 6, 1998 (''Georgeson''); Richard H. Koppes, Jones, Day, Reavis & Pogue, dated February 17, 1998; Charles M. Leighton, Chair, and Peter N. Larson, Vice Chair, NYSE Listed Company Advisory Committee, dated February 19, 1998 ''NYSE Listed Company Advisory Committee''); Edward F. Green, Chairman, and Harvey J. Goldschmid, Chairman, NYSE Legal Advisory Committee, dated February 27, 1998 (''NYSE Legal Advisory Committee''); Myra R. Drucker, Chair, NYSE Pension Managers Advisory Committee, dated February 18, 1998 (''NYSE Pension Managers Advisory Committee''); James F. Rothenberg, President, Capital Research and Management Co., dated March 6, 1998 (''Capital Research''); Patrick J. Healy, President, The Issuer Network, dated March 16, 1998 (''Issuer Network''); Henry H. Hopkins, Managing Director and Chief Legal Counsel, T. Rowe Price Associates, Inc., dated March 25, 1998 (''T. Rowe Price''); and Eric D. Roiter, Vice President and General Counsel, Fidelity Management and Research Company, dated May 7, 1998 (''Fidelity II''). *See also* Letters to The Honorable Arthur Levitt, Chairman, Commission, from; Michael G. Oxley, Chairman, Subcommittee on Finance and Hazardous Materials, Committee on Commerce, United States House of Representatives, dated January 27, 1998; Senators Christopher J. Dodd and Alfonse M. D'Amato, Chairman, Committee on Banking, Housing, and Urban Affairs, United States Senate, dated February 9, 1998; and Congressman Edward J. Markey, United States House of Representatives, dated February 24, 1998.

[6] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jonathan G. Katz, Secretary, Commission, dated February 12, 1998 (''NYSE Response Letter'').

[7] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard C. Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 6, 1998 (''Amendment No. 2''). For a discussion of Amendment No. 2, *see* text accompanying note 23.

[8] *See* Securities Exchange Act Release No. 40688 (November 9, 1998), 63 FR 65626.

[9] *See* Letter from Joan C. Conley, Vice President and Corporate Secretary, NASD, to Jonathan G. Katz, Secretary, Commission, dated January 13, 1999 (''NASD II''); Robert C. Pozen, President and Chief Executive Officer, Fidelity Management and Research Company, to Arthur C. Levitt, Chairman, Commission, dated January 21, 1999 (''Fidelity III''); Yi-Hsin Chang, dated January 20, 1999; Steve Aakhus, dated January 21, 1999; James C. Finn, dated January 21, 1999; Brook A. Mancinelli, dated January 21, 1999; Randy Goering, dated January 21, 1999; Thomas E. Chaddock, dated January 21, 1999; Peter Carucci, dated January 21, 1999; John Rice, dated January 21, 1999; Jon H. Halberg, English Education Department, Kangwon National University, dated January 22, 1999; Russell Peter, Packaging Engineer, Trim Systems, LLC, dated January 22, 1999; Gregory Cain, dated January 21, 1999; Robin Reagler, dated January 22, 1999; Carole A. Werling, dated January 23, 1999; Tom Purdy, dated January 23, 1999; and J.A. McCarthy, dated January 21, 1999.

[10] The Commission notes that the NYSE's current rules governing voluntary delisting are substantially more onerous than the rules adopted by most other U.S. securities markets. For example, the Nasdaq Stock Market requires only that written notice be sent to the NASQ. *See* NASD Rule 4480. *See also* PCX Rule 3.4 and Phlx Rule 809 (generally requiring only that an issuer submit a certified copy of a resolution adopted by the issuer's Board of Directors authorizing withdrawal from listing and a statement detailing the reasons for the proposed withdrawal). Only the rules of the Chicago Stock Exchange (''CHX'') are modeled on the NYSE's Rule 500. *See* CHX Article XXVIII, Rule 4. The Division of Market Regulation, by letter dated July 20, 1999, has requested the CHX submit a proposal amending its rule.

[11] *See 1998 Securities Industry Factbook,* Securities Industry Association, at 48–51 (1998).

[12] *See* Application of MacMillan Bloedel Limited (March 25, 1986) 51 FR 11129, (April 1, 1986), (File No. 1–7902). In contrast, in 1998 alone, the NYSE listed 66 companies that had voluntarily delisted from the Nasdaq Stock Market and 17 companies that had voluntarily delisted from the American Stock Exchange.

structures.[13] In the Market 2000 Study, the staff stated that the NYSE's voluntary delisting provisions ''represent a barrier to delisting that is too onerous.''[14] The staff recommended that the NYSE submit a proposed rule change to modify NYSE Rule 500[15] to allow decisions about voluntary delisting to be made by the listed company's board of directors, rather than by its shareholders.[16]

By letter to the NYSE dated May 27, 1997, the Commission reiterated the staff's request that the Exchange reexamine Rule 500. The Commission requested that the NYSE determine whether the rule remained relevant in light of the current competitive environment in which the differences among the markets regarding the availability of quotation and transaction information, disclosure requirements, and listing criteria have been reduced.[17] In the May 1997 Letter, the Commission noted that NYSE Rule 500: may place an unnecessary limitation on competition for listings by imposing a significant barrier for issuers that wish to withdraw securities from listing on the NYSE. As a result, listed companies may find it difficult to move to another exchange or Nasdaq even though the companies believe that it is or would be in the best interest of their shareholders.

The Commission again urged the Exchange to consider possible modification to NYSE Rule 500 that could reduce potential anti-competitive effects.[18] In response, in November 1997, the Exchange submitted a proposed rule change to revise NYSE Rule 500.[19]

III. Description of the Proposal

The purpose of the proposed rule change, as amended, is to revise the procedures a NYSE-listed company must follow to voluntarily delist its securities from the Exchange. As discussed above, NYSE Rule 500 currently requires supermajority shareholder approval before a listed company can delist its securities from the Exchange: holders of 66⅔ percent of the securities must approve the delisting, and ten percent or more of the shareholders cannot object to the delisting .

The NYSE initially proposed, in November 1997, to require a listed company that wished to delist from the Exchange to obtain the approval of a majority of: (1) the company's full board of directors; and (2) the company's audit committee. The issuer would also have to provide its shareholders with between 45 and 60 calendar days written notice of the delisting. A non-U.S. issuer would only have to obtain board approval to delist its stock. A non-U.S. issuer also would have to provide holders with reasonable notice of its intention to delist, which would require the issuer to send written notice to U.S. holders and to follow home country practice to provide notice to non-U.S. holders.[20] An issuer's board of directors would be required to approve an application to delist listed bonds. Finally, the NYSE proposed to require an issuer to provide the Exchange with a copy of the notice provided to its shareholders and a copy of the delisting application submitted to the Commission.[21]

In response to the Commission's request for comment on the original proposal, the Commission received a number of comments, discussed below in Section IV, both for and against the proposal. As a result of those comments and discussions with Commission staff, the Exchange submitted Amendment No. 2 to the proposed rule change in November, 1998.[22]

Current Proposal

Amendment No. 2 modifies several aspects of the NYSE's initial filing. First, as amended, the proposal would require a listed company to obtain approval of its board of directors according to applicable state law requirements on majority votes, rather than requiring approval by a majority of the entire board. Generally, under states law, the majority of a quorum of a company's board of directors is sufficient for corporate decision.[23] The Exchange would continue to require audit committee approval. Second, the amended proposal would modify the proposed notice provision to require U.S. companies to provide actual written notice to no less than 35 of their largest record holders, rather than to all holders. A foreign issuer would have to provide such notice to its 35 largest U.S. shareholders. Third, the amended proposal would require both U.S. and foreign companies to issue a press release to inform shareholders generally of the proposed delisting. Finally, the minimum waiting period before a security could be delisted from the Exchange would be reduced from 45 calendar days to 20 business days after the later of the date the notice is sent or the press release is issued, and the maximum waiting period would be increased from 60 calendar days to 60 business days. Listed companies would have the right to request an extension of the waiting period, subject to approval by the Exchange.

IV. Summary of Comments

The Commission received 23 comment letters on the proposed rule change, as initially proposed.[24] The broad range of commenters included six corporations, two trade associations representing individual and institutional investors, two senators and two congressmen, four professors, three advisory committees to the NYSE, and the NASD. All commenters supported at least some change to the existing rule. Eight commenters generally supported the rule change as initially proposed, believing that it maintained a reasonable balance between providing companies with greater flexibility in listing decisions and ensuring sufficient

[13] Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* (January 1994) (''Market 2000 Study'').

[14] *Id.*, at 31.

[15] The staff recommended that the NYSE modify, rather than rescind Rule 500 in its entirety. The Division recognized that ''withdrawing securities from listing is an important corporate decision and that it is reasonable to ensure that careful management consideration is given to this decision.'' *See* market 2000 Study, *supra* note 13.

[16] *Id.* The Division suggested that ''new standards could require approval by the board of directors and a majority of the independent directors, or it could require a review of the delisting decision by the board's audit committee.'' The Commission notes that the proposal initially filed by the NYSE would have approval of a majority of the issuer's *full* board of directors *and* its audit committee.

[17] *See* Letter from Jonathan G. Katz, Secretary, Commission, to Richard Grasso, Chairman and Chief Executive Officer, NYSE, dated May 27, 1997 (''May 1997 Letter'').

[18] *Id.*

[19] According to the NYSE, beginning in May 1997, the Exchange consulted with two committees of its Board: its Public Policy Committee and its Quality of Markets Committee, as well as a number of NYSE advisory committees, including its Legal, Listed Company, Pension Managers, and Individual Investors Advisory Committees, about modifying NYSE Rule 500. The NYSE also consulted with other Exchange constitutents, including representatives of the Council of Individual Investors, the American Bar Association Task Force on Listing Standards, and various institutional investors. The NYSE represented to the Commission that these constituents overwhelmingly supported the revision, rather than the repeal, of Rule 500. *See* NYSE Response Letter, *supra* note 6, at 1–2.

[20] As initially proposed, domestic and non-U.S. issuers would be required to request Exchange members to transmit the notice of proposed delisting to beneficial stockholders. An issuer would be required to provide members with copies of the notice and to reimburse associated expenses. This requirement was subsequently deleted by the NYSE. *See* Amendment No. 2, *supra* note 7.

[21] *See* Amendment No. 1, *supra* note 3.

[22] *See* Amendment No. 2, *supra* note 7.

[23] *See e.g.*, DEL. CODE ANN. tit. 8, sec. 141 (1991).

[24] *See* note 5, *supra*. Comment received by the Commission on Amendment No. 2 are discussed at Part IV.B., below.

shareholder protection.[25] Two commenters stated that the proposal generally did not provide sufficient shareholder protection.[26]

As discussed below, many commenters expressed a number of concerns regarding the necessity and practicality of the requirements in the original proposal.[27] These commenters stated that the proposed requirements relating to the approval process, shareholder notification, and the mandatory waiting period were still anti-competitive, unduly burdensome, and costly for issuers.[28] Finally, four commenters expressed a desire to see all barriers to delisting removed and, therefore, advocated the repeal of NYSE Rule 500.[29]

A. Board of Directors Vote

Nine comment letters stated that the approval of a company's board of directors is reasonable because the decision to delist is within the purview of the issuer's business judgment.[30] Two commenters, however, contended that requiring a vote of a majority of the full board of directors is both unnecessary and inconsistent with the Exchange's listing standards, which require a simple vote of the board of directors to list on the Exchange.[31] One commenter further noted the disparate treatment between domestic and foreign issuers with respect to this requirement.[32]

In response, the Exchange proposes to modify its proposal to permit a listed company to obtain approval of its board of directors according to the applicable state law requirements on majority votes, rather than requiring approval by a majority of the entire board.[33]

B. Elimination of Shareholder Approval Requirements

While most commenters agreed that the current supermajority shareholder approval requirement is onerous and unnecessary, some commenters believed that the proposed approval process did not provide sufficient shareholder protection.[34] One commenter noted that the 45 to 60 day notice period is meaningless for listed companies that have eliminated their shareholders' right to call a special meeting protesting a delisting decision.[35] Three comment letters further expressed the concern that, under the proposal, the potential exists for issuers to delist in an attempt to circumvent shareholder voting rights under NYSE rules.[36] Accordingly, several commenters believed that majority shareholder approval requirements should be retained.[37]

The Exchange did not modify its proposal in response to these comments, noting that its proposal reflected its efforts to balance its competing interests by ''provid[ing] appropriate protection for shareholders, while granting companies greater flexibility as they make decisions on the trading markets for their stock.'' [38]

C. Audit Committee Vote

Three commenters questioned the necessity of requiring the audit committee to approve the delisting of a stock.[39] One commenter stated that a company's audit committee is an unsuitable venue for reviewing external matters [40] and another commenter stated that board approval should be sufficient.[41] One commenter noted that this requirement could operate as a veto power over a full board majority vote to delist from the Exchange.[42]

While the Exchange considered these comments, it ultimately retained the requirement of audit committee approval.[43] The Exchange reasoned that an issuer's audit committee, composed entirely of independent directors, would be ''the best possible proxy for shareholders'' because the audit committee members could consider a proposed delisting ''independently of any other reasons that may influence members of a company's board with closer ties to the company.'' [44] The NYSE Pension Managers Advisory Committee supported the NYSE's decision to require audit committee approval, stating that audit committee approval, combined with board approval, would ''provide substantial and sufficient shareholder protection.'' [45]

D. Shareholder Notification Requirements

Seven comment letters supported requiring issuers to provide written notice of intent to delist to all shareholders of record.[46] Several commenters, however, believed that the proposed notification requirements would be anti-competitive, burdensome, and costly.[47] Two of these commenters believed that shareholder notification may wrongfully imply that delisting from the NYSE is harmful to investors.[48] One commenter noted that written notice to shareholders is not required under state law for ordinary business decisions,[49] and two commenters suggested some type of media notice would be a reasonable alternative.[50]

In response to the expressed concerns, the Exchange modified its proposal to require domestic issuers to provide written notice to no fewer than 35 of their largest record holders.[51] Foreign issuers would have to provide written notice to no fewer than 35 of their largest U.S. shareholders.[52] In addition, the Exchange modified its proposal to require all listed companies to issue a press release informing their shareholders of the proposed delisting.[53]

E. Waiting Period After Shareholder Notification

At one end of the spectrum, five commenters stated that the proposed 45 to 60 day waiting period would be insufficient, in certain circumstances, to

[25] *See* Letters from Professor Angel, Richard Koppes, Senators Dodd and D'Amato, NYSE Listed Company Advisory Committee, Congressman Markey, NYSE Legal Advisory Committee, NYSE Pension Managers Advisory Committee, and Issuer Network, *supra note 5*.

[26] *See* Letters from CII, and Fidelity I and II, supra note 5.

[27] *See* letters from Professor Peake, NASD I, DSC, Professor Christie, AAII, TCI, Novell, Congressman Oxley, Georgeson, Capital Research, and T. Rowe Price, *supra* note 5.

[28] *Id*.

[29] *See* Letters from TCI, Novell, and Georgeson, *supra* note 5. *See also* NASD II Letter, *supra* note 9.

[30] *See* Letters from DSC, Professor Christie, AAII, Professor McConnell, Fidelity I and II, TCI, Congressman Oxley, and NYSE Pension Managers Advisory Committee, *supra* note 5.

[31] *See* Letters from Professor Peake and NASD I, *supra* note 5.

[32] *See* Letter from Professor Peake, *supra* note 5.

[33] *See* Amendment No. 2, *supra* note 7.

[34] *See* Letters from CII, Fidelity I and II, and Senators Dodd and D'Amato, *supra* note 5.

[35] *See* CII Letter, *supra* note 5.

[36] *See* Letters from CII and Fidelity I and II, *supra* note 5.

[37] *See* Letters from CII and Senators Dodd and D'Amato, *supra* note 5.

[38] *See* NYSE Response Letter, *supra* note 6.

[39] *See* Letters from NASD I, Professor McConnell, and T. Rowe Price, *supra* note 5.

[40] *See* Letter from Professor McConnell, *supra* note 5.

[41] *See* Letter from T. Rowe Price, *supra* note 5.

[42] *See* Letter from NASD I, *supra* note 5.

[43] *See* NYSE Response Letter, *supra* note 6.

[44] *Id*. at 6.

[45] *See* NYSE Pension Managers Advisory Committee, *supra* note 6.

[46] *See* Letters from Professor McConnell, Richard Koppes, Senators Dodd and D'Amato, NYSE Listed Company Advisory Committee, Congressman Markey, NYSE Legal Advisory Committee, and NYSE Pension Managers Advisory Committee, *supra* note 5.

[47] *See* Letters from NASD I, DSC, TCI, and Congressman Oxley, *supra* note 5.

[48] *See* Letters from NASD I and DSC, *supra* note 5.

[49] *See* Letter from NASD I, *supra* note 5.

[50] *See* Letters from NASD I and Congressman Oxley, *supra* note 5.

[51] *See* Amendment No. 2, *supra* note 7.

[52] *Id*.

[53] *Id*.

protect shareholder interests.[54] Four of these commenters noted that the notice period would be sufficient if the issuer represents to the Exchange that it will list on a market that has comparable shareholder voting rights.[55] If the market is not comparable, the commenters recommended lengthening the notice period to six months to allow shareholders a reasonable time to convene a special meeting.[56] Four commenters further stated that the proposed waiting period would not provide sufficient time to allow institutional investors to liquidate portfolios without sizable and unnecessary losses.[57]

At the other end of the spectrum, several commenters opposed any waiting period on the grounds that it would be anti-competitive.[58] Some of these commenters contended that an issuer's decision to delist is an ordinary business decision and, therefore, does not require shareholder notification or a waiting period.[59] These commenters also noted that the Exchange does not have a similar requirement for companies that desire to list on the NYSE.[60]

In response, the Exchange modified its proposal to reduce the minimum waiting period before delisting from 45 calendar days to 20 business days, after actual written notice is sent or the press release is issued, whichever occurs later.[61] The Exchange also proposes to increase the maximum waiting period from 60 calendar days to 60 business days.[62] Finally, the amended proposal would allow companies to request an extension of the waiting period, subject to approval by the Exchange.[63]

F. Comments on Amendment No. 2 to the Proposed Rule Change

The Commission received 16 comment letters on the proposed modifications to the initial filing contained in Amendment No. 2 to the proposed rule change.[64] All but two[65] of the commenters generally supported the proposed modifications to NYSE rule 500. Specifically, Fidelity supported the amended proposal only under certain circumstances.[66] Fidelity reiterated its concern that, under the amended proposal, the potential exists for issuers to delist in an attempt to circumvent shareholder voting rights under the NYSE's rules.[67] Fidelity believed that the 20-day notice period would be sufficient if the issuer represents to the Exchange that it will list on a market that has comparable shareholder voting rights.[68] If the market is not comparable, Fidelity recommended, as a condition of delisting from the NYSE, that the issuer should be required to submit to the shareholders within the first year of delisting any proposal that would have been submitted to the shareholders within the first year under the NYSE's rules.[69]

Finally, the NASD opposed all aspects of the amended proposal and advocated the complete repeal of NYSE Rule 500.[70] The NASD contended that, even as amended, Rule 500 is anti-competitive and unduly burdensome in that it ''significantly limits an issuer's discretion to delist from the NYSE, excludes competition from rival stock markets, harms investors, undermines the purposes of the Exchange Act, and discriminates among issuers.'' [71] The NASD reiterated its contention in an earlier comment letter that audit committee approval is unnecessary, hinders the delisting decision, and is inconsistent with most state law requirements.[72] The NASD further stated that a delisting decision is an ordinary business decision that warrants neither written shareholder notification nor a waiting period.[73]

V. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act [74] and the rules and regulations thereunder applicable to a national securities exchange.[75] In particular, the Commission believes that the proposed rule change is consistent with and furthers the objectives of Sections 6(b)(5) and 6(b)(8) of the Act.[76] Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.[77] Section 6(b)(5) also requires that the rules of an exchange must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[78] In addition, Section 6(b)(8) of the Act prohibits the rules of an exchange from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the statute.[79]

As discussed above, over the last several years, the Commission and its staff have repeatedly expressed to the Exchange their concerns regarding the potentially anti-competitive effects of NYSE Rule 500. The commission's regulatory concerns centered upon its belief that the NYSE's rules governing voluntary delisting created nearly insurmountable obstacles to listed companies desiring to delist their securities from the Exchange, and as such, impeded competition between securities markets. The Commission believes that the amended proposal represents an important step toward easing the more onerous restrictions on voluntary delistings, while helping to ensure that shareholders will be given an opportunity to participate in the delisting decisionmaking process. As a result, the Commission believes that the NYSE's proposed revision of Rule 500 is consistent with the provisions of the Act discussed above. The voluntary delisting procedures proposed by the NYSE in Amendment No. 2 represent a significant and positive change over both the current delisting process and the delisting procedures proposed in the Exchange's initial filing, particularly with respect to the proposed approval

[54] *See* Letters from CII, Professor Angel, Fidelity I and II, and Congressman Markey, *supra* note 5.

[55] *See* Letters from Professor Angel, Fidelity I and II, and Congressman Markey, *supra* note 5.

[56] *Id.*

[57] *See* Letters from CII, Fidelity I and II, and Congressman Markey, *supra* note 5.

[58] *See* Letters from NASD I, DSC, AAII, TCI, Congressman Oxley, Capital Research, and T. Rowe Price, *supra* note 5.

[59] *See* Letters from NASD I, DSC, AAII, TCI, Congressman Oxley, and T. Rowe Price, *supra* note 5.

[60] *See* Letters from NASD I, Capital Research, and T. Rowe Price, *supra* note 5.

[61] *See* Amendment No. 2, *supra* note 7.

[62] *Id.*

[63] *Id.*

[64] *See* note 9. *supra*.

[65] *See* Letters from NASD II and Fidelity III, *supra* note 9.

[66] *See* Fidelity III Letter, *supra* note 9.

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] *See* NASD II Letter, *supra* note 9. The Commission's consideration of the NYSE's amendments to Rule 500 under Section 19(b) of the Act, however, does not raise the question whether the Commission should take steps to remove NYSE Rule 500. In the matter before us, we consider only whether to approve or disapprove the proposed rule change, based on whether we find that the proposed rule change is consistent with the Act. 17 U.S.C. 19(b)(2).

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] 15 U.S.C. 78f.

[75] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[76] 15 U.S.C. 78f(b)(5) and (8).

[77] 15 U.S.C. 78f(b)(5).

[78] *Id.*

[79] 15 U.S.C. 78f(b)(8).

requirements, notification requirements, and mandatory waiting period.

A. Approval Process

The NYSE proposes to eliminate Rule 500's existing shareholder approval requirements.[80] Instead, the proposed amendment to NYSE Rule 500 would require the approval of a listed company's audit committee, as well as approval by an issuer's board of directors. The proposal, as amended, would allow the applicable state law to govern the issue of what constitutes a majority vote for corporate decisionmaking. The Commission anticipates that for the majority of listed companies, a proposal to delist could be approved by the majority of a quorum of the issuer's board.[81]

The Commission recognizes the significance of an issuer's decision regarding the appropriate market in which to list its securities. The Commission believes that issuers should carefully consider the best interests of their shareholders in both listing and delisting decisions, and that the NYSE's proposal should help to ensure that due consideration is given to a decision regarding whether to delist securities from the Exchange. While approval by the audit committee in addition to Board approval may not prove necessary to ensure careful decisonmaking, the Commission at this time does not believe that this requirement is unreasonably onerous. Moreover, these requirements are considerably less burdensome than either the existing supermajority shareholder approval requirements of the NYSE's initial proposal, which would have required a majority of the issuer's full board of directors. Ultimately, the Commission believes that the proposed requirements should ensure that careful consideration is given to the various factors influencing a company's decision regarding the appropriate market in which to list its securities. The Commission, however, expects the NYSE to continue to monitor the practical application of these requirements to ensure that they do not represent a significant and unnecessary impediment to delisting.

B. Shareholder Notification Requirements

Thge NYSE's proposal would eliminate the existing shareholder approval requirements, and instead, establish shareholder notification requirements. As initially proposed, the NYSE would have required issuers to provide actual written notice of their intent to delist their securities from the Exchange to all holders of record. Amendment No. 2 subsequently modified the proposal to require domestic issuers to provide actual written notice to no fewer than 35 of their largest record holders, rather than to all holders. Foreign issuers would have to provide such notice to no fewer than 35 of their largest U.S. shareholders. In addition, the amended proposal would require both U.S. and foreign companies to issue a press release to inform shareholders generally of the proposed delisting.

The Commission considers beneficial the proposed requirement that listed companies issue a press release to notify their shareholders of the proposed delisting. What is gained by mandating actual written notice to no less than the 35 largest holders of record is less clear, considering that such shareholders may be those most likely to keep abreast of the latest news regarding the issuer. The Commission believes that publishing a press release may achieve the same goal of informing an issuer's shareholders of the delisting decision without incurring the costs associated with actual written notice. Nonetheless, the Commission believes that the proposed shareholder notification requirement is a significant improvement over the original proposal and a reasonable means of addressing concerns raised by certain commenters.[82]

Therefore, although the Commission does not believe that the requirement of actual written notice to certain shareholders will prove necessary, we do not believe at this time that the requirement is inconsistent with the Act. That being said, however, the Commission urges the NYSE to review periodically the shareholder notification requirements of Rule 500 to determine whether the requirement of written notice to an issuer's largest shareholders continues to be warranted and consistent with the protection of investors.

C. Waiting Period After Shareholder Notification

Finally, the amended proposal would reduce the minimum waiting period before an issuer could apply to delist its securities from the Exchange, from 45 calendar days to 20 business days after the later of the date the written notice is sent or the press release is issued.[83] The amended proposal would also increase the maximum waiting period from 60 calendar days to 60 business days. The amended proposal would, however, permit NYSE-listed companies to request that the Exchange grant an extension of the waiting period.

The required waiting period following shareholder notification is designed to ensure that shareholders have a reasonable opportunity to communicate with a listed company's management regarding any concerns they may have regarding a proposed delisting. The Commission believes that reducing the minimum waiting period from 45 calender days to 20 business days is reasonable, as it should reduce the delay of the waiting period on listed companies that are anxious to delist their securities without significantly reducing the time period for investors to consider the implications of the delisting decision. In addition, the Commission believes that increasing the maximum waiting period and permitting listed companies to extend the period beyond that time frame is reasonable, as the proposed modification should provide listed companies with some flexibility in complying with the notification procedures. In particular, in those instances where it appeared that an issuer's decision to delist might face significant shareholder opposition, an issuer would be able to delay the delisting to ensure that shareholders are given an opportunity to play a meaningful role in the decisionmaking process.

VI. Conclusion

Because the proposed amendments to NYSE Rule 500 greatly ease the existing restrictions on NYSE-listed companies that wish to voluntarily delist their securities from the Exchange, the Commission believes that the proposal, as amended, is consistent with the Act.

[80] Although the proposal would eliminate the requirement that NYSE-listed companies obtain shareholder approval of a proposed delisting, the proposal would establish shareholder notification procedures to afford shareholders an opportunity to express their views on delisting decisions and take any action they deem necessary. *See* Section III for a detailed description of the proposed shareholder notification requirements.

[81] The requirements would, therefore, mirror those proposed by the NYSE for the voluntary delisting of listed bonds.

[82] *See* Letters from CII and Fidelity I, *supra* note 5.

[83] The proposal ties the date on which an issuer may delist to the later of the date the actual written ''notice is sent or the press release is issued.'' Although this language may be interpreted to suggest that either the actual written notice or the press release may be issued first, the Commission cautions that notifying the largest shareholders of a decision to delist before issuing a press release may raise regulatory concerns regarding the fair access of information to all investors and may impose certain requirements on those shareholders that receive the notice before it is disseminated to the public. As a result, the Commission strongly urges the listed companies to issue the press release before sending written notice to the largest shareholders or to do both simultaneously.

Although the Commission is approving the amended proposal because on balance the proposed changes represent a significant improvement over existing Rule 500, the Commission believes that the Exchange should continue to assess the rule's operation in order to determine whether it is appropriate to further eliminate impediments to voluntary delistings. We note that, even as amended, the NYSE's voluntary delisting rules continue to be more onerous than those of most other domestic markets.[84] Therefore, the Commission expects the NYSE to review the rule's restrictions on an ongoing basis to determine if they are necessary to protect investors, or whether they unnecessarily impede an issuer in changing marketplaces.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[85] that the proposed rule change (SR–NYSE–97–31), including Amendment Nos. 1 and 2, is approved.

By the Coommission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–19102 Filed 7–26–99; 8:45 am]

BILLING CODE 8010–01–M

[84] *See* note 10, *supra.*

[85] 15 U.S.C. 78s(b)(2).

DEPARTMENT OF STATE

[Public Notice 3098]

United States—Egypt Science and Technology Joint Board; Public Announcement of a Science and Technology Program for Competitive Grants to Support International, Collaborative Projects in Science and Technology Between U.S. and Egyptian Cooperators

August 1, 1999.

AGENCY: Department of State.

ACTION: Notice.

EFFECTIVE DATE: August 1, 1999.

FOR FURTHER INFORMATION, CONTACT: Vickie Alexander, Program Administrator, U.S.—Egypt Science and Technology Grants Program, U.S. Embassy, Cairo/ECPO, Unit 64900, Box 6, APO AE 09839–4900; phone: 011-(20–2) 357–2925; fax: 011-(20–2) 354–8091; E-mail: alexanderva@state.gov

SUPPLEMENTARY INFORMATION:

Authority: This program is established under 22 U.S.C. 2656d and the Agreement for Scientific and Technological Cooperation between the Government of the United States of America and the Government of the Arab Republic of Egypt.

A solicitation for this program will begin August 1, 1999. This program will provide modest grants for successfully competitive proposals for binational collaborative projects and other activities submitted by U.S. and Egyptian experts. Projects must help the United States and Egypt utilize science and apply technology by providing opportunities to exchange ideas, information, skills, and techniques, and to collaborate on scientific and technological endeavors of mutual interest and benefit. Proposals which fully meet the submission requirements as outlined in the Program Announcement will receive peer reviews. Proposals considered for funding in Fiscal Year 2000 must be postmarked by October 31, 1999. All proposals will be considered; however, special consideration will be given to proposals that address priority areas defined/approved by the Joint Board.

These include priorities in the areas of information technology, environmental technologies, biotechnology, standards and metrology, and manufacturing technologies. More information on these priorities and copies of the Program Announcement/Application may be obtained by request.

Brooke Holmes,

Director, Office of Science and Technology Cooperation, Bureau of Oceans and International Environmental and Scientific Affairs and, Chair, U.S.—Egypt S&T Joint Board.

[FR Doc. 99–19151 Filed 7–26–99; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–62a]

Implementation of WTO Recommendations Concerning EC–Measures Concerning Meat and Meat Products (Hormones)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the imposition of 100 percent *ad valorem* duties on certain articles.

SUMMARY: The United States Trade Representative (USTR) has decided to suspend the application of tariff concessions and related obligations by imposing a 100% *ad valorem* rate of duty on three articles described in the Annex to this notice that are the products of certain member States of the European Communities (EC) as a result of the EC's failure to implement the recommendations and rulings of the World Trade Organization (WTO) Dispute Settlement Body (DSB) concerning the EC's ban on imports of U.S. meat from animals treated with certain hormones. This action constitutes the exercise of U.S. rights under Article 22 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and is taken pursuant to the authority granted to the USTR under section 301 of the Trade Act of 1974, as amended..

EFFECTIVE DATE: In accordance with U.S. rights under the DSU, effective July 29, 1999, a 100% *ad valorem* rate of duty shall be applied to the articles described in the Annex to this notice that are the products of one or more of the following EC member States—Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden—and that are entered, or withdrawn from warehouse, for consumption on or after July 29, 1999. Any merchandise subject to this determination that is admitted to U.S. foreign-trade zones on or after July 29, 1999 must be admitted as ''privileged foreign status'' as defined in 19 CFR 146.41. This action will follow authorization on July 26, 1999, by the DSB to suspend the application to the EC, and member States thereof, of concessions and related obligations under the General Agreement on Tariffs and Trade 1994 (GATT 1994).

ADDRESSES: 600 17th Street, NW., Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419, for questions concerning documents and USTR procedures; William Busis, Associate General Counsel, (202) 395–3150 or Ralph Ives, Deputy Assistant U.S. Trade Representative, (202) 395–3320, for questions concerning WTO developments regarding the EC's hormone ban; John Valentine, Attorney, International Agreements Staff, U.S. Customs Service, (202) 927–1219, for questions concerning classification; and Yvonne Tomenga, Program Officer, Office of Trade Compliance, U.S. Customs Service, (202) 927–0133, for questions concerning entries.

SUPPLEMENTARY INFORMATION: In December 1985, the EC adopted a directive on livestock production restricting the use of natural hormones to therapeutic purposes, banning the use of synthetic hormones, and prohibiting imports of animals, and meat from animals, to which hormones had been administered. That directive was later declared invalid by the European Court of Justice on procedural grounds and

had to be re-adopted by the Council, unchanged, in 1988 (''the Hormone Director''). These measures, including the ban on the import of meat and meat products produced from animals to which certain hormones had been administered (the ''hormone ban''), because effective January 1, 1989.

Following entry into force on January 1, 1995, of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (''SPS Agreement''), the United States and, later, Canada, invoked formal WTO dispute settlement proceedings against the hormone ban. Prior to the establishment of the WTO panel, the EC replaced the Hormone Directive with another directive that re-codified and expanded the hormone ban. On May 20, 1996, the DSB established a dispute settlement panel (''the WTO panel'') to examine the consistency of the hormone ban with the EC's WTO obligations.

On August 18, 1997, the WTO panel issued its report finding that the hormone ban is not based on scientific evidence, a risk assessment, or relevant international standards, in contravention in of the EC's obligations under the SPS Agreement. Upon an appeal to the WTO Appellate Body, on January 16, 1998, the Appellate Body affirmed that the hormone ban is not consistent with the EC's obligations under the SPS Agreement. At a meeting held on February 13, 1998, the DSB adopted the Panel and Appellate Body reports regarding the EC's hormone ban.

The EC subsequently requested four years to implement the DSB recommendations. The United States could not agree to this proposed implementation period, and the matter was referred to a WTO arbitrator. The arbitrator determined that the reasonable period of time for implementation was fifteen months, and would expire on May 13, 1999.

The EC did not implement the DSB recommendations and rulings regarding its hormone ban by May 13, 1999. Accordingly, on May 17, 1999, and in accordance with U.S. rights under Article 22 of the DSU, the United States requested authorization from the DSB to suspend the application to the EC, and member States thereof, of tariff concessions and related obligations under the GATT covering trade in an amount of $202 million. The EC objected to the level of suspension proposed by the United States, and claimed that the trade damage suffered by the United States was only $53 million. Pursuant to Article 22.6 of the DSU, the matter was referred to arbitration. The DSU provides that such arbitrations must be completed within 60 days of the end of the reasonable period of time for implementation, or in this case, by July 12, 1999.

The arbitrators issued their final decision on July 12, 1999, and determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, upon DSB authorization, the United States is entitled under the DSU to suspend the application to the European Communities and its member States of tariff concessions and related obligations under the GATT covering trade up to that amount. A meeting of the DSB is scheduled for July 26, 1999, at which time the DSB, pursuant to Article 22.7 of the DSU, will grant authorization for such suspension of concessions.

Prior Notice and Comment

On March 25, 1999, the USTR announced preparations for exercising its right to request authorization to suspend tariff concessions on EC products if the EC failed to implement the DSB's recommendations and rulings concerning the EC's hormone ban by May 13, 1999. (64 FR 14,486). The March 25 notice sought public comment on a preliminary list of EC products with respect to which the United States was considering the suspension of tariff concessions. On April 19, 1999, USTR conducted a public hearing to receive testimony on the preliminary list.

Determination and Action

As a result of the EC's failure to implement the recommendations and rulings of the DSB concerning the EC's hormone ban, and pursuant to the WTO arbitrators' decision of July 12, 1999 and the authorization of the DSB on July 26, 1999, the USTR will suspend tariff concessions and related obligations under the GATT 1994 by imposing a 100% *ad valorem* rate of duty on the articles described in the Annex to this notice that are the products of certain EC member States. The amount of trade affected by this action, as measured by an average of 1996–1998 import values, is equivalent to the level of nullification or impairment ($116.8 million) determined by the WTO arbitrators in their decision of July 12, 1999.

This action exercises the rights of the United States under Article 22 of the DSU and is taken pursuant to the authority granted to the USTR under section 301 of the Trade Act. The articles affected by this determination were selected in light of the comments submitted to the Section 301 Committee in response to the March 25, 1999 notice and the testimony presented at the public hearing held on April 19, 1999.

Accordingly, effective July 29, 1999, with respect to articles that are the products of one or more of the following EC member States—Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden—and that are entered, or withdrawn from warehouse, for consumption on or after July 29, 1999, the Harmonized Tariff Schedule of the United States is hereby modified in accordance with the Annex to this notice. Any merchandise subject to this determination that is admitted to U.S. foreign-trade zones on or after July 29, 1999 must be admitted as ''privileged foreign status'' as defined in 19 CFR 146.41.

William L. Busis,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–M

Annex

The Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheadings to subchapter III of chapter 99 to the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", respectively.

	"Articles the product of Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden:	
	Meat of bovine animals, fresh or chilled (provided for in heading 0201):	
9903.02.21	Articles of subheading 0201.10.05, 0201.10.10, 0201.20.02, 0201.20.04, 0201.20.06, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.02, 0201.30.04, 0201.30.06, 0201.30.10, 0201.30.30 or 0201.30.50	100%
9903.02.22	Articles of subheading 0201.10.50, 0201.20.80 or 0201.30.80	100%
	Meat of bovine animals, frozen (provided for in heading 0202):	
9903.02.23	Articles of subheading 0202.10.05, 0202.10.10, 0202.20.02, 0202.20.04, 0202.20.06, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.02, 0202.30.04, 0202.30.06, 0202.30.10, 0202.30.30 or 0202.30.50	100%
9903.02.24	Articles of subheading 0202.10.50, 0202.20.80 or 0202.30.80	100%
9903.02.25	Meat of swine, fresh or chilled (provided for in subheading 0203.11, 0203.12 or 0203.19)	100%
9903.02.26	Carcasses and half-carcasses of swine, frozen (provided for in subheading 0203.21)	100%
9903.02.27	Hams, shoulders and cuts thereof, with bone in, of swine, frozen (provided for in subheading 0203.22)	100%
9903.02.28	Edible offal of bovine animals, fresh or chilled (provided for in subheading 0206.10)	100%
9903.02.29	Edible offal of bovine animals, frozen (provided for in subheading 0206.21, 0206.22 or 0206.29)	100%
9903.02.30	Roquefort cheese (provided for in subheading 0406.40.20 or 0406.40.40)	100%
9903.02.31	Onions (other than onion sets or pearl onions not over 16 mm in diameter) and shallots, fresh or chilled (provided for in subheading 0703.10.40)	100%
9903.02.32	Truffles, fresh or chilled (provided for in subheading 0709.52)	100%
9903.02.33	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared (provided for in subheading 0712.90.10)	100%
9903.02.34	Other prepared or preserved meat, meat offal or blood, of liver of any animal (provided for in subheading 1602.20)	100%
9903.02.35	Rusks, toasted bread and similar toasted products (provided for in subheading 1905.40)	100%
9903.02.36	Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60)	100%
9903.02.37	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof (provided for in subheading 2101.30)	100%
9903.02.38	Prepared mustard (provided for in subheading 2103.30.40)	100%

	Articles the product of France, the Federal Republic of Germany, or Italy:	
9903.02.39	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, whole or in pieces (provided for in subheading 2002.10)	100%
	Articles the product of France or the Federal Republic of Germany:	
9903.02.40	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked (provided for in heading 0504)	100%
9903.02.41	Soups and broths and preparations therefor (provided for in subheading 2104.10)	100%
9903.02.42	Single yarn (other than sewing thread), not put up for retail sale, containing 85 percent or more by weight of artificial staple fibers (provided for in subheading 5510.11)	100%
	Articles the product of France:	
9903.02.43	Hams, shoulders and cuts of meat of swine, with bone in, salted, in brine, dried or smoked (provided for in subheading 0210.11)	100%
9903.02.44	Wool grease (other than crude wool grease) and fatty substances derived from wool grease (including lanolin) (provided for in subheading 1505.90)	100%
9903.02.45	Chocolate and other food preparations containing cocoa, in blocks, slabs or bars, filled, weighing 2 kg or less each (provided for in subheading 1806.31)	100%
9903.02.46	Lingonberry and raspberry jams (provided for in subheading 2007.99.05)	100%
9903.02.47	Products suitable for use as glues or adhesives (other than animal glue, including casein glue, but not including fish glue) put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg (provided for in subheading 3506.10.50)	100%"

[FR Doc. 99–19174 Filed 6–26–99; 8:45 am]

BILLING CODE 3190–01–C

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending July 16, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5950.
Date Filed: July 13, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 ME 0070 dated July 13, 1999
Mail Vote 019—Resolution 010u
TC2 Within Middle East Special Passenger Amending Resolution
Intended effective date: August 15, 1999.

Docket Number: OST–99–5963.
Date Filed: July 14, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 USA-EUR 0079 dated July 2, 1999
TC12 North Atlantic USA-Europe Resolution r1–r29
PTC12 USA-Europe 0083 dated July 9, 1999—Minutes
PTC12 USA-Europe Fares 0036 dated July 13, 1999—Tables
Intended effective date: November 1, 1999.

Docket Number: OST–99–5988.
Date Filed: July 15, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC12 USA-EUR Fares 0033 dated July 16,1999
USA-UK Add-on Amounts
Intended effective date: October 1, 1999.

Docket Number: OST–99–5994.
Date Filed: July 15, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PAC/Reso/406A dated June 18, 1999
22nd PAC—Resolution 822
(Minutes, contained in PAC/Meet/160 dated June 18, 1999, are being filed this date with the non-U.S. portion of the agreement.)
Intended effective date: December 1, 1999.

Docket Number: OST–99–5995.
Date Filed: July 15, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PAC/Reso/406 dated June 18, 1999
22nd PAC—Finally Adopted Resolutions r1–22
PAC/Meet/160 dated June 18, 1999—Minutes
Intended effective date: December 1, 1999.

Andrea M. Jenkins,
Supervisory Dockets Officer.

[FR Doc. 99–19144 Filed 7–26–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 16, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–5948.
Date Filed: July 12, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 9, 1999.
Description: Application of Steven Wilson d/b/a Air Excursions, d/b/a Chilkat Aviation pursuant to 49 U.S.C. Section 41101 and Subpart Q, applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled, interstate transportation of persons, property and mail.

Docket Number: OST–99–5949.
Date Filed: July 12, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 9, 1999.
Description: Application of Aviation Ventures, Inc. d/b/a Vision Air pursuant to 49 U.S.C. Section 41101, Parts 201 and 204 and Subpart Q, applies for a certificate of public convenience and necessity to engage in interstate scheduled air transportation of passengers, property and mail using small aircraft.
Docket Number: OST–99–5965.
Date Filed: July 14, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 11, 1999.
Description: Application of Trans World Airlines, Inc. pursuant to 49 U.S.C. Section 41101 and Subpart Q, requests a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of persons, property and mail between St. Louis, on the one hand, and Mexico City, Acapulco, Cancun, Cozumel, Puerto Vallarta, Iztapa/Zihuatanejo, and Manzanillo, on the other hand, between New Orleans and Mexico City, and between New York and Cancun. TWA also requests that it be authorized to integrate its authority for the proposed route with its existing certificate and exemption authority.
Docket Number: OST–99–5998
Date Filed: July 16, 1999
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 13, 1999.
Description: Application of North American Airlines, Inc. pursuant to 49 U.S.C. Sections 41101(a) and 41102(a), (b), and, Subpart Q, applies for a new or amended certificate of public convenience and necessity for scheduled foreign air transportation of persons, property and mail between a point or points in the United States, on the one hand, and the terminal point of Georgetown, Guyana on the other hand.

Andrea M. Jenkins,
Supervisory Dockets Officer.
[FR Doc. 99–19145 Filed 7–26–99; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Anchorage International Airport, Anchorage, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Anchorage International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 26, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ronnie V. Simpson, Manager, Alaskan Region Airports Division, Federal Aviation Administration; 222 West 7th, Box 14; Anchorage, AK 99513–7587.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Bill O'Leary, Controller, Alaska International Airport System, at the following address: State of Alaska Department of Transportation and Public Facilities, PO Box 196960, Anchorage, AK 99519–6960.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the State of Alaska Department of Transportation and Public Facilities under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Debbie Roth, Program Specialist, Alaskan Region Airport Division, Planning and Programming Branch, AAL–611A, 222 W 7th, Box 14, Anchorage, AK, 99513–7587, (907) 271–5443. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#99–01–C–00–ANC) to impose and use the revenue from a PFC at Anchorage International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 15, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the State of Alaska. Department of Transportation and Public Facilities, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 28, 1999.

The following is a brief overview of the application.

Application number: 99–01–C–00–ANC.
Level of the proposed PFC: $3.00.
Proposed charge effective date: January 1, 2000.
Proposed charge expiration date: April 1, 2003.
Total estimated PFC revenue: $15,000,000.
Brief description of proposed project: Terminal Redevelopment.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Passengers enplaned by any class of carrier or foreign air carrier if the passengers are enplaned on a flight to an airport serving a community which has a population of less than 10,000 and is not connected by a land highway to the land-based National Highway System (as defined by section 103(b)(5) of title 23).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** at the FAA, Alaska Region Airports Division, Anchorage, Alaska.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Anchorage International Airport, North Terminal, Room NB113A, 4600 Postmark Drive, Anchorage, Alaska, 99502.

Issued in Anchorage, Alaska on July 16, 1999.

Ronnie V. Simpson,
Manager, Airport Division, Alaskan Region.
[FR Doc. 99–18992 Filed 7–26–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 15, 1999

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

DATES: Written comments should be received on or before August 26, 1999 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0065.
Form Number: Customs Forms 7501 and 7501A.

Type of Review: Extension.

Title: Entry Summary and Continuation Sheet.

Description: Customs Form 7501 is used by Customs as a record of the import transaction, to collect proper duty, taxes, exactions, certifications and enforcement endorsements, and to provide copies to Census for statistical purposes.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 38,193.

Estimated Burden Hours Per Respondent/Recordkeepers: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,665,000 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 99–19054 Filed 7–26–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of a General Test Regarding the International Trade Prototype

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct the next phase in a series of prototypes collectively called the International Trade Prototype (ITP). This notice invites public comments concerning any aspect of the planned prototypes; informs interested members of the public of the eligibility requirements for voluntary participation in the second phase of the first prototype, called International Trade Prototype 1.2 (ITP1.2); and outlines the development and evaluation methodology to be used in the test.

This notice supersedes and replaces the **Federal Register** notice on the first phase of the first prototype, called International Trade Prototype 1.1 (ITP1.1), published by the U.S. Customs Service on June 3, 1998.

DATES: ITP1.2 will commence after June 30, 1999, and will run for at least 6 months with evaluations of the prototype occurring periodically. Comments concerning any aspect of this phase must be received on or before August 26, 1999. Operations under the procedures for ITP1.1 will cease upon implementation of ITP1.2.

ADDRESSES: Written comments regarding this notice and application information submitted to be considered for voluntary participation in ITP1.2 should be addressed to the U.S. Customs Service, International Trade Prototype Team, Attn: Pamela McGuyer, 1300 Pennsylvania Avenue, NW., Room 5.4–129, Washington, DC 20229. Note that all comments received by U.S. Customs will be part of the public record.

FOR FURTHER INFORMATION CONTACT: For any prototype or participation questions, please contact Daniel Buchanan, U.S. Customs Service at (617) 565–6236, or Pamela McGuyer, U.S. Customs Service at (202) 927–0279, or Michael Coussins, United Kingdom, Her Majesty's Custom and Excise at 011 44 171 865 4728 in London, England.

SUPPLEMENTARY INFORMATION:

Background

The International Trade Prototype project has evolved from an international drive to streamline global trade. In both business and government, around the world, processes are being automated and reengineered. Trade and information are moving faster and more effectively all the time. Many international companies share critical data with business and trading partners around the world, and they expect government to maintain the leadership position it has taken in developing domestic electronic trade systems by moving into the global arena.

The ITP concept has been under consideration by both the U.S. Customs Service (USCS) and Her Majesty's Custom and Excise (HMCE) since 1996. The nucleus of this program is an extension of ideas developed in partnership with the trade community by various members of the Trans-Atlantic Team, which is primarily comprised of USCS and HMCE officers. The ITP concept also addresses issues raised by international traders, the World Customs Organization (WCO), the United Nations Conference on Trade and Development (UNCTAD), G–7 and other international organizations. The concept is intended to simplify and standardize customs processes and procedures in order to facilitate trade while maintaining effective and efficient control. Information on the ITP contained in an announcement published in the **Federal Register** (63 FR 30288) on June 3, 1998, is superseded by this notice.

In the United States Customs Service Annual Plan for Fiscal Year 1998, USCS states a number of objectives associated with increased cooperation and support of international trade automation. The plan's objectives include increased cooperation with other customs administrations at the multilateral, regional, and bilateral levels. The plan further states that USCS will work to promote standardized customs processing through implementation of ''Customs Guidelines'' and establishment of best practices. This is to be accomplished by working with the WCO and the international trade community to promote the development of international instruments to reduce customs procedural barriers to trade and to secure greater standardization, transparency, simplification, and automation worldwide.

USCS and HMCE have agreed that ITP will be delivered in a series of prototypes. Each prototype will be evaluated against predetermined success criteria. USCS and HMCE have conducted ITP1.1 since June 1998. USCS and HMCE have agreed that ITP1.1 operations will cease upon implementation of ITP1.2. Plans beyond ITP1.2 are also under consideration. Subsequent ITP prototypes will build on lessons learned in ITP1.2 and the need for enabling legislation will be evaluated.

If a subsequent ITP phase is planned following evaluation of ITP1.2, operations under ITP1.2 may be continued until implementation of the next phase. Future phases, prototypes, or participant expansion of this prototype will be announced in a **Federal Register** notice.

USCS will be testing ITP1.2 in accordance with section 101.9 of the Customs Regulations (19 CFR 101.9). By virtue of 19 CFR 101.9, USCS may impose requirements different than those specified in the Customs Regulations, but only to the extent that such different requirements do not affect the collection of revenue, public health, safety, or law enforcement.

Descripton of Proposed International Trade Prototype

The mission/vision of ITP is a standard customs regime that will facilitate the movement of goods internationally. This regime will operate within an electronic environment in which there will be automated systems using data that conform to

internationally agreed upon standards. The amount of information supplied by business to customs will be minimized to the extent possible, consistent with the customs administrations' performance of their missions.

The goal of the project is to allow trade participants to supply their information only once (seamless transaction, i.e., exports equals imports) and will be restricted to the information that is essential to allow customs to effect the processing and clearance of goods.

More specifically, the mission/vision of the ITP is: ''to deliver an automated system that utilizes internationally-accepted standard message formats and codes, streamlines data transmission, simplifies and facilitates global trade, and assists governments world-wide in enforcing their laws.''

I. Goals, Principles and Scope of ITP1.2

The following goals, principles, and scope support USCS and HMCE missions and strategic plans and have guided development of ITP1.2.

Goals and Principles

- *Customs Administration Cooperation.* ITP will improve international trade practices that are best addressed through cooperative efforts between customs administrations, international traders, and international trade organizations.
- *International Trade Transactions.* This prototype will work toward the development of harmonized and simplified messages and procedures, based upon business practices, for transactions that support import, export, and transportation without the need for redundant entry or transmission of data.
- *Commercial and Enforcement Compliance Focus.* Each country will continue to use its own targeting and compliance measurement approaches and procedures to ensure that the legal requirements of all participating countries are met.
- *Account-Based Approach.* Both countries will work with prototype accounts, primarily importers and exporters, to better understand their systems, procedures, and levels of compliance, with mutual assistance between designated Customs Account Managers.
- *Automation and Information Sharing.* Automation will allow the sharing of information to enable the collection and exchange of standardized information mutually agreed to by both governments in a secured electronic environment.
- *Reduce the Burden on the Trade.* This prototype will work toward streamlining government reporting requirements placed upon the trade community.

Scope

The scope of ITP1.2 will include:

—Air and sea cargo shipments;
—Cargo release and supporting information;
—Merchandise restrictions and limitations agreed between customs administrations;
—Sharing of agreed standard data using various technological means accepted by both administrations;
—UN/EDIFACT message syntax between governments;
—Unique Consignment Reference Numbers (UCRN) to be used by USCS and HMCE in separate formats;
—A two-step import process in which data provided to the export customs administration is forwarded to the import customs administration and used, in conjunction with information supplied by the importer, to effect import cargo release;
—Acceptance of all participating traders being subject to compliance review;
—Risk assessment, anti-smuggling, and commercial compliance checks continuing to be applied to goods being moved under these simplified procedures; and,
—Development of agreed joint operational procedures to manage traders' accounts.

II. Development Methodology

ITP1.2 will be monitored by an Evaluation Task Force consisting of trade participants, the USCS Offices of Field Operations, Strategic Trade, Information and Technology, International Affairs, and other interested government agencies. This team will meet regularly throughout the prototype period in appropriate locations to set development milestones, monitor progress, resolve issues and evaluate program effectiveness. The development effort will be coordinated with National Customs Automation Program (NCAP) prototype programs such as the NCAP, Remote Location Filing, and Reconciliation Prototypes, and will be as consistent as possible with the overall direction of USCS development of the Automated Commercial Environment (ACE).

Potential participants should recognize that this is a prototype test of new processes. Data definitions, values and formats for electronic transmission of data will differ from those currently used in the Automated Export System (AES) and the Automated Commercial System (ACS). It is also important to note that development efforts undertaken for ITP1.2 may not meet the requirements for programs as they are finally implemented.

The public is invited to comment on any aspect of the ITP test as described by this notice. Public comments received that concern the methodology of the test program or procedures will be reviewed by both USCS and HMCE.

III. Description of Proposed ITP1.2

ITP1.2 will test an account-based declaration process that integrates preliminary export and preliminary import reporting. The number of U.S. participants will be limited. In order for a shipment to be eligible for processing under ITP1.2 procedures, both the exporter and the importer of the shipment must be ITP1.2 participants in their respective countries. ITP1.2 shipments must be exported from or entered at one of the following six U.S. ports: Baltimore, Chicago, Detroit, JFK, Newark, and San Francisco. Additional port selections may be considered upon request. For shipments processed under ITP1.2 procedures, export notification and import cargo examination decisions will be based primarily on pre-established account/entry information, minimizing the transaction data that needs to be transmitted to customs authorities prior to release of cargo. Cargo examinations will be performed mostly on the basis of selectivity criteria and for random compliance measurement sampling.

Information supplied by the trade participants concerning their ITP transactions will be shared between the USCS and HMCE customs administrations. The customs administrations will not further release this information unless specifically required or authorized by law.

U.S. Exports

While various automatic notifications and back-up procedures will also be supported, the basic declaration flow for U.S. exports in ITP1.2 will be as follows:

1. The exporter's application, including any amendments, will be used to assess the suitability of proposed export shipments for ITP1.2 processing.

2. Using an Internet web form provided by USCS, the exporter or an authorized agent will transmit a pre-departure export notification message to USCS for each ITP1.2 shipment exported from the U.S. The data elements of the pre-departure export notification message are:

—Universal Consignment Reference Number (to identify transactions)
—Country of Export

—Country of Import
—Mode of Transportation
—Port of Loading
—Shipping Reference (identification of Bill of Loading or Air Waybill)
—Shipping Quantity
—Exporter
—Importer

3. ITP1.2 shipments exported from the U.S. will be subject to physical inspections and compliance reviews by various federal agencies.

4. USCS will forward the data from the pre-departure export notification message to HMCE. Applicants should note that participants must agree to the transmission of these data between governments.

5. HMCE will use the forwarded data from the pre-departure export notification message to effect operational release of the cargo upon importation into the United Kingdom (U.K.)

6. All U.S. export reporting requirements for ITP1.2 shipments must be satisfied through existing export reporting procedures and systems.

U.S. Imports

While various automatic notifications, override, and back-up procedures will also be supported, the basic declaration flow for U.S. imports in ITP1.2 will be as follows. Note that data transmitted by participants to USCS with regard to imports into the U.S. will not routinely be forwarded to HMCE.

1. The importer's application, including any amendments, will serve as a pre-filed entry for each ITP1.2 shipment. USCS will assign an ITP Authorization Code to each participant who imports into the U.S. A participating importer or an authorized broker will provide USCS with timely and accurate notification of any proposed changes to the original application, e.g., changes in a participant's ITP1.2 business partners and merchandise imported under the prototype.

2. The U.K. exporter or an authorized agent will transmit a pre-departure export notification message to HMCE for each ITP1.2 shipment exported from the U.K. This will consist of the same data elements as the U.S. pre-departure export notification message which are listed under item 2 of the ITP1.2 export process, above. U.K. filers of pre-departure export notifications will transmit the U.S. importer's ITP Authorization Code to identify the importer.

3. Upon departure of the exporting conveyance, HMCE will forward the data from the pre-departure export notification message to USCS.

4. The USCS ITP1.2 system will assign, based upon the importer's request as provided in the application, an entry filer and entry number to each shipment. The entry filer, i.e., the importer or a licensed customs broker designated by the importer for ITP1.2 shipments, will be assigned to and responsible for the entry. The entry number will be assigned from the range of entry numbers provided in advance by each designated entry filer for that purpose.

5. The USCS ITP1.2 system will determine whether a physical examination of cargo will be performed for the shipment. An initial system determination that no physical examination of cargo will occur is subject to subsequent override by USCS.

6. If no physical examination of cargo is required, a record of the shipment is found in the USCS Automated Manifest System (AMS), and the ITP1.2 participant has indicated that it will enter ITP1.2 imports at the port of unloading reported for the shipment in AMS, the cargo will be released without additional data or documentation. Both the entry filer (through the USCS ITP1.2 system) and the carrier (through AMS) will receive automated cargo release notifications. The port of entry will be the port of unloading reported for the shipment in AMS.

7. If no physical examination of cargo is required, but no record of the shipment is found in the USCS Automated Manifest System (AMS), or the ITP1.2 participant has not indicated that it will enter ITP1.2 importations at the port of unloading reported for the shipment in AMS, the USCS ITP1.2 system will generate an e-mail message to the entry filer requesting supplemental shipment information. Using an Internet web form provided by USCS, the importer or broker must transmit the following data elements to USCS:

—Port of Unloading
—Port of Entry
—Estimated Date/Time of Arrival at Port of Entry
—Shipping Reference (if correct data is not provided in U.K. exporter's pre-departure export notification)
—Shipping Quantity (if correct data is not provided in U.K. exporter's pre-departure export notification)

If the Port of Unloading is different from the Port of Entry, movement of the cargo between ports must be accomplished under existing in-bond procedures.

8. If a physical examination of cargo is required, the USCS ITP1.2 system will generate an e-mail message to the entry filer requesting cargo exam data. Using either an Internet web form provided by USCS or an EDIFACT CUSDEC message, the entry filer must transmit the required data to USCS. Cargo exam data will include partial entry and commercial data, provided to the detailed line item level. Cargo will not be examined until these data are received by Customs.

9. The date of entry will be the latter of the date the merchandise arrives in the port where entry is made or the date the merchandise is released by U.S. Customs into the commerce of the United States. The release will obligate the continuous bond identified in the prototype application of the importer whose ITP Authorization Code is present in the pre-departure export notification data forwarded to USCS by HMCE.

10. Within 10 working days after the date of entry, U.S. entry summary reporting and payment requirements for ITP1.2 shipments must be satisfied through existing import reporting and payment procedures and systems.

IV. Remote Location Filing

Remote location filing allows U.S. Customs brokers to electronically file data for the entry of merchandise with USCS from any location in the United States. This feature of remote location filing will be supported in ITP1.2. A U.S. ITP participant or their customs broker who electronically transmits supplemental shipment information or cargo exam data for an ITP1.2 import shipment from a location other than the port where entry is made must meet the criteria for remote filing established in 19 U.S.C. 1414.

The designation of alternative locations for cargo examination will not be supported in ITP1.2. All cargo examinations will be conducted at the port where the cargo is entered, or at another location chosen by USCS.

V. Eligibility Requirements

Customs will select a limited number of participants for ITP1.2. In order to be eligible for participation in ITP1.2, a company operating in the United States must:

1. Be participating or approved for participation in the Importer Compliance Monitoring Program (see 63 FR 20442; April 24, 1998) or be scheduled for, be participating in, or, in the application, agree to undergo, and cooperate fully with, a Customs Compliance Assessment. At the time the application is filed, if a Customs Compliance Assessment or other type of Customs audit is in progress, the importer must be fully cooperating and

providing timely and accurate information and the resources necessary for USCS to conduct the Compliance Assessment or audit. If the importer is subject to a compliance improvement plan, the importer must be abiding by the terms and conditions of the plan;

2. Export merchandise from the U.S. for importation into the U.K. and/or import into the U.S. merchandise exported from the U.K. Note that in order for a shipment to be eligible for processing under ITP1.2 procedures, both the exporter and the importer of the shipment must be ITP1.2 participants in their respective countries. It is therefore important that potential U.S. participants coordinate their participation with that of their U.K. trading partners;

3. For participants who wish to include U.S. export shipments in ITP1.2, provide or arrange for provision of timely and accurate electronic transmission to USCS of pre-departure export notification data for all included U.S. export shipments. If a participant does not transmit electronic data for a particular export shipment, USCS may exclude that shipment from ITP1.2 processing; and

4. For participants who wish to include U.S. import shipments in ITP1.2, commit in the application to file or maintain a continuous bond with sufficient liability coverage that will be obligated upon release of each ITP1.2 shipment.

Applications will be accepted from all volunteers; however, priority consideration will be given to:

1. ITP1.1 participants;

2. Companies within the top 463 U.S. importers ranked by entered value (the top 463 represent approximately 50 percent of all imports by value);

3. Companies within the top 250 U.S. importers within any of the USCS Primary Focus Industry (PFI) categories, which are:

a. Agriculture
b. Automotive
c. Communications—Telecommunications, Advanced Displays, Board Level Products
d. Critical Components—Bearings, Fasteners
e. Footwear
f. Production Equipment
g. Steel
h. Textiles—Textile Products, Wearing Apparel;

4. Companies that do not represent an unacceptable compliance risk; and

5. Companies that indicate they plan to maintain an average of at least 10 entries per month throughout the prototype period.

VI. Application

Importers and exporters who wish to participate in ITP1.2 must submit a written application within 30 days of this notice including the following information:

1. Participant name, address and designated contact person.

2. An e-mail address to be used by the USCS ITP1.2 system for automatic routing of ITP1.2 status notification messages.

3. For all exported cargo proposed for inclusion in the ITP1.2 test:

—Names and addresses of all U.K. importers;
—For each U.K. importer, a listing of all the six-digit HTS numbers in which the commodities to be exported are classified;
—Detailed explanation of any licenses or permits required for export of the listed commodities;
—Lists of all air and ocean freight carriers to be used;
—For each carrier, a listing of the trade routes (U.S. ports of loading and U.K. ports of unloading) for which the carrier will be used; and
—An estimate for the total number of export shipments per month the participant expects to include in the ITP1.2 test for each trade route.

4. For participants who wish to include U.S. export shipments in ITP1.2: the names and addresses of any agents who will provide ITP1.2 export data.

5. For all imported cargo proposed for inclusion in the ITP1.2 test:

—Names and addresses of all U.K. exporters;
—For each U.K. exporter, a listing of all the 6-digit HTS numbers in which the commodities to be imported are classified;
—Lists of all air and ocean freight carriers to be used;
—For each carrier, a listing of the trade routes (U.K. ports of loading and U.S. ports of unloading) for which the carrier will be used; and
—An estimate of the total number of import shipments per month the participant expects to include in the ITP1.2 test for each trade route.

6. For participants who wish to include U.S. import shipments in ITP1.2: a designated single import entry filer, i.e., the importer itself or a licensed customs broker, to file required import data for all ITP1.2 imports at U.S. ports of entry. Each entry filer designated by one or more participant importers must provide USCS with a range of entry numbers to be reserved for assignment by USCS to ITP1.2 shipments. Entry filers may not assign these numbers to non-ITP transactions.

7. For participants who wish to include U.S. import shipments in ITP1.2: the surety company and surety code and the number of the continuous surety bond that will cover all cargo processed under ITP1.2 procedures.

8. For applicants not participating in or approved for participation in the Importer Compliance Monitoring Program or not already scheduled for or participating in a Customs Compliance Assessment, a statement in which the applicant commits to undergo and cooperate fully with a Customs Compliance Assessment.

9. It is required that the following consent form be executed and filed with USCS:

Authorization to Provide ITP Data to UK Customs

I, _____, holding the position of

_____

at _____
(name of company)

being duly authorized to represent and bind said company, hereby authorize the United States Customs Service to provide Her Majesty's Custom and Excise of the United Kingdom all the information contained in our application for participation in the International Trade Prototype and the following export data related to shipments from the United States to the United Kingdom made pursuant to the International Trade Prototype:

a. Universal Consignment Reference Number
b. Country of Export
c. Mode of Transportation
d. Port of loading
e. Shipping reference (identification of bill of loading or air waybill)
f. Shipping quantity
g. Exporter
h. Importer

_____
(name of company)

unconditionally releases the United States Customs Service and its employees from any and all liability, and waives any and all legal action, claims and causes of action related to or concerning the release of the afore-listed data to Her Majesty's Custom and Excise for shipments made pursuant to the International Trade Prototype.

_____
Signature

_____
Date

ITP1.1 participants who wish to continue their participation must re-apply. These applications must contain all of the elements listed above, except that for items 3 and 4 they need provide only changes to the information provided in their applications for ITP1.1.

USCS will make import admissibility determinations on ITP1.2 shipments imported into the U.S. based on any

cargo examinations and the information supplied with the application, which shall serve as a pre-filed entry for ITP1.2 purposes. Applications may be referred to HMCE and other government agencies for review. All ITP1.2 applicants will be notified in writing of their acceptance or rejection. USCS will assign an ITP Authorization Code to each accepted participant whose application indicates intent to include imports into the U.S. in the ITP1.2 test. USCS and HMCE will schedule meetings with each new participant to review the current prototype requirements, data elements, technologies, and evaluation criteria.

If an applicant is denied participation, the notification letter will include the reasons for that denial. The applicant may appeal such decision in writing within 15 days to the Director, Trade Programs. Applicants who are denied participation in ITP1.2 may re-apply if USCS subsequently opens participation to additional participants. USCS will publish a notice in the **Federal Register** if an expansion of participation is planned.

Applicants should note that participation is not confidential, and that lists of participants will be made available to the public. Additionally, all comments provided to U.S. Customs will be part of the public record.

VII. General Requirements and Restrictions

For ITP1.2, the following restrictions will be placed upon participants.

Participants who export ITP1.2 shipments from the United States:

A. Must export merchandise identified in the application as being from their typical commodities in their established lines of business to pre-identified U.K. importers;

B. Must export only the merchandise identified in the application as being within a range of pre-identified commodities (classified at the six-digit HTS level);

C. Must export merchandise using carriers pre-identified in the application;

D. Must export merchandise from a port selected by USCS for inclusion in the ITP1.2 test;

E. Must not include export shipments of used vehicles or of DEA essential and precursor chemicals for the manufacture of narcotics, shipments subject to State Department licensing or shipments destined to an embargoed nation;

F. Must not export any merchandise subject to export prohibitions or restrictions;

G. Must not export ITP1.2 merchandise under a transportation and exportation (T&E) entry;

H. Must ensure that ineligible merchandise is not included in ITP1.2 shipments. Customs will exclude ineligible shipments from ITP1.2 processing.

Participants who import ITP1.2 shipments into the United States:

A. Must enter merchandise identified in the application as being from their typical commodities in their established lines of business from pre-identified U.K. exporters;

B. Must enter only the merchandise identified in the application as being within a range of pre-identified commodities (classified at the six-digit HTS level);

C. Must enter merchandise transported by carriers pre-identified in the application;

D. Must enter merchandise for release into the commerce under a consumption entry, e.g., may not enter ITP1.2 merchandise into a warehouse or Foreign Trade Zone;

E. Must enter merchandise at a port selected by USCS for inclusion in the ITP1.2 test;

F. Must not enter merchandise in ITP1.2 if it is subject to antidumping or countervailing duty, absolute or tariff rate quota, visa requirements, or pre-release reporting requirements imposed by other federal agencies;

G. Must not import restricted or prohibited merchandise in prototype shipments; and,

H. Must ensure that ineligible merchandise is not included in ITP1.2 shipments. Customs will exclude ineligible shipments from ITP1.2 processing.

VIII. Maintenance of Account Information

Throughout the prototype period, participants must provide USCS with advance notification of any proposed changes to the information provided in the application. This notification must be provided to USCS at least 7 days before the effective date of a proposed change and will be considered a proposed amendment to the application. By notification of the participant, USCS may reject such an amendment or prohibit the participant's use of a particular carrier, U.K. importer or exporter, or the export or import of particular merchandise under this prototype. If USCS does not reject the proposed amendment within 7 days of the proposed amendment, it is accepted.

IX. Technical Requirements

ITP1.2 participants are required, at a minimum, to have the following hardware and software:

A. Pentium series PC with Windows 95, 98, or NT 4.0 operating system and an available serial port;

B. 28.8 Kbps or better modem;

C. Microsoft Internet Explorer 4.01 or higher (but not IE 5.0);

D. Established account with an Internet service provider; and,

E. Internet e-mail service and a valid e-mail address.

ITP1.2 will not support Netscape or Internet Explorer 5.0 Web browsers. Treasury Department and USCS automated information security requirements mandate the use of Data Encryption Standard III (DES III) for Internet security. For ITP 1.2, this will be accomplished using smart cards and serial readers. USCS will provide ITP1.2 participants with this equipment and supporting software. Up to three readers will be distributed to each ITP1.2 participant company. Although each user must have his/her own smart card and personal identification number, multiple users may access one reader. Smart cards will be initialized by USCS and sent to users in a separate package from the readers and software.

Users are encouraged to access ITP1.2 via the ITP Web site. Limited EDI support will be offered only for submission of cargo exam data and return of import release notification messages.

X. Misconduct under Prototype

All participants in ITP1.2 are required to abide by the terms and conditions of this notice.

A participant may be suspended from the prototype, subject to liquidated damages, penalties, and/or other administrative sanctions, and/or prevented from participation in future prototypes if the participant:

- Fails to cooperate fully in a Compliance Assessment or audit;
- Fails to provide timely and accurate data and adequate resources in support of a Customs Compliance Assessment or audit;
- Fails to comply fully with the terms of a Compliance Improvement plan;
- Exports or attempts to export goods to U.K. importers or conveyed by carriers not approved by USCS;
- Exports or attempts to export goods classified in commodity ranges not approved by USCS;
- Exports or attempts to export or submit data relating to prohibited or restricted merchandise or other non-eligible merchandise;

- Enters or attempts to enter goods from U.K. exporters or conveyed by carriers not approved by USCS;
- Enters or attempts to enter goods classified in commodity ranges not approved by USCS;
- Files non-consumption import entries;
- Enters or attempts to enter or submit data relating to prohibited or restricted merchandise, merchandise subject to absolute or tariff rate quota or antidumping or countervailing duties, or other non-eligible merchandise;
- Fails to maintain sufficient continuous bond coverage;
- Files erroneous or untimely data;
- Makes late or inadequate payments;
- Fails to supply USCS with requested invoice data;
- Fails to maintain a sufficient level of compliance;
- Fails to exercise reasonable care in the execution of participant obligations; or,
- Fails to follow the procedures, terms, and conditions outlined herein, and applicable laws and regulations.

USCS has the discretion to suspend a prototype participant based on the determination that an unacceptable compliance risk exists. This suspension may be invoked at any time after acceptance in the prototype.

Any decision proposing suspension of a participant may be appealed in writing to the Director, Trade Programs, within 15 days of the decision date. Such proposed suspension will apprise the participant of the facts or conduct warranting suspension. Should the participant appeal the notice of proposed suspension, the participant should address the facts or conduct charges contained in the notice and state how he does or will achieve compliance. However, in the case of willfulness or where public health interests or safety are concerned, the suspension may be effective immediately.

XI. Regulatory Provisions Suspended

Certain provisions of parts 24, 111, 113, 141, 142, 143, and 159 of the Customs Regulations (19 CFR parts 24, 111, 113, 141, 142, 143, and 159) will be suspended during ITP1.2. Absent any specified alternate procedure, the current regulations apply.

XII. Prototype Evaluation

Once the participants are selected for ITP1.2, both the domestic Evaluation Task Force and the international Joint Evaluation Team will, during the initial 6 months of the test period, evaluate the effectiveness of the automation involved. Subsequent reviews will additionally consist of evaluating the data received from the participants, along with the internal and external process operations of ITP1.2. The intention of the evaluations is to enhance operational procedures and to develop the detailed data requirements that are needed for ITP.

Note that the fact of participation in ITP1.2 is not confidential information. Lists of participants, comments provided to U.S. Customs, and evaluation results may be made available to the public by means of the Customs Electronic Bulletin Board and the Customs Administrative Message System, and upon written request. The G–7 countries will participate in evaluation development and review. We stress that all interested parties are invited to comment on the design, conduct, and evaluation of ITP at any time during prototype.

Upon conclusion of the prototype, the final results will be published in the **Federal Register** and the Customs Bulletin as required by § 101.9(b) of the Customs Regulations and will be reported to Congress.

Dated: July 21, 1999.

Raymond W. Kelly,

Commissioner of Customs.

[FR Doc. 99–19071 Filed 7–26–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Changes Regarding Customs User Fees

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: On June 25, 1999, the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act) was signed into law. The Act makes miscellaneous and technical changes to various trade laws, including 19 U.S.C. 58c pertaining to Customs user fees. While these changes are self-effectuating, Customs is announcing in this notice, for the convenience of the importing public, several changes affecting Customs administration of user fees. Appropriate amendments to the Customs Regulations will be published in due course.

EFFECTIVE DATE: The effective date for the statutory changes set forth in this document is July 25, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Matthews at (202) 927–0552.

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, codified at 19 U.S.C. 58c (section 58c), established user fees for certain inspectional services performed by the Customs Service. On June 25, 1999, the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act) was signed into law (Pub. L. 106–36, 113 Stat. 127). The Act makes miscellaneous and technical changes to various trade laws, including 19 U.S.C. 58c.

Subtitle B (entitled ''Trade Provisions'') of Title II of the Act sets forth, in section 2418 (entitled ''Customs User Fees''), several amendments to section 58c. These statutory amendments are self-effectuating and become effective before the Customs Regulations can be amended to reflect the changes. Regulatory amendments will be published as appropriate. In the meantime, Customs presents below those changes that affect the importing public.

Past Fees

Under 19 U.S.C. 58c(a), Customs is authorized to collect fees charged for certain Customs inspectional services. A schedule of such fees is set forth in paragraphs (1) through (10) of that section. Section 58c(a)(5) pertains to fees for passengers arriving in the United States aboard commercial vessels and commercial aircraft. The fees are collected from passengers by the companies involved in providing commercial vessel and aircraft travel and transportation and are remitted by such companies to the Secretary of the Treasury (see 19 U.S.C. 58c(d)).

Prior to enactment of the Act, section 58c(a)(5)(A) provided for a fee of $6.50 per passenger arriving in the United States aboard a commercial vessel or aircraft. The fee applied broadly to such passengers arriving in the United States from any place outside the customs territory of the United States. However, these provisions were effective only for fiscal years 1994 through 1997. Thus, after fiscal year 1997 (ending on September 30, 1997), the $6.50 fee was no longer in effect.

Prior to enactment of the Act, section 58c(a)(5)(B), applicable to fiscal year 1998 and each fiscal year following, provided for a fee of $5.00 per passenger arriving in the United States aboard a commercial vessel or aircraft. This fee, however, applied to such passengers arriving from places outside the United States with the following limitation: the fee did not apply to such passengers arriving from the places set forth in

section 58c(b)(1)(A)(i): Canada, Mexico, and the territories, possessions, and adjacent islands of the United States. (See section 24.22(g)(2)(i)(B) of the Customs Regulations for the U.S. territories, possessions, and adjacent islands (19 CFR 24.22(g)(2)(i)(B)).)

The effect of these provisions was to impose a fee of $6.50 on all vessel and aircraft passengers arriving in the United States through September 30, 1997 (section 58c(a)(5)(A)), then to reduce that fee to $5.00 per such passenger for the following fiscal years, except for those passengers arriving from Canada, Mexico, or the United States territories, possessions, and adjacent islands (section 58c(a)(5)(B)). Thus, beginning with fiscal year 1998, there was no fee applicable under section 58c(a)(5) for vessel and aircraft passengers arriving from Canada, Mexico, or the United States territories, possessions, and adjacent islands.

New Fees

Paragraph (b)(1) of section 2418 of the Act amends sections 58c(a)(5)(A) and 58c(a)(5)(B) to modify this fee structure. The amendment accomplishes two things: (1) It maintains the $5.00 fee for passengers arriving in the United States aboard commercial vessels or aircraft from places outside the United States other than Canada, Mexico, and the United States territories, possessions, and adjacent islands; and (2) it imposes a fee of $1.75 per passenger arriving aboard commercial vessels (not commercial aircraft) from Canada, Mexico, and the United States territories, possessions, and adjacent islands. There is no fee under section 58c(a)(5) for passengers arriving aboard commercial aircraft from Canada, Mexico, or the United States territories, possessions, or adjacent islands. (The territories and possessions of the United States include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. The adjacent islands of the United States include all of the islands in the Caribbean Sea, the Bahamas, Bermuda, St. Pierre, Miquelon, and the Turks and Caicos Islands.)

Procedures for Payment of Fees

Though not among the amendments set forth in the Act, the procedures for making payment to Customs of the fees provided for in sections 58c(a)(5)(A) and 58c(a)(5)(B) are here set forth for the benefit of affected parties. Under section 24.22(g)(3) of the Customs Regulations, it is the responsibility of the carriers, travel agents, tour wholesalers, or other parties issuing tickets or travel documents to collect the fee from all passengers who are subject to the fee (19 CFR 24.22(g)(3)). Under section 24.22(g)(4) of the Customs Regulations, these parties must make payment of the fees collected to Customs no later than 31 days after the close of the calendar quarter in which the fees are collected (19 CFR 24.22(g)(4)). Customs asks that remittances be made payable to the U.S. Customs Service and sent to: U.S. Customs Service, P.O. Box 198151, Atlanta, GA 30384.

Also under section 24.22(g)(4), the quarterly remittance must be accompanied by a statement that includes the following information: name, address, and taxpayer identification number of the party remitting the payment and the calendar quarter covered by the payment (19 CFR 24.22(g)(4)). Customs asks that the following additional information be provided in the statement: total number of tickets for which fees were collected, total amount of fees collected and remitted, and a breakdown of vessel fees collected and remitted under section 58c(a)(5)(A) (the $5.00 per passenger fee) and section 58c(a)(5)(B) (the $1.75 per passenger fee). This breakdown is requested to serve Customs need to separate and distinguish the amounts collected for these two fees. Affected parties are reminded of the record maintenance requirements of section 24.22(g)(6) (19 CFR 24.22(g)(6)).

Exemption From Fee

Enactment of the $1.75 per passenger fee provision of 19 U.S.C. 58c(a)(5)(B) (discussed in the section immediately above), applicable to commercial vessel passengers arriving in the United States from Canada, Mexico, or the United States territories, possessions or adjacent islands, necessitated an amendment to section 58c(b)(1)(A)(i). This latter section, prior to enactment of the Act (and since expiration of fiscal year 1997 (see section 58c(b)(1)(C))), has prohibited application of a fee under section 58c(a) to passengers arriving in the United States from Canada, Mexico, or the United States territories, possessions, and adjacent islands, whether such journey originated in one of the named places or originated in the United States and was limited to the named places. This provision, if left unmodified, would be in direct conflict with the $1.75 fee provision of section 58c(a)(5)(B), as amended by the Act.

In order to remove this conflict, paragraph (b)(2) of section 2418 of the Act simultaneously (with the amendment of subsection 58c(a)(5)(B) in paragraph (b)(1) of the Act) amends section 58c(b)(1)(A) to exclude from the prohibition of paragraph (i) fees imposed under section 58c(a)(5)(B). Thus, section 58c(b)(1)(A)(i) now prohibits application of a fee to passengers arriving in the United States from Canada, Mexico, or the territories, possessions, or adjacent islands of the United States unless those passengers arrive in the United States aboard commercial vessels.

Conforming Amendments to be Made to Customs Regulations

Appropriate regulatory amendments will be published in due course to reflect the changes necessitated by the above and other amendments to 19 U.S.C. 58c. As the above amendments to the statute are effective 30 days after the date of enactment of the Act, which occurred on June 25, 1999, the fees discussed in this document become effective on July 25, 1999.

Dated: July 21, 1999.

Wayne Hamilton,

Assistant Commissioner, Office of Finance.

[FR Doc. 99–19070 Filed 7–26–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0040]

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 to determine a lender's and veteran's request for guaranty of a home loan to occupy incomplete property.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 27, 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. 2900–0040'' 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: Request for Postponement of Offsite or Exterior Onsite Improvements—Home Loan, VA Form 26–1847.

OMB Control Number: 2900–0040.

Type of Review: Extension of a currently approved collection.

Abstract: The form serves as the lender's and veteran's request for guaranty of a home loan for which offsite or exterior onsite improvements are incomplete to permit the veteran's occupancy of the property. Without this information, it would not be possible for loans to be guaranteed in such cases with adequate protection for the veterans and VA, and for veterans to occupy affected properties. The form provides basic information for VA determinations as to whether loan funds were properly disbursed as required by 38 CFR 36.4301 and 36.4303(d).

Affected Public: Individuals or households, Business or other for-profit.

Estimated Annual Burden: 2,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 5,000.

By Direction of the Secretary.

Dated: May 28, 1999.

Sandra McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–19089 Filed 7–26–99; 8:45 am]

BILLING CODE 8520–01–P

Corrections

Federal Register
Vol. 64, No. 143
Tuesday, July 27, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for Licensing: Vasostatin, an Inhibitor of Endothelial Cell Growth and Angiogenesis

Correction

In notice document 99–18377, appearing on page 38686, in the issue of Monday, July 19, 1999, make the following corrections:

1. The subject line should appear as set forth above.
2. In the first column, under **SUMMARY**, in the tenth line, ''at'' should read ''a''.

[FR Doc. C9–18377 Filed 7–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-957-00-1420-00: GP9-0225]

Filing of Plats of Survey: Oregon/Washington

Correction

In notice document 99–16271, appearing on page 34677 in the issue of Monday, June 28, 1999, make the following correction:

In the first column, in the **SUMMARY** section, in the list of plats filed under the Willamette Meridian, Oregon, the last entry ''T. 8 S., R. 3 W.'' should read ''T. 8 S., R. 3 E.''

[FR Doc. C9–16271 Filed 7–26–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41572; File No. SR-CTA/CQ-99-01]

Consolidated Tape Association; Notice of Filing of Fourth Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Third Charges Amendment to the Restated Consolidated Quotation Plan

Correction

In notice document 99–16953, beginning on page 36412, in the issue of Tuesday, July 6, 1999, make the following correction:

On page 36412, in the first column, the docket number is corrected to read as set forth above.

[FR Doc. C9–16953 Filed 7–26–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination; Alliance Assurance Company of America, American Mercury Insurance Company, Boston Old Colony Insurance Company, CIGNA Indemnity Insurance Company, CIGNA Insurance Company of the Midwest, Continental Reinsurance Corporation, European Reinsurance Company of America, Illinois National Insurance Company, Insurance Company of North America, Kansas City Fire and Marine Insurance Company, London Assurance of America, Inc. (The), Mid-Century Insurance Company, Phoenix Assurance Company of New York, Providence Washington Insurance Company, Sea Insurance Company of America (The), Sun Insurance Office of America Inc., Tokio Marine and Fire Insurance Company Limited (The), U.S. Branch, Transcontinental Insurance Company, Transportation Insurance Company and Valley Forge Insurance Company

Correction

In notice document 99–17012 appearing on page 36421 in the issue of Tuesday, July 6, 1999, make the following correction(s):

In the first column, in the heading, in the eighth line, ''GIGNA'' should read, ''CIGNA''.

[FR Doc. C9–17012 Filed 7–26–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Tuesday
July 27, 1999

Part II

Department of Transportation

Office of the Secretary

14 CFR Parts 221, 250, and 293

Exemptions From Passenger Tariff-Filing Requirements in Certain Instances; Final Rule

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 221, 250, and 293

[Docket No. OST–97–2050]

RIN 2105–AC61

Exemptions From Passenger Tariff-Filing Requirements in Certain Instances

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: Pursuant to the notice procedures in new part 293, the Department is exempting U.S. and foreign air carriers from the statutory and regulatory duty to file international passenger tariffs with DOT in certain instances, subject to the reimposition of the duty in specific cases when consistent with the public interest. In addition, the Department is reissuing a new version of part 221 that eliminates most of the traditional paper format and filing procedures set forth in the present version of 14 CFR part 221.

Following the notice specified in new part 293, certain currently effective price tariffs are canceled as a matter of law, pending tariff applications covered by the exemption are dismissed, and new tariffs will generally not be accepted for filing. In response to comments, currently effective rules related to general ''conditions of carriage'' of each passenger, set forth in general governing rules tariffs, may continue in legal effect for 180 days from the date of effectiveness of the final rule, although carriers may elect to cancel them earlier and may also deviate from such rules through express agreement. This action is taken on the Department's initiative in order to streamline government operations and eliminate unjustified regulatory burdens.

DATES: This regulation is effective on September 10, 1999. However, the cancellation of certain general tariff rules will take place 180 days later as provided in § 293.10 of new part 293.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Kiser or Mr. Keith A. Shangraw, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Background

Section 41504 of Title 49 of the United States Code (the Code), formerly section 403(a) of the Federal Aviation Act of 1958, as amended, requires every U.S. and foreign air carrier to file with the Department, and to keep open for public inspection, tariffs showing all prices for ''foreign air transportation'' between points served by that carrier, as well as all the rules relating to that transportation to the extent required by the Department. This requirement includes passenger fares, related charges and governing rules. 14 CFR part 221 establishes the detailed tariff-filing rules and authority for approvals, rejections and waivers. Once allowed to become effective by the Department, these tariffs become legally binding terms in the contract of carriage for international air transportation.

In his Regulatory Reinvention Initiative Memorandum of March 4, 1995, President Clinton directed Federal agencies to conduct a page-by-page review of all of their regulations and to ''eliminate or revise those that are outdated or otherwise in need of reform.'' In response to that directive, the Department has undertaken a review of its aviation economic regulations contained in 14 CFR Chapter II to determine whether changes should be made to promote economic growth, create jobs, or eliminate unnecessary costs or other burdens on the economy. Among the regulations reviewed are those governing the filing of tariffs by airlines for their foreign air transportation, set forth in 14 CFR part 221.

In two recently completed rulemaking proceedings, the Department determined that the amount of tariff material filed by carriers exceeded our regulatory requirements in certain respects; that alternative methods existed for protecting consumers and other elements of the public interest which are more effective than filed tariffs; and that procedures should be developed to foster the electronic filing and the review of those tariffs which should continue to be filed. On November 30, 1995, the Department published a final rule exempting carriers from their regulatory duty to file tariffs for the foreign air transportation of cargo. On April 24, 1996, the Department published a final rule establishing procedures for the electronic filing of passenger rules tariffs.

In this, the third rulemaking proceeding involving the tariff system, undertaken as part of the President's directive, the Department has determined that the filing of certain tariffs with the Department for the foreign air transportation of passengers is no longer necessary or appropriate, and accordingly grants another exemption from the tariff-filing requirement set forth in part 221. Under the rule in new part 293, the Assistant Secretary will issue a notice specifying the terms of the exemptions for markets in Category A (no fare filing), Category B (normal economy fare filing only) or Category C (filing all fares), taking into account specific factors present in each market. After this first determination, the Assistant Secretary, acting on his own initiative or in response to petitions, may issue further notices transferring countries between categories. For example, the entry into force of an ''open skies'' air transport agreement would warrent moving a country into Category A where no fares will be filed. On the other hand, foreign government actions denying U.S. carrier pricing initiatives, could justify the re-institution of full tariff filing reguirements in Category C.[1]

In addition, the Department has identified a substantial number of provisions in part 221 that are redundant, contain obsolete references, or are out-dated given present regulatory practices and needs. Accordingly, the Department is issuing a general revision of part 221 to eliminate redundancies, excess verbiage and obsolete provisions; to make necessary technical changes; and to reorganize the subparts in a more logical order.

Comments

We received comments on our proposal from Air Pacific Limited (Air Pacific); the Airline Tariff Publishing Company (ATPCO); the Air Transport Association of America (ATA); British Airways PLC (BA); Federal Express Corporation (FedEx); the International Air Transport Association (IATA); Korean Air Lines Co., Ltd. (KAL); Pakistan International Airlines Corporation (PIA); Qantas Airways Limited (Qantas); and United Air Lines, Inc. (UAL). Finally, on September 30, 1997, ATA filed a motion for leave to file supplemental comments.[2]

The carriers did not comment upon the proposed revisions to part 221 itself, except where expressing general approval. However, ATA expressed concern with our tentative decision to leave intact the existing Warsaw Convention notice requirements in part 221 until future needs in this area become clearer. While initially requesting only that the Department be

[1] However, adverse foreign government actions in areas not directly involving pricing, such as route and capacity issues, would not warrant re-institution of full Category C tariff filing requirements, except in the most unusual circumstances.

[2] We grant ATA's motion.

prepared to make future changes to these requirements to reflect the new passenger liability limits agreed to by many carriers, ATA, in its supplemental comments, urges the Department to adopt herein ''a more flexible notice requirement'' that would permit carriers which have filed tariff revisions waiving the Warsaw passenger liability limits pursuant to DOT-approved agreements to devise, subject to DOT approval, a single ticket notice to replace both the detailed notice prescribed in current § 221.175 for services involving the United States and the separate, worldwide Warsaw liability notice appearing on standard ticket stock.

Comments regarding the proposed exemption from passenger tariff filing requirements were generally positive. For the most part, BA, FedEx, KAL, PIA and UAL, as well as ATA and ATPCO generally support the proposal. IATA takes no position on the proposal to exempt airlines from the requirement to file passenger fare tariffs in certain instances, but supports the proposal to exempt all airlines from the requirement to file general passenger rules tariffs. Air Pacific and Qantas oppose the proposed exemption from filing general passenger rules tariffs because they prefer to continue to rely on the presumed notice to passengers, stemming from the formal filing of these rules, as a defense against various kinds of passenger claims. ATA urges the Department to remove the word ''conflicting'', which it believes limits protection from preemption by state laws, in the proposed section 293.21(c). This section sets uniform disclosure requirements which preempt any conflicting State requirements on the incorporation of terms by reference into contracts of carriage for scheduled transportation of passengers in foreign air transportation.

Several parties express concerns or condition their support upon modifications to the proposal. ATA, BA and IATA support the exemption from the requirement to file general passenger rules provided that the cancellation of these rules tariffs is extended an additional 90 days (for a total transition period of 180 days following the Assistant Secretary's notice). ATPCO expresses concerns about the amount of time needed to adjust its electronic filing system to the new filing regime, but nevertheless states that the airlines should not be denied immediate relief from the burden of filing their tariffs. Accordingly, APTCO requests that the Department permit carriers or their agents to continue to file their tariffs electronically in the same manner as today without paying the Department's filing fees until ATPCO can reconfigure its electronic filing system (EFS). ATA requests that the Department not grant carriers of countries in Categories A or B an exemption from filing fares for travel between the United States and a third country (*i.e.*, on fifth and sixth freedom services) unless that carrier's home country has agreed bilaterally to a pricing regime which affords U.S. carriers the right to exercise price leadership in fifth and sixth freedom markets, as well as in third and fourth freedom markets. Finally, UAL takes issue with the categories in which the NPRM proposed to place certain countries and urges that the NPRM's country-category list and any future actions regarding categorization of countries be subject to the procedures for public notice and comment.

Decision

We have decided to adopt the NPRM essentially as proposed, with certain minor changes in response to the comments. First, we will grant the requests to extend the proposed transition period for cancellation of the general passenger rules tariffs in section 293.22 from 90 days to 180 days after the Assistant Secretary issues his notice containing the initial description of those general conditions of passenger carriage that must still be filed in tariffs. On the other hand, we will grant carriers the option to cancel their official general rules tariffs involving conditions of carriage before the end of the 180 day period, and to deviate from any rules on file by express agreement with the passenger, such as by ticket notation.

Second, while not adopting ATA's suggestion in its entirety, we will modify our category procedures to allow the Assistant Secretary the option to require carriers who are nationals of countries placed in Categories A and B nevertheless to continue to file their passenger tariffs for services between the U.S. and third countries if effective price leadership opportunities for U.S. carriers are not available between the foreign carrier's home country and third countries.

Finally, third, we will amend the language of section 293.21, as suggested by ATA, to avoid any confusion on the state of federal preemption law under Title 49.

Discussion of Comments and Issues

1. Transitional Period

Most of the responses concern the length of the transitional period. Consistent with our action on our final rule exempting carriers from filing their cargo tariffs, we proposed a 90-day phase-out schedule for passenger rules tariffs. ATA, BA and ATA feel that a 90-day transitional period would be too short, and that more time is needed to revise passenger travel documents and notice procedures. ATA argues that carriers need more time to assure a smooth transition to the new regime given the longstanding requirement to file passenger tariffs and the overall complexity of the foreign air transportation environment. BA asserts that continuation of that existing regime for another 180 days would cause no harm, and would benefit both passengers and carriers by reducing the possibility that the old tariff system for filing passenger rules will expire before the new section 221.177 notice system can be fully implemented.

We feel that the concerns expressed about the need for a longer period to facilitate a smooth transition to the new regime have merit; therefore, we have no problem with extending the transition period under section 293.22 to 180 days. While we did not extend the transitional period in the case of our cargo tariff filing exemption, in this case we believe that the diverse general rules involved may make the transition process more complicated, warranting a longer transition period. This 180-day transition period will begin after issuance of the Assistant Secretary's notice setting forth the initial list of exempted markets and the descriptions of those general rules relating to conditions of carriage that are being exempted from the filing requirement.

2. ATPCO EFS Reconfiguration

ATPCO is concerned not only about the time needed to reconfigure its electronic tariff filing system but also with the associated expense. Accordingly, while it will have to continue to file tariffs in the exempted markets until it completes reprogramming to segregate exempted and non-exempted markets, ATPCO suggests that the Department desist from collecting the usual filing fees on exempted fares and rules on the grounds that DOT will not have to review the exempted matter.

With regard to ATPCO's request for relief from paying our filing fees, we will continue to collect these fees for tariffs filed during the period it needs to reprogram its electronic tariff filing system to exclude exempted material. Until the Assistent Secretary's notice becomes effective, the exemption for certain markets and fares is not in force. Further, until ATPCO completes its reprogramming, the Department will continue to receive passenger tariff filings that include both required and

exempted tariff material. Department analysts will have to continue to review each tariff filing during this period to ensure that no required tariff material is overlooked. In the short term, demands on the Department's limited resources will continue at the same level.

3. Comments on Country Categories

UAL voices concerns about the classification of certain countries. It disagrees with the tentative placement of one of the listed countries into Category A, rather than Category C, for reasons related to its alleged noncompliance with the terms of its bilateral agreement with the United States.

It appears that some commenters believe that the markets listed in the NPRM will be immediately exempted from our tariff filing requirements upon issuance of a final rule on Part 221. This is not so; these markets were included in the NPRM for illustrative purposes only based on the status of bilateral agreements and relations at that time. We would like to make it clear that a further notice from the Department is necessary before any markets are exempted from our tariff filing requirements. The final rule will merely put this mechanism into place.

We do not agree with United that it is appropriate to specify in this rule whether and when the Department may request comment on its categorization of countries or adjustments to fifth/sixth freedom filing requirements. As a general matter, the characterization of bilateral agreements and their implementation for regulatory purposes is a question of the international aviation policy judgment of the Department, and certainly that would be the case under part 293. Carriers experiencing significant bilateral problems usually keep the Department well informed of the circumstances. A case in point is the determination of ''liberal'' markets for SFFL purposes. Certainly, if a situation arises in which the Department believes that public comment would be helpful, it will provide specific notice and opportunity for comment. For this reason, we will amend subsection 293.10(c) to delete the implication of advance formal procedures for public comment.

4. Filing of Tariffs for Fifth and Sixth Freedom Markets

ATA is concerned that under the rule as proposed, foreign carriers from countries in Categories A and B could be exempt from filing fares for their fifth and sixth freedom services to and from U.S. points even though their government has not agreed bilaterally to a pricing regime which affords U.S. carriers the right to exercise price leadership on their fifth and sixth freedom services to/from that country. UAL generally supports ATA's concerns.

We find that this concern has merit. Such price leadership issues are certainly relevant to our stated category criteria. However, this is an area in which we have decided to allow for a more flexible response than that suggested by ATA. We have decided to add a new subparagraph (c) to section 293.10 of our proposal. Under that subparagraph, the Assistant Secretary may require carriers of countries placed in Categories A or B nevertheless to continue to file passenger tariffs for services they offer between the U.S. one or more third countries. In making this determination, the Assistant Secretary will take into consideration the bilateral rights or extra-bilateral opportunities of U.S. carriers to comparable price leadership initiatives, as well as their implementation by the foreign carrier's government.

Consequently, if there are countries in categories A or B that, in fact, restrict fifth and/or sixth freedom fare initiatives of U.S. carriers for services between that foreign country and a third country, we may consider either placing that country into a different category or nevertheless requiring its carriers to continue to file tariffs for their fifth and/or sixth freedom services with the Department.

Our determinations whether to apply a tariff filing requirement on foreign carriers' fifth and/or sixth freedom services will be based on the actual treatment by the foreign carrier's government of comparable U.S. carrier pricing initiatives as well as on the formal bilateral arrangements involved. The purpose of our rulemaking here is to lessen the burden of filing passenger tariffs on both carriers and the Department. ATA's proposal for a general requirement that the bilateral rights be explicit would affect a significant number of countries where we do not have formal fifth and/or sixth freedom price leadership rules in place but, nevertheless, where U.S. carriers in practice may set such prices without government interference. These additional filings would simply place an additional burden on the Department that could not be justified by the small advantage gleaned from requiring carriers from countries who do not actively regulate US carriers prices to file tariffs for their fifth and sixth freedom services.

5. Preemption

ATA requests that the word ''conflicting'' be deleted from section 293.21(c) arguing that such a qualification does not appear in the statement of federal preemption regarding the incorporation by reference of contract terms for domestic travel in 14 CFR 253.1, and that it suggests a legal standard that would be inconsistent with the settled state of the law on federal preemption under section 105(b) of the Airline Deregulation Act, now section 41713(b) of Title 49.

We will make the change that ATA recommends. It was not our intention to limit or confuse in any way the scope of preemption of state law under section 41713(b), interpreted in such cases as *Morales* v. *Trans World Airlines*, 112S. Ct. 2031 (1992), and *American Airlines* v. *Wolens*, 115S. St. 817 (1995). In both cases, the Supreme Court found that any state laws broadly ''having a connection with or reference to airline rates, routes or services'' are preempted, without the need for a ''conflict of laws'' analysis.

6. Warsaw Convention

ATA's initial comments acknowledged that the recently approved intercarrier agreements waiving Warsaw Convention passenger liability limits could require some changes to part 221, but concluded that it is premature to attempt to resolve these issues in this rulemaking proceeding. In its supplementary comments, however, ATA now requests that the Department make substantive changes to the Warsaw Convention requirements embodied in part 221. ATA's desire for a more flexible notice requirement is understandable. However, for the most part, our purpose in reissuing part 221 is to align our tariff-filing requirements with present regulatory needs and policies. We will deal with any substantive policy changes to the part 221 Warsaw notice requirements in a separate proceeding.

7. Filings as Constructive Notice

Only two carriers oppose the proposal, set out in the NPRM, to exempt all carriers from the requirement to file their general passenger conditions-of-carriage rules tariffs. Air Pacific and Qantas both argue that they rely on their filed passenger rules tariffs as a defense against various kinds of passenger claims. In our final cargo exemption rule, we addressed the issue of legal notice to consumers of contract terms, including general conditions of carriage. We concluded that the elimination of cargo rules tariffs in the context of our notice provisions would

not impose significant economic or administrative burdens on carriers or shippers, and that any changes in procedure were justified by improvements in overall consumer fairness and system efficiency[3]. Air Pacific and Qantas have failed to provide any reasons as to why passenger rules tariffs should be treated differently than cargo rules tariffs or why relying on the tariff filing mechanism for passenger notice is better than relying on normal contract law.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department has determined that this final rule is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures (44 CFR 11034–Feb. 26, 1979). The rule will reduce the paperwork and filing burden for all U.S. and foreign air carriers submitting international passenger tariffs to the Department. The Department anticipates that the final rule could save international scheduled service passenger airlines as much as $3.23 million in tariff-filing and preparation expenses, based on figures submitted to OMB under the Paperwork Reduction Act for reinstatement of the part 221 information collection. The Department does not expect there to be any additional costs associated with this rule.

Executive Order 12611

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule a will not have a significant economic impact on a substantial number of small entities, because the tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international (''foreign'') air passenger tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

[3] See 60 Fed. Reg. 61472 (November 30, 1995).

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, the reissue of part 221 eliminates any residual paper tariff format and filing procedures and replaces them with more efficient electronic filing procedures. In addition, the new part 293 exempts carriers from their statutory and regulatory duty to file international passenger tariffs in certain specific markets, subject to reimposition of this duty when required by the public interest. Thus, this rule will significantly reduce the paperwork and filing burden on government and industry, even though it does not totally eliminate information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. While not estimated, we expect that costs of governmental review, filing and archiving of paper tariff rule filing will be similarly reduced.

The reporting and recordkeeping requirement associated with this rule are being submitted to OMB for approval in accordance with The Paperwork Reduction Act of 1995 (Public Law 104–113) under OMB No. 2106–0009; Administration: Department of Transportation, TITLE: Exemption from Passenger Tariff-Filing Requirements in Certain Instances, and Mandatory Electronic Filing of Residual Passenger Tariffs; NEED FOR INFORMATION: Exempts carriers from their statutory and regulatory duty to file international passenger tariffs in certain specific markets, subject to reimposition of this duty when required by the public interest, and eliminates residual paper tariff format and filing procedures, replacing them with more efficient electronic filing procedures; PROPOSED USE OF INFORMATION: Exemption is based on evolution in regulatory circumstances, while elimination of residual paper tariff filing procedures is based on the need to extend the efficiencies of electronic data transmission and processing to the filing of all passenger tariffs; FREQUENCY: An initial passenger tariff rule filing is required of each respondent; changes are voluntary, whenever an air carrier elects.

Estimated Total Annual Burden Under Proposal: 650,000 hours;

Respondents: 230; FORM(S) 13,340 electronic filings or applications per annum;

Average Burden Hours Per Respondent: 2,826 hours.

For further information on paperwork reduction contact: The Special Authorities Requirements Division, X–57, Office of the Secretary of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–4534 or DOT Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503.

Any comments regarding the burden estimate or any aspect of these information requirements, including suggestions for reducing the burden, may be sent to: Director, Office of International Aviation, (X–40), U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Room 6402, Washington, DC 20090–0001 as well as the above contact.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

An electronic version of the document is available on the World Wide Web at ''http://dms.dot.gov//reports/reports—aviation.asp''.

List of Subjects

14 CFR Part 221

Air rates and fares, Agents, Reporting and recordkeeping requirements.

14 CFR Part 250

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

14 CFR Part 293

Air carriers, Airrates and fares, Air transportation, Reporting and recordkeeping requirements.

The final rule revisions and new parts 221 and 293 are being issued under the authority contained in 49 CFR 1.56(h)(2). For the reasons set forth herein, 14 CFR Chapter II is amended as follows:

1. Part 221 is revised to read as follows:

PART 221—TARIFFS

Subpart A—General

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221.1 Applicability of this part.
221.2 Carrier's duty.
221.3 Definitions.
221.4 English language.
221.5 Unauthorized air transportation.

Subpart B—Who Is Authorized to Issue and File Tariffs

221.10 Carrier.
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Subpart C—Specifications of Tariff Publications

221.20 Specifications applicable to tariff publications.

Subpart D—Manner of Filing Tariffs

221.30 Passenger fares and charges.
221.31 Rules and regulations governing passenger fares and services.

Subpart E—Contents of Tariff

221.40 Specific requirements.
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Subpart F—Requirements Applicable to all Statements of Fares and Charges

221.50 Currency.
221.51 Territorial application.
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221.53 Proportional fares.
221.54 Fares stated in percentages of other fares; other relationships prohibited.
221.55 Conflicting or duplicating fares prohibited.
221.56 Applicable fare when no through local or joint fares.

Subpart G—Governing Tariffs

221.60 When reference to governing tariffs permitted.
221.61 Rules and regulations governing foreign air transportation.
221.62 Explosives and other dangerous or restricted articles.
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Subpart H—Amendment of Tariffs

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221.71 Requirement of clarity and specificity.
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Subpart I—Suspension of Tariff Provisions by Department

221.80 Effect of suspension by Department.
221.81 Suspension supplement.
221.82 Reissue of matter continued in effect by suspension to be canceled upon termination of suspension.
221.83 Tariff must be amended to make suspended matter effective.
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Subpart J—Filing Tariff Publications With Department

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221.103 Notice of tariff terms.
221.105 Special notice of limited liability for death or injury under the Warsaw Convention.
221.106 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.
221.107 Notice of contract terms.
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Subpart L—Rejection of Tariff Publications

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221.111 Notification of rejection.
221.112 Rejected tariff is void and must not be used.

Subpart M—Special Tariff Permission to File on Less Than Statutory Notice

221.120 Grounds for approving or denying Special Tariff Permission applications.
221.121 How to prepare and file applications for Special Tariff Permission.
221.122 Special Tariff Permission to be used in its entirety as granted.
221.123 Re-use of Special Tariff Permission when tariff is rejected.

Subpart N—Waiver of Tariff Regulations

221.130 Applications for waiver of tariff regulations.
221.131 Form of application for waivers.

Subpart O—Giving and Revoking Concurrences to Carriers

221.140 Method of giving concurrence.
221.141 Method of revoking concurrence.
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Subpart P—Giving and Revoking Powers of Attorney to Agents

221.150 Method of giving power of attorney.
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Subpart Q—Adoption Publications Required to Show Change in Carrier's Name or Transfer of Operating Control

221.160 Adoption notice.
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221.190 Time for filing and computation of time periods.
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221.204 Adoption of provisions of one carrier by another carrier.
221.205 Justification and explanation for certain fares.
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221.210 Suspension of tariffs.
221.211 Cancellation of suspended matter.
221.212 Special tariff permission.
221.300 Discontinuation of electronic tariff system.
221.400 Filing of paper tariffs required.
221.500 Transmission of electronic tariffs to subscribers.
221.550 Copies of tariffs made from filer's printer(s) located in Department's public reference room.
221.600 Actions under assigned authority and petitions for review of staff action.

Authority: 49 U.S.C. 40101, 40109, 40113, 46101, 46102, chapter 411, chapter 413, chapter 415 and chapter 417, subchapter I.

Subpart A—General

§ 221.1 Applicability of this part.

All tariffs and amendments to tariffs of air carriers and foreign air carriers filed with the Department pursuant to chapter 415 of the statute shall be constructed, published, filed, posted and kept open for public inspection in accordance with the regulations in this part and orders of the Department.

§ 221.2 Carrier's duty.

(a) *Must file tariffs.* (1) Except as provided in paragraph (d) of this section, every air carrier and every foreign air carrier shall file with the Department, and provide and keep open to public inspection, tariffs showing all fares, and charges for foreign air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier, when through service and through rates shall have been established, and showing to the extent required by regulations and orders of the Department, all classifications, rules, regulations, practices, and services in connection with such foreign air transportation.

(2) Tariffs shall be filed, and provided in such form and manner, and shall contain such information as the Department shall by regulation or order prescribe. Any tariff so filed which is not consistent with chapter 415 of the statute and such regulations and orders may be rejected. Any tariff so rejected shall be void, and may not be used.

(b) *Must observe tariffs.* No air carrier or foreign air carrier shall charge or demand or collect or receive a greater or less or different compensation for

foreign air transportation or for any service in connection therewith, than the fares and charges specified in its currently effective tariffs; and no air carrier or foreign air carrier shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Department to be specified in such tariffs, except those specified in such tariffs.

(c) *No relief from violations.* Nothing contained in this part shall be construed as relieving any air carrier or foreign air carrier from liability for violations of the statute, nor shall the filing of a tariff, or amendment thereto, relieve any air carrier or foreign air carrier from such violations or from violations of regulations issued under the statute.

(d) *Exemption authority.* Air carriers and foreign air carriers, both direct and indirect, are exempted from the requirement of section 41504 of the statute and any requirement of this chapter to file, and shall not file with the Department, tariffs for operations under the following provisions:

(1) Part 291, Domestic Cargo Transportation;

(2) Part 296, Indirect Air Transportation of Property;

(3) Part 297, Foreign Air Freight Forwarders and Foreign Cooperative Shippers Association;

(4) Part 298, Exemption for Air Taxi Operations, except to the extent noted in § 298.11(b);

(5) Part 380, Public Charters;

(6) Part 207, Charter Trips and Special Services;

(7) Part 208, Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation;

(8) Part 212, Charter Trips by Foreign Air Carriers;

(9) Part 292, International Cargo Transportation, except as provided in part 292.

(10) Part 293 International Passenger Transportation, except as provided in part 293.

§ 221.3 Definitions.

As used in this part, terms shall be defined as follows:

Add-on means an amount published for use only in combination with other fares for the construction of through fares. It is also referred to as ''proportional fare'' and ''arbitrary fare''.

Add-on tariff means a tariff which contains add-on fares.

Area No. 1 means all of the North and South American Continents and the islands adjacent thereto; Greenland; Bermuda; the West Indies and the islands of the Caribbean Sea; and the Hawaiian Islands (including Midway and Palmyra).

Area No. 2 means all of Europe (including that part of the former Union of the Soviet Socialist Republics in Europe) and the islands adjacent thereto; Iceland; the Azores; all of Africa and the islands adjacent thereto; Ascension Island; and that part of Asia lying west of and including Iran.

Area No. 3 means all of Asia and the islands adjacent thereto except that portion included in Area No. 2; all of the East Indies, Australia, New Zealand, and the islands adjacent thereto; and the islands of the Pacific Ocean except those included in Area No. 1.

Bundled normal economy fare means the lowest one-way fare available for unrestricted, on-demand service in any city-pair market.

CRT means a video display terminal that uses a cathode ray tube as the image medium.

Capacity controlled fare means a fare for which a carrier limits the number of seats available for sale.

Carrier means an air carrier or foreign air carrier subject to section 41504 of 49 U.S.C. subtitle VII.

Charge means the amount charged for baggage, in excess of the free allowance, accompanying or checked by a passenger or for any other service ancillary to the passenger's carriage.

Conditions of carriage means those rules of general applicability that define the rights and obligations of the carrier(s) and any other party to the contract of carriage with respect to the transportation services provided.

Contract of carriage means those fares, rules, and other provisions applicable to the foreign air transportation of passengers or their baggage, as defined in the statute.

Department means the Department of Transportation.

Direct-service market means an international market where the carrier provides service either on a nonstop or single-flight-number basis, including change-of-gauge.

Electronic tariff means an international passenger fares or rules tariff or a special tariff permission application transmitted to the Department by means of an electronic medium, and containing fares for the transportation of persons and their baggage, and including such associated data as arbitraries, footnotes, routings, and fare class explanations.

Fare means the amount per passenger or group of persons stated in the applicable tariff for the air transportation thereof and includes baggage unless the context otherwise requires.

Field means a specific area of a record used for a particular category of data.

Filer means an air carrier, foreign air carrier, or tariff publishing agent of such a carrier filing tariffs on its behalf in conformity with this subpart.

Item means a small subdivision of a tariff and identified by a number, a letter, or other definite method for the purpose of facilitating reference and amendment.

Joint fare means a fare that applies to transportation over the joint lines or routes of two or more carriers and which is made and published by arrangement or agreement between such carriers evidenced by concurrence or power of attorney.

Joint tariff means a tariff that contains joint fares.

Local fare means a fare that applies to transportation over the lines or routes of one carrier only.

Local tariff means a tariff that contains local fares.

Machine-readable data means encoded computer data, normally in a binary format, which can be read electronically by another computer with the requisite software without any human interpretation.

On-line tariff database means the remotely accessible, on-line version, maintained by the filer, of:

(1) The electronically filed tariff data submitted to the Department pursuant to this part and Department orders, and

(2) The Departmental approvals, disapprovals, and other actions, as well as any Departmental notation concerning such approvals, disapprovals, or other actions, that subpart R of this part requires the filer to maintain in its database.

Original tariff refers to the tariff as it was originally filed exclusive of any supplements, revised records or additional records.

Passenger means any person who purchases, or who contacts a ticket office or travel agent for the purpose of purchasing, or considering the purchase of, foreign air transportation.

Passenger tariff means a tariff containing fares, charges, or governing provisions applicable to the foreign air transportation of persons and their baggage.

Publish means to display tariff material in either electronic or paper media.

Record means an electronic tariff data set that contains information describing one (1) tariff price or charge, or information describing one (1) related element associated with that tariff price or charge.

SFFL means the Standard Foreign Fare Level as established by the Department of Transportation under 49 U.S.C. 41509.

Statute means subtitle VII of Title 49, United States Code.

Statutory notice means the number of days required for tariff filings in § 221.160(a).

Tariff publication means a tariff, a supplement to a tariff, or an original or revised record of a tariff, including an index of tariffs and an adoption notice (§ 221.161).

Through fare means the total fare from point of origin to destination. It may be a local fare, a joint fare, or combination of separately established fares.

Ticket office means a station, office or other location where tickets are sold or similar documents are issued, that is under the charge of a person employed exclusively by the carrier, or by it jointly with another person.

Unbundled normal economy fare means the lowest one-way fare available for on-demand service in any city-pair market which is restricted in some way, *e.g.*, by limits set and/or charges imposed for enroute stopovers or transfers, exclusive of capacity control.

United States means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the Territorial waters and the overlying air space thereof.

Warsaw Convention means the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000.

§ 221.4 English language.

All tariffs and other documents and material filed with the Department pursuant to this part shall be in the English language.

§ 221.5 Unauthorized air transportation.

Tariff publications shall not contain fares or charges, or their governing provisions, applicable to foreign air transportation which the issuing or participating carriers are not authorized by the Department to perform, except where the Department expressly requests or authorizes tariff publications to be filed prior to the Department's granting authority to perform the foreign air transportation covered by such tariff publications. Any tariff publication filed pursuant to such express request or authorization which is not consistent with chapter 415 and this part may be rejected; any tariff publication so rejected shall be void.

Subpart B—Who is Authorized To Issue and File Tariffs

§ 221.10 Carrier.

(a) *Local or joint tariffs.* A carrier may issue and file, in its own name, tariff publications which contain:

(1) Local fares of such carrier only, and provisions governing such local fares, and/or

(2) Joint fares which apply jointly via such issuing carrier in connection with other carriers (participating in the tariff publications under authority of their concurrences given to the issuing carrier as provided in § 221.140) and provisions governing such joint fares. Provisions for account of an individual participating carrier may be published to govern such joint fares provided § 221.40(a)(9) is complied with. A carrier shall not issue and file tariff publications containing local fares of other carriers, joint rates or fares in which the issuing carrier does not participate, or provisions governing such local or joint fares.

(3) Rules and regulations governing foreign air transportation to the extent provided by this part and/or Department order. Rules and regulations may be published in separate governing tariffs, as provided in subpart G.

(b) *Issuing officer.* An officer or designated employee of the issuing carrier shall be shown as the issuing officer of a tariff publication issued by a carrier, and such issuing officer shall file the tariff publication with the Department on behalf of the issuing carrier and all carriers participating in the tariff publication.

§ 221.11 Agent.

An agent may issue and file, in his or its own name, tariff publications naming local fares and/or joint fares, and provisions governing such fares, and rules and regulations governing foreign air transportation to the extent provided by this part and/or Department order, for account of carriers participating in such tariff publications, under authority of their powers of attorney given to such issuing agent as provided in § 221.150. The issuing agent shall file such tariff publications with the Department on behalf of all carriers participating therein. Only one issuing agent may act in issuing and filing each such tariff publication.

Subpart C—Specifications of Tariff Publications

§ 221.20 Specifications applicable to tariff publications.

(a) *Numerical order.* All items in a tariff shall be arranged in numerical or alphabetical order. Each item shall bear a separate item designation and the same designation shall not be assigned to more than one item.

(b) *Carrier's name.* Wherever the name of a carrier appears in a tariff publication, such name shall be shown in full exactly as it appears in the carrier's certificate of public convenience and necessity, foreign air carrier permit, letter of registration, or whatever other form of operating authority of the Department to engage in air transportation is held by the carrier, or such other name which has specifically been authorized by order of the Department. A carrier's name may be abbreviated, provided the abbreviation is explained in the tariff.

(c) *Agent's name and title.* Wherever the name of an agent appears in tariff publications, such name shall be shown in full exactly as it appears in the powers of attorney given to such agent by the participating carriers and the title ''Agent'' or ''Alternate Agent'' (as the case may be) shall be shown immediately in connection with the name.

(d) *Statement of prices.* All fares and charges shall be clearly and explicitly stated and shall be arranged in a simple and systematic manner. Complicated plans and ambiguous or indefinite terms shall not be used. So far as practicable, the fares and charges shall be subdivided into items or similar units, and an identifying number shall be assigned to each item or unit to facilitate reference thereto.

(e) *Statement of rules.* The rules and regulations of each tariff shall be clear, explicit and definite, and except as otherwise provided in this part, shall contain:

(1) Such explanatory statements regarding the fares, charges, rules or other provisions contained in the tariff as may be necessary to remove all doubt as to their application.

(2) All of the terms, conditions, or other provisions which affect the fares or charges for air transportation named in the tariff.

(3) All provisions and charges which in any way increase or decrease the amount to be paid by any passenger, or which in any way increase or decrease the value of the services rendered to the passenger.

(f) *Separate rules tariff.* If desired, rules and regulations may be published in separate governing tariffs to the extent authorized and in the manner required by subpart G.

(g) *Rules of limited application.* A rule affecting only a particular fare or other provision in the tariff shall be specifically referred to in connection

with such fare or other provision, and such rule shall indicate that it is applicable only in connection with such fare or other provision. Such rule shall not be published in a separate governing rules tariff.

(h) *Conflicting or duplicating rules prohibited.* The publication of rules or regulations which duplicate or conflict with other rules or regulations published in the same or any other tariff for account of the same carrier or carriers and applicable to or in connection with the same transportation is prohibited.

(i) Each tariff shall include:

(1) A prominent D.O.T. or other number identifying the tariff in the sequence of tariffs published by the carrier or issuing agent;

(2) The name of the issuing carrier or agent;

(3) The cancellation of any tariffs superseded by the tariff;

(4) A description of the tariff contents, including geographic coverage;

(5) Identification by number of any governing tariffs;

(6) The date on which the tariff is issued;

(7) The date on which the tariff provisions will become effective; and

(8) the expiration date, if applicable to the entire tariff.

Subpart D—Manner of Filing Tariffs

§ 221.30 Passenger fares and charges.

(a) Fares tariffs, including associated data, shall be filed electronically in conformity with subpart R. Associated data includes arbitraries, footnotes, routing numbers and fare class explanations. See § 221.202(b)(8).

(b) Upon application by a carrier, the Department's Office of International Aviation shall have the authority to waive the electronic filing requirement in this paragraph and in Subpart R in whole or in part, for a period up to one year, and to permit, under such terms and conditions as may be necessary to carry out the purposes of this part, the applicant carrier to file fare tariffs in a paper format. Such waivers shall only be considered where electronic filing, compared to paper filing, is impractical and will produce a significant economic hardship for the carrier due to the limited nature of the carrier's operations subject to the requirements of this part, or other unusual circumstances. Paper filings pursuant to this paragraph shall normally conform to the requirements of § 221.195 and other applicable requirements of this part.

§ 221.31 Rules and regulations governing passenger fares and services.

(a) Tariff rules and regulations governing passenger fares and services other than those subject to § 221.30 may be filed electronically in conformity with subpart R. Such filings shall conform to criteria approved by the Department's Office of International Aviation as provided in § 221.180 and shall contain at a minimum the information required by § 221.202(b)(9).

(b) Applications for special tariff permission may be filed electronically, as provided in § 221.212.

(c) Tariff publications and applications for special tariff permission covered by paragraphs (a) and (b) of this section may be filed in a paper format, subject to the requirements of this part and Department orders.

Subpart E—Contents of Tariff

§ 221.40 Specific requirements.

(a) In addition to the general requirements in § 221.20, the rules and regulations of each tariff shall contain:

(1) *Aircraft and seating.* For individually ticketed passenger service, the name of each type of aircraft used in rendering such service by manufacturer model designation and a description of the seating configuration (or configurations if there are variations) of each type of aircraft. Where fares are provided for different classes or types of passenger service (that is, first class, coach, day coach, night coach, tourist, economy or whatever other class or type of service is provided under the tariff), the tariff shall specify the type of aircraft and the seating configuration used on such aircraft for each class or type of passenger service. When two or more classes or types of passenger service are performed in a single aircraft, the seating configuration for each type or class shall be stated and described.

(2) *Rule numbers.* Each rule or regulation shall have a separate designation. The same designation shall not be assigned to more than one rule in the tariff.

(3) *Penalties.* Where a rule provides a charge in the nature of a penalty, the rule shall state the exact conditions under which such charge will be imposed.

(4) *Vague or indefinite provisions.* Rules and regulations shall not contain indefinite statements to the effect that traffic of any nature will be ''taken only by special arrangements'', or that services will be performed or penalties imposed ''at carrier's option'', or that the carrier ''reserves the right'' to act or to refrain from acting in a specified manner, or other provisions of like import; instead, the rules shall state definitely what the carrier will or will not do under the exact conditions stated in the rules.

(5) *Personal liability rules.* Except as provided in this part, no provision of the Department's regulations issued under this part or elsewhere shall be construed to require the filing of any tariff rules stating any limitation on, or condition relating to, the carrier's liability for personal injury or death. No subsequent regulation issued by the Department shall be construed to supersede or modify this rule of construction except to the extent that such regulation shall do so in express terms.

(6) *Notice of limitation of liability for death or injury under the Warsaw Convention.* Notwithstanding the provisions of paragraph (a)(5) of this section, each air carrier and foreign air carrier shall publish in its tariffs a provision stating whether it avails itself of the limitation on liability to passengers as provided in Article 22(1) of the Warsaw Convention or whether it has elected to agree to a higher limit of liability by a tariff provision. Unless the carrier elects to assume unlimited liability, its tariffs shall contain a statement as to the applicability and effect of the Warsaw Convention, including the amount of the liability limit in dollars. Where applicable, a statement advising passengers of the amount of any higher limit of liability assumed by the carrier shall be added.

(7) *Extension of credit.* Air carriers and foreign air carriers shall not file tariffs that set forth charges, rules, regulations, or practices relating to the extension of credit for payment of charges applicable to air transportation.

(8) *Individual carrier provisions governing joint fares.* Provisions governing joint fares may be published for account of an individual carrier participating in such joint fares provided that the tariff clearly indicates how such individual carrier's provisions apply to the through transportation over the applicable joint routes comprised of such carrier and other carriers who either do not maintain such provisions or who maintain different provisions on the same subject matter.

(9) *Passenger property which cannot lawfully be carried in the aircraft cabin.* Each air carrier shall set forth in its tariffs governing the transportation of persons, including passengers' baggage, charges, rules, and regulations providing that such air carrier receiving as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by

such person in the aircraft cabin by reason of any Federal law or regulation, shall assume liability to such person, at a reasonable charge and subject to reasonable terms and conditions, within the amount declared to the air carrier by such person, for the full actual loss or damage to such property caused by such air carrier.

(b) [Reserved]

§ 221.41 Routing.

(a) *Required routing.* The route or routes over which each fare applies shall be stated in the tariff in such manner that the following information can be definitely ascertained from the tariff:

(1) The carrier or carriers performing the transportation,

(2) The point or points of interchange between carriers if the route is a joint route (via two or more carriers),

(3) The intermediate points served on the carrier's or carriers' routes applicable between the origin and destination of the fare and the order in which such intermediate points are served.

(b) *Individually stated routings—Method of publication.* The routing required by paragraph (a) of this section shall be shown directly in connection with each fare or charge for transportation, or in a routing portion of the tariff (following the fare portion of the tariff), or in a governing routing tariff. When shown in the routing portion of the tariff or in a governing routing tariff, the fare from each point of origin to each point of destination shall bear a routing number and the corresponding routing numbers with their respective explanations of the applicable routings shall be arranged in numerical order in the routing portion of the tariff or in the governing routing tariff.

Subpart F—Requirements Applicable to All Statements of Fares and Charges

§ 221.50 Currency.

(a) *Statement in United States currency required.* All fares and charges shall be stated in cents or dollars of the United States except as provided in paragraph (b) of this section.

(b) *Statements in both United States and foreign currencies permitted.* Fares and charges applying between points in the United States, on the one hand, and points in foreign countries, on the other hand, or applying between points in foreign countries, may also be stated in the currencies of foreign countries in addition to being stated in United States currency as required by paragraph (a) of this section: Provided, that:

(1) The fares and charges stated in currencies of countries other than the United States are substantially equivalent in value to the respective fares and charges stated in cents or dollars of the United States.

(2) Each record containing fares and charges shall clearly indicate the respective currencies in which the fares and charges thereon are stated, and

(3) The fares and charges stated in cents or dollars of the United States are published separately from those stated in currencies of other countries. This shall be done in a systematic manner and the fares and charges in the respective currencies shall be published in separate records.

§ 221.51 Territorial application.

(a) *Specific points of origin and destination.* Except as otherwise provided in this part, the specific points of origin and destination from and to which the fares apply shall be specifically named directly in connection with the respective fares.

(b) *Directional application.* A tariff shall specifically indicate directly in connection with the fares therein whether they apply ''from'' and ''to'' or ''between'' the points named. Where the fares apply in one direction, the terms ''From'' and ''To'' shall be shown in connection with the point of origin and point of destination, respectively, and, where the fares apply in both directions between the points, the terms ''Between'' and ''And'' shall be shown in connection with the respective points.

§ 221.52 Airport to airport application, accessorial services.

Tariffs shall specify whether or not the fares therein include services in addition to airport-to-airport transportation.

§ 221.53 Proportional fares.

(a) *Definite application.* Add-on fares shall be specifically designated as ''add-on'' fares on each page where they appear.

(b) A tariff may provide that fares from (or to) particular points shall be determined by the addition of add-ons to, or the deduction of add-ons from, fares therein which apply from (or to) a base point. Provisions for the addition or deduction of such add-ons shall be shown either directly in connection with the fare applying to or from the base point or in a separate provision which shall specifically name the base point. The tariff shall clearly and definitely state the manner in which such add-ons shall be applied.

(c) *Restrictions upon beyond points or connecting carriers.* If an add-on fare is intended for use only on traffic originating at and/or destined to particular beyond points or is to apply only in connection with particular connecting carriers, such application shall be clearly and explicitly stated directly in connection with such add-on fare.

§ 221.54 Fares stated in percentages of other fares; other relationships prohibited.

(a) Fares for foreign air transportation of persons or property shall not be stated in the form of percentages, multiples, fractions, or other relationships to other fares except to the extent authorized in paragraphs (b), (c), and (d) of this section with respect to passenger fares and baggage charges.

(b) A basis of fares for refund purposes may be stated, by rule, in the form of percentages of other fares.

(c) Transportation rates for the portion of passengers' baggage in excess of the baggage allowance under the applicable fares may be stated, by rule, as percentages of fares.

(d) Children's, infants' and senior citizen's fares, may be stated, by rule, as percentages of other fares published specifically in dollars and cents (hereinafter referred to as base fares): Provided, that:

(1) Fares stated as percentages of base fares shall apply from and to the same points, via the same routes, and for the same class of service and same type of aircraft to which the applicable base fares apply, and shall apply to all such base fares in a fares tariff.

(2) Fares shall not be stated as percentages of base fares for the purpose of establishing fares applying from and to points, or via routes, or on types of aircraft, or for classes of service different from the points, routes, types of aircraft, or classes of service to which the base fares are applicable.

§ 221.55 Conflicting or duplicating fares prohibited.

The publication of fares or charges of a carrier which duplicate or conflict with the fares of the same carrier published in the same or any other tariff for application over the same route or routes is hereby prohibited.

§ 221.56 Applicable fare when no through local or joint fares.

Where no applicable local or joint fare is provided from point of origin to point of destination over the route of movement, whichever combination of applicable fares provided over the route of movement produces the lowest charge shall be applicable, except that a carrier may provide explicitly that a fare cannot be used in any combination or in a combination on particular traffic or

under specified conditions, provided another combination is available.

Subpart G—Governing Tariffs

§ 221.60 When reference to governing tariffs permitted.

(a) *Reference to other tariffs prohibited except as authorized.* A tariff shall not refer to nor provide that it is governed by any other tariff, document, or publication, or any part thereof, except as specifically authorized by this part.

(b) *Reference by fare tariff to governing tariffs.* A fare tariff may be made subject to a governing tariff or governing tariffs authorized by this subpart: Provided, that reference to such governing tariffs is published in the fare tariff in the manner required by § 221.20(h).

(c) *Participation in governing tariffs.* A fare tariff may refer to a separate governing tariff authorized by this subpart only when all carriers participating in such fare tariff are also shown as participating carriers in the governing tariff: Provided, that:

(1) If such reference to a separate governing tariff does not apply for account of all participating carriers and is restricted to apply only in connection with local or joint fares applying over routes consisting of only particular carriers, only the carriers for whom such reference is published are required to be shown as participating carriers in the governing tariff to which such qualified reference is made.

(2) [Reserved]

(d) *Maximum number of governing tariffs.* A single fare tariff shall not make reference to conflicting governing tariffs.

§ 221.61 Rules and regulations governing foreign air transportation.

Instead of being included in the fares tariffs, the rules and regulations governing foreign air transportation required to be filed by §§ 221.20 and 221.30 and/or Department order which do not govern the applicability of particular fares may be filed in separate governing tariffs, conforming to this subpart. Governing rules tariffs shall contain an index of rules.

§ 221.62 Explosives and other dangerous or restricted articles.

Carriers may publish rules and regulations governing the transportation of explosives and other dangerous or restricted articles in separate governing tariffs, conforming to this subpart, instead of being included in the fares tariffs or in the governing rules tariff authorized by § 221.61. This separate governing tariff shall contain no other rules or governing provisions.

§ 221.63 Other types of governing tariffs.

Subject to approval of the Department, carriers may publish other types of governing tariffs not specified in this subpart, such as routing guides.

Subpart H—Amendment of Tariffs

§ 221.70 Who may amend tariffs.

A tariff shall be amended only by the carrier or agent who issued the tariff (except as otherwise authorized in subparts P and Q).

§ 221.71 Requirement of clarity and specificity.

Amendments to tariffs shall identify with specificity and clarity the material being amended and the changes being made. Amendments to paper tariffs shall be accomplished by reissuing each page upon which a change occurs with the change made and identified by uniform amendment symbols. Each revised page shall identify and cancel the previously effective page, show the effective date of the previous page, and show the intended effective date of the revised page. Amendments in electronic format shall conform to the requirements of § 221.202 and other applicable provisions of subpart R.

§ 221.72 Reinstating canceled or expired tariff provisions.

Any fares, rules, or other tariff provisions which have been canceled or which have expired may be reinstated only by republishing such provisions and posting and filing the tariff publications (containing such republished provisions) on lawful notice in the form and manner required by this part.

Subpart I—Suspension of Tariff Provisions by Department

§ 221.80 Effect of suspension by Department.

(a) *Suspended matter not to be used.* A fare, charge, or other tariff provision which is suspended by the Department, under authority of chapter 415 of the statute, shall not be used during the period of suspension specified by the Department's order.

(b) *Suspended matter not to be changed.* A fare, charge, or other tariff provision which is suspended by the Department shall not be changed in any respect or withdrawn or the effective date thereof further deferred except by authority of an order or special tariff permission of the Department.

(c) *Suspension continues former matter in effect.* If a tariff publication containing matter suspended by the Department directs the cancellation of a tariff or any portion thereof, which contains fares, charges, or other tariff provisions sought to be amended by the suspended matter, such cancellation is automatically suspended for the same period insofar as it purports to cancel any tariff provisions sought to be amended by the suspended matter.

(d) *Matter continued in effect not to be changed.* A fare, charge, or other tariff provision which is continued in effect as a result of a suspension by the Department shall not be changed during the period of suspension unless the change is authorized by order or special tariff permission of the Department, except that such matter may be reissued without change during the period of suspension.

§ 221.81 Suspension supplement.

(a) *Suspension supplement.* Upon receipt of an order of the Department suspending any tariff publication in part or in its entirety, the carrier or agent who issued such tariff publication shall immediately issue and file with the Department a consecutively numbered supplement for the purpose of announcing such suspension.

(b) The suspension supplement shall not contain an effective date and it shall contain the suspension notice required by paragraph (c) of this section.

(c) *Suspension notice.* The suspension supplement shall contain a prominent notice of suspension which shall:

(1) Indicate what particular fares, charges, or other tariff provisions are under suspension,

(2) State the date to which such tariff matter is suspended,

(3) State the Department's docket number and order number which suspended such tariff matter, and

(4) Give specific reference to the tariffs (specifying their D.O.T. or other identifying numbers), original or revised records and paragraphs or provisions which contain the fares, charges, or other tariff provisions continued in effect.

§ 221.82 Reissue of matter continued in effect by suspension to be canceled upon termination of suspension.

When tariff provisions continued in effect by a suspension are reissued during the period of such suspension, the termination of the suspension and the coming into effect of the suspended matter will not accomplish the cancellation of such reissued matter. In such circumstances, prompt action shall be taken by the issuing agent or carrier to cancel such reissued provisions upon the termination of the suspension in order that they will not conflict with the provisions formerly under suspension.

§ 221.83 Tariff must be amended to make suspended matter effective.

(a) When the Department vacates an order which suspended certain tariff matter in full or in part, such matter will not become effective until the termination of the suspension period unless the issuing agent or carrier amends the pertinent tariffs in the manner prescribed in this subpart (except as provided in paragraph (b) of this section).

(b) If the Department vacates its suspension order prior to the original published effective date of the tariff provisions whose suspension is vacated, such provisions will become effective on their published effective date.

§ 221.84 Cancellation of suspended matter subsequent to date to which suspended.

(a) *Endeavor to cancel prior to expiration of suspension period.* When an order of the Department requires the cancellation of tariff provisions which were suspended by the Department and such cancellation is required to be made effective on or before a date which is after the date to which such tariff provisions were suspended, the issuing carrier or agent shall, if possible, make the cancellation effective prior to the date to which such tariff provisions were suspended.

(b) *When necessary to republish matter continued in effect by suspension.* If suspended tariff provisions become effective upon expiration of their suspension period and thereby accomplish the cancellation of the tariff provisions continued in effect by the suspension, the issuing agent or carrier shall republish and reestablish such canceled tariff provisions effective simultaneously with the cancellation of the suspended provisions in compliance with the Department's order. The tariff amendments which reestablish such canceled tariff provisions shall bear reference to this subpart and the Department's order.

Subpart J—Filing Tariff Publications With Department

§ 221.90 Required notice.

(a) *Statutory notice required.* Unless otherwise authorized by the Department or specified in a bilateral agreement between the United States and a foreign country, all tariff filings shall be made on the following schedule, whether or not they effect any changes:

(1) At least 30 days before they are to become effective, for tariffs stating a passenger fare within the zone created by section 41509(e) of the statute or stating a rule that affects only such a fare;

(2) At least 25 days before they are to become effective, for matching tariffs that are to become effective on the same date as the tariff to be matched and that meet competition as described in § 221.94(c)(1)(v); and

(3) At least 60 days before they are to become effective, for all other tariffs.

(b) *Computing number of days' notice.* A tariff publication shall be deemed to be filed only upon its actual receipt by the Department, and the first day of any required period of notice shall be the day of actual receipt by the Department.

(c) *Issued date.* All tariff publications must be received by the Department on or before the designated issued date.

§ 221.91 Delivering tariff publications to Department.

Tariff publications will be received for filing only by delivery thereof to the Department electronically, through normal mail channels, or by delivery thereof during established business hours directly to that office of the Department charged with the responsibility of processing tariffs. No tariff publication will be accepted by the Department unless it is delivered free from all charges, including claims for postage.

§ 221.92 Number of copies required.

Two copies of each paper tariff, tariff revision and adoption notice to be filed shall be sent to the Office of International Aviation, Department of Transportation, Washington, DC 20428. All such copies shall be included in one package and shall be accompanied by a letter of tariff transmittal.

§ 221.93 Concurrences or powers of attorney not previously filed to accompany tariff transmittal.

When a tariff is filed on behalf of a carrier participating therein under authority of its concurrence or power of attorney, such concurrence or power of attorney shall, if not previously filed with the Department, be transmitted at the same time such tariff is submitted for filing.

§ 221.94 Explanation and data supporting tariff changes and new matter in tariffs.

When a tariff is filed with the Department which contains new or changed local or joint fares or charges for foreign air transportation, or new or changed classifications, rules, regulations, or practices affecting such fares or charges, or the value of the service thereunder, the issuing air carrier, foreign air carrier, or agent shall submit with the filing of such tariff:

(a) An explanation of the new or changed matter and the reasons for the filing, including (if applicable) the basis of rate making employed. Where a tariff is filed pursuant to an intercarrier agreement approved by the Department, the explanation shall identify such agreement by DOT Docket number, DOT order of approval number, IATA resolution number, or if none is designated, then by other definite identification. Where a tariff is filed on behalf of a foreign air carrier pursuant to a Government order, a copy of such order shall be submitted with the tariff.

(b) Appropriate Economic data and/or information in support of the new or changed matter.

(c) Exceptions

(1) The requirement for data and/or information in paragraph (b) of this section will not apply to tariff publications containing new or changed matter which are filed:

(i) In response to Department orders or specific policy pronouncements of the Department directly related to such new or changed matter;

(ii) Pursuant to an intercarrier agreement approved by the Department setting forth the fares, charges (or specific formulas therefor) or other matter: Provided that the changes are submitted with the number of the DOT order of approval and fully comply with any conditions set forth in that order;

(iii) To the extent fares for scheduled passenger service are within a statutory or Department-established zone of fare flexibility; and

(iv) To meet competition: Provided, that

(A) Changed matter will be deemed to have been filed to meet competition only when it effects decreases in fares or charges and/or increases the value of service so that the level of the fares or charges and the services provided will be substantially similar to the level of fares or charges and the services of a competing carrier or carriers.

(B) New matter will be deemed to have been filed to meet competition only when it establishes or affects a fare or charge and a service which will be substantially similar to the fares or charges and the services of a competing carrier or carriers.

(C) When new or changed matter is filed to meet competition over a portion of the filing air carrier's system and is simultaneously made applicable to the balance of the system, such matter, insofar as it applies over the balance of the system, will be deemed to be within the exception in this paragraph (c)(1)(iv) of this section only if such carrier submits an explanation as to the necessity of maintaining uniformity over its entire system with respect to such new or changed matter.

(D) In any case where new or changed matter is filed to meet competition, the filing carrier or agent must supply, as part of the filing justification, the complete tariff references which will serve to identify the competing tariff matter which the tariff purports to meet. In such case the justification or attachment shall state whether the new or changed matter is identical to the competing tariff matter which it purports to meet or whether it approximates the competing tariff matter. If the new or changed matter is not identical, the transmittal letter or attachment shall contain a statement explaining, in reasonable detail, the basis for concluding that the tariff publication being filed is substantially similar to the competing tariff matter.

(2) [Reserved]

Subpart K—Availability of Tariff Publications for Public Inspection

§ 221.100 Public notice of tariff information.

Carriers must make tariff information available to the general public, and in so doing must comply with either:

(a) Sections 221.101, 221.102, 221.103, 221.104, 221.105, and 221.106, or

(b) Sections 221.105, 221.106 and 221.107 of this subpart.

§ 221.101 Inspection at stations, offices, or locations other than principal or general office.

(a) Each carrier shall make available for public inspection at each of its stations, offices, or other locations at which tickets for passenger transportation are sold and which is in charge of a person employed exclusively by the carrier, or by it jointly with another person, all tariffs applicable to passenger traffic from or to the point where such station, office, or location is situated, including tariffs covering any terminal services, charges, or practices whatsoever, which apply to passenger traffic from or to such point.

(b) A carrier will be deemed to have complied with the requirement that it ''post'' tariffs, if it maintains at each station, office, or location a file in complete form of all tariffs required to be posted; and in the case of tariffs involving passenger fares, rules, charges or practices, notice to the passenger as required in § 221.105.

(c) Tariffs shall be posted by each carrier party thereto no later than the filed date designated thereon except that in the case of carrier stations, offices or locations situated outside the United States, its territories and possessions, the time shall be not later than five days after the filed date, and except that a tariff which the Department has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

§ 221.102 Accessibility of tariffs to the public.

Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

§ 221.103 Notice of tariff terms.

Each carrier shall cause to be displayed continuously in a conspicuous public place at each station, office, or location at which tariffs are required to be posted, a notice printed in large type reading as follows:

Public Inspection of Tariffs

All the currently effective passenger tariffs to which this company is a party and all passenger tariff publications which have been issued but are not yet effective are on file in this office, so far as they apply to traffic from or to. (Here name the point.) These tariffs may be inspected by any person upon request and without the assignment of any reason for such inspection. The employees of this company on duty in this office will lend assistance in securing information from the tariffs.

In addition, a complete file of all tariffs of this company, with indexes thereof, is maintained and kept available for public inspection at. (Here indicate the place or places where complete tariff files are maintained, including the street address, and where appropriate, the room number.)

§ 221.105 Special notice of limited liability for death or injury under the Warsaw Convention.

(a)(1) In addition to the other requirements of this subpart, each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention and whose place of departure or place of destination is in the United States, the following statement in writing:

Advice to International Passengers on Limitations of Liability

Passengers embarking upon a journey involving an ultimate destination or a stop in a country other than the country of departure are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to their entire journey including the portion entirely within the countries of departure and destination. The Convention governs and in most cases limits the liability of carriers to passengers for death or personal injury to approximately $10,000.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention. For further information please consult your airline or insurance company representative.

(2) Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on:

(i) Each ticket;

(ii) A piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or

(iii) The ticket envelope.

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall also cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers whose transportation may be governed by the Warsaw Convention and whose place of departure or destination may be in the United States, a sign which shall have printed thereon the statement prescribed in paragraph (a) of this section: Provided, however, That an air carrier, except an air taxi operator subject to part 298 of this subchapter, or foreign air carrier which provides a higher limitation of liability than that set forth in the Warsaw Convention and has signed a counterpart of the agreement among carriers providing for such higher limit, which agreement was approved by the Civil Aeronautics Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the alternate form of notice set forth in the proviso to § 221.106(a) of this chapter in full compliance with the posting requirements of this paragraph. And provided further, That an air taxi operator subject to part 298 of this subchapter, which provides a higher limitation of liability than that set forth in the Warsaw Convention and has signed a counterpart of the agreement among carriers providing for such higher limit, which agreement was

approved by the Civil Aeronautics Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the following notice in the manner prescribed by this paragraph in full compliance with the posting requirements of this paragraph. Such statements shall be printed in bold faced type at least one-fourth of an inch high.

Advice to International Passengers on Limitation of Liability

Passengers traveling to or from a foreign country are advised that airline liability for death or personal injury and loss or damage to baggage may be limited by the Warsaw Convention and tariff provisions. See the notice with your ticket or contact your airline ticket office or travel agent for further information.

§ 221.106 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a)(1) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations on liability for loss of, damage to, or delay in delivery of baggage shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to persons or accept baggage for checking, a sign which shall have printed thereon the following statement:

Notice of Limited Liability for Baggage

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply for valuables. Consult your carrier for details.

(2) Provided, however, That an air carrier or foreign air carrier which provides a higher limitation of liability for death or personal injury than that set forth in the Warsaw Convention and has signed a counterpart of the agreement approved by the Civil Aeronautics Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the following notice in full compliance with the posting requirements of this paragraph and of § 221.105(b):

Advice to Passengers on Limitations of Liability

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

For most international travel (including domestic portions of international journeys) liability for loss, delay or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply to valuable articles.

See the notice with your tickets or consult your airline or travel agent for further information.

(3) Provided, however, That carriers may include in the notice the parenthetical phrase ''($20.00 per kilo)'' after the phrase ''$9.07 per pound'' in referring to the baggage liability limitation for most international travel. Such statements shall be printed in bold-face type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readable to the traveling public.

(b)(1) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on or with each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10 point type:

Notice of Baggage Liability Limitations

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared in advance and additional charges are paid. Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

(2) Provided, however, That carriers may include in their ticket notice the parenthetical phrase ''($20.00 per kilo)'' after the phrase ''$9.07 per pound'' in referring to the baggage liability limitation for most international travel.

(c) It shall be the responsibility of each carrier to insure that travel agents authorized to sell air transportation for such carrier comply with the notice provisions of paragraphs (a) and (b) of this section.

(d) Any air carrier or foreign air carrier subject to the provisions of this section which wishes to use a notice of limited liability for baggage of its own wording, but containing the substance of the language prescribed in paragraphs (a) and (b) of this section may substitute a notice of its own wording upon approval by the Department.

(e) The requirements as to time and method of delivery of the notice (including the size of type) specified in paragraphs (a) and (b) of this section and the requirement with respect to travel agents specified in paragraph (c) of this section may be waived by the Department upon application and showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

(f) Applications for relief under paragraphs (d) and (e) of this section shall be filed with the Department's Office of International Aviation not later than 15 days before the date on which such relief is requested to become effective.

(g) Notwithstanding any other provisions of this section, no air taxi operator subject to part 298 of this subchapter shall be required to give the notices prescribed in this section, either in its capacity as an air carrier or in its capacity as an agent for an air carrier or foreign air carrier.

§ 221.107 Notice of contract terms.

(a) *Terms incorporated in the contract of carriage.* (1) A ticket, or other written instrument that embodies the contract of carriage for foreign air transportation shall contain or be accompanied by notice to the passenger as required in paragraphs (b) and (d) of this section.

(2) Each carrier shall make the full text of all terms that are incorporated in a contract of carriage readily available for public inspection at each airport or other ticket sales office of the carrier: Provided, That the medium, *i.e.*, printed or electronic, in which the incorporated terms and conditions are made available to the consumer shall be at the discretion of the carrier.

(3) Each carrier shall display continuously in a conspicuous public place at each airport or other ticket sales office of the carrier a notice printed in large type reading as follows:

Explanation of Contract Terms

All passenger (and/or cargo as applicable) contract terms incorporated into the contract of carriage to which this company is a party are available in this office. These provisions may be inspected by any person upon request and for any reason. The employees of this office will lend assistance in securing information, and explaining any terms.

In addition, a file of all tariffs of this company, with indexes thereof, from which incorporated contract terms may be obtained is maintained and kept available for public inspection at. (Here indicate the place or places where tariff files are maintained, including the street address and, where appropriate, the room number.)

(4) Each carrier shall provide to the passenger a complete copy of the text of any/all terms and conditions applicable to the contract of carriage, free of charge, immediately, if feasible, or otherwise promptly by mail or other delivery service, upon request at any airport or

other ticket sales office of the carrier. In addition, all other locations where the carrier's tickets may be issued shall have available at all times, free of charge, information sufficient to enable the passenger to request a copy of such term(s).

(b) *Notice of incorporated terms.* Each carrier and ticket agent shall include on or with a ticket or other written instrument given to the passenger, that embodies the contract of carriage, a conspicuous notice that:

(1) The contract of carriage may incorporate terms and conditions by reference; passengers may inspect the full text of each applicable incorporated term at any of the carrier's airport locations or other ticket sales offices of the carrier; and passengers, shippers and consignees have the right to receive, upon request at any airport or other ticket sales office of the carrier, a free copy of the full text of any/all such terms by mail or other delivery service;

(2) The incorporated terms may include, among others, the terms shown in paragraphs (b)(2) (i) through (iv) of this section. Passengers may obtain a concise and immediate explanation of the terms shown in paragraphs (b)(2) (i) through (iv) of this section from any location where the carrier's tickets are sold.

(i) Limits on the carrier's liability for personal injury or death of passengers (subject to § 221.105), and for loss, damage, or delay of goods and baggage, including fragile or perishable goods.

(ii) Claim restrictions, including time periods within which passengers must file a claim or bring an action against the carrier for its acts or omissions or those of its agents.

(iii) Rules about re-confirmations or reservations, check-in times, and refusal to carry.

(iv) Rights of the carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate carrier or aircraft, and rerouting.

(c) *Explanation of incorporated terms.* Each carrier shall ensure that any passenger can obtain from any location where its tickets are sold or any similar documents are issued, a concise and immediate explanation of any term incorporated concerning the subjects listed in paragraph (b)(2) or identified in paragraph (d) of this section.

(d) *Direct notice of certain terms.* A passenger must receive conspicuous written notice, on or with the ticket, or other similar document, of the salient features of any terms that restrict refunds of the price of the transportation, impose monetary penalties on customers, or permit a carrier to raise the price or impose more restrictive conditions of contract after issuance of the ticket.

§ 221.108 Transmission of tariff filings to subscribers.

(a) Each carrier required to file tariffs in accordance with this part shall make available to any person so requesting a subscription service as described in paragraph (b) of this section for its passenger tariffs issued by it or by a publishing agent on its behalf.

(b) Under the required subscription service one copy of each new tariff publication, including the justification required by § 221.94, must be transmitted to each subscriber thereto by first-class mail (or other equivalent means agreed upon by the subscriber) not later than one day following the time the copies for official filing are transmitted to the Department. The subscription service described in this section shall not preclude the offering of additional types of subscription services by carriers or their agents.

(c) The carriers or their publishing agents at their option may establish a charge for providing the required subscription service to subscribers: Provided, That the charge may not exceed a reasonable estimate of the added cost of providing the service.

Subpart L—Rejection of Tariff Publications

§ 221.110 Department's authority to reject.

The Department may reject any tariff which is not consistent with section 41504 of the statute, with the regulations in this part, or with Department orders.

§ 221.111 Notification of rejection.

When a tariff is rejected, the issuing carrier or agent thereof will be notified electronically or in writing that the tariff is rejected and of the reason for such rejection.

§ 221.112 Rejected tariff is void and must not be used.

A tariff rejected by the Department is void and is without any force or effect whatsoever. Such rejected tariff must not be used.

Subpart M—Special Tariff Permission To File on Less Than Statutory Notice

§ 221.120 Grounds for approving or denying Special Tariff Permission applications.

(a) *General authority.* The Department may permit changes in fares, charges or other tariff provisions on less than the statutory notice required by section 41505 of the statute.

(b) *Grounds for approval.* The following facts and circumstances constitute some of the grounds for approving applications for Special Tariff Permission in the absence of other facts and circumstances warranting denial:

(1) *Clerical or typographical errors.* Clerical or typographical errors in tariffs constitute grounds for approving applications for Special Tariff Permission to file on less than statutory notice the tariff changes necessary to correct such errors. Each application for Special Tariff Permission based on such grounds shall plainly specify the errors and contain a complete statement of all the attending facts and circumstances, and such application shall be presented to the Department with reasonable promptness after issuance of the defective tariff.

(2) *Rejection caused by clerical or typographical errors or unintelligibility.* Rejection of a tariff caused by clerical or typographical errors constitute grounds for approving applications for Special Tariff Permission to file on less than statutory notice, effective not earlier than the original effective dates in the rejected tariff, all changes contained in the rejected tariff but with the errors corrected. Each application for the grant of Special Tariff Permission based on such grounds shall plainly specify the errors and contain a complete statement of all the attending facts and circumstances, and such application shall be filed with the Department within five days after receipt of the Department's notice of rejection.

(3) *Newly authorized transportation.* The fact that the Department has newly authorized a carrier to perform foreign air transportation constitutes grounds for approving applications for Special Tariff Permission to file on less than statutory notice the fares, rates, and other tariff provisions covering such newly authorized transportation.

(4) The fact that a passenger fare is within a statutory or Department-established zone of fare flexibility constitutes grounds for approving an application for Special Tariff Permission to file a tariff stating that fare and any rules affecting them exclusively, on less than statutory notice. The Department's policy on approving such applications is set forth in § 399.35 of this chapter.

(5) *Lowered fares and charges.* The prospective lowering of fares or charges to the traveling public constitutes grounds for approving an application for Special Tariff Permission to file on less than statutory notice a tariff stating the lowered fares or charges and any rules affecting them exclusively. However, the Department will not approve the application if the proposed tariff raises

significant questions of lawfulness, as set forth in § 399.35 of this chapter.

(c) *Filing notice required by formal order.* When a formal order of the Department requires the filing of tariff matter on a stated number of days' notice, an application for Special Tariff Permission to file on less notice will not be approved. In any such instance a petition for modification of the order should be filed in the formal docket.

§ 221.121 How to prepare and file applications for Special Tariff Permission.

(a) *Form.* Each application for Special Tariff Permission to file a tariff on less than statutory notice shall conform to the requirements of § 221.212 if filed electronically.

(b) *Number of paper copies and place of filing.* For paper format applications, the original and one copy of each such application for Special Tariff Permission, including all exhibits thereto and amendments thereof, shall be sent to the Office of International Aviation, Department of Transportation, Washington, DC 20590.

(c) *Who may make application.* Applications for Special Tariff Permission to file fares, or other tariff provisions on less than statutory notice shall be made only by the issuing carrier or agent authorized to issue and file the proposed tariff. Such application by the issuing carrier or agent will constitute application on behalf of all carriers participating in the proposed fares, or other tariff provisions.

(d) *When notice is required.* Notice in the manner set forth in paragraph (e) of this section is required when a carrier files an application for Special Tariff Permission:

(1) To offer passenger fares that would be outside a Department-established zone of price flexibility or, in markets for which the Department has not established such a zone, outside the statutory zone of price flexibility; or

(2) To file any price increase or rule change that the carrier believes is likely to be controversial.

(e) *Form of notice.* When notice of filing of a Special Tariff Permission application affecting passenger fares is required by paragraph (d) of this section, the carrier shall, when it files the application, give immediate telegraphic notice or other notice approved by the Office of International Aviation, to all certificated and foreign route carriers authorized to provide nonstop or one-stop service in the markets involved, and to civic parties that would be substantially affected. The application shall include a list of the parties notified.

§ 221.122 Special Tariff Permission to be used in its entirety as granted.

Each Special Tariff Permission to file fares, or other tariff provisions on less than statutory notice shall be used in its entirety as granted. If it is not desired to use the permission as granted, and lesser or more extensive or different permission is desired, a new application for Special Tariff Permission conforming with § 221.121 in all respects and referring to the previous permission shall be filed.

§ 221.123 Re-use of Special Tariff Permission when tariff is rejected.

If a tariff containing matter issued under Special Tariff Permission is rejected, the same Special Tariff Permission may be used in a tariff issued in lieu of such rejected tariff provided that such re-use is not precluded by the terms of the Special Tariff Permission, and is made within the time limit thereof or within seven days after the date of the Department's notice of rejection, whichever is later, but in no event later than fifteen days after the expiration of the time limit specified in the Special Tariff Permission.

Subpart N—Waiver of Tariff Regulations

§ 221.130 Applications for waiver of tariff regulations.

Applications for waiver or modification of any of the requirements of this part 221 or for modification of chapter 415 of the statute with respect to the filing and posting of tariffs shall be made by the issuing carrier or issuing agent.

§ 221.131 Form of application for waivers.

Applications for waivers shall be in the form of a letter addressed to the Office of International Aviation, Department of Transportation Washington, DC 20590, and shall:

(a) Specify (by section and paragraph) the particular regulation which the applicant desires the Department to waive.

(b) Show in detail how the proposed provisions will be shown in the tariff under authority of such waiver if granted (submitting exhibits of the proposed provision where necessary to clearly show this information).

(c) Set forth all facts and circumstances on which the applicant relies as warranting the Department's granting the authority requested. No tariff or other documents shall be filed pursuant to such application prior to the Department's granting the authority requested.

Subpart O—Giving and Revoking Concurrences to Carriers

§ 221.140 Method of giving concurrence.

(a) A concurrence prepared in a manner acceptable to the Office of International Aviation shall be used by a carrier to give authority to another carrier to issue and file with the Department tariffs which contain joint fares or charges, including provisions governing such fares or charges, applying to, from, or via points served by the carrier giving the concurrence. A concurrence shall not be used as authority to file joint fares or charges in which the carrier to whom the concurrence is given does not participate, and it shall not be used as authority to file local fares or charges.

(b) *Number of copies.* Each concurrence shall be prepared in triplicate. The original of each concurrence shall be filed with the Department, the duplicate thereof shall be given to the carrier in whose favor the concurrence is issued, and the third copy shall be retained by the carrier who issued the concurrence.

(c) *Conflicting authority to be avoided.* Care should be taken to avoid giving authority to two or more carriers which, if used, would result in conflicting or duplicate tariff provisions.

§ 221.141 Method of revoking concurrence.

(a) A concurrence may be revoked by filing with the Department a Notice of Revocation of Concurrence prepared in a form acceptable to the Office of International Aviation.

(b) *Sixty days' notice required.* Such Notice of Revocation of Concurrence shall be filed on not less than sixty days' notice to the Department. A Notice of Revocation of Concurrence will be deemed to be filed only upon its actual receipt by the Department, and the period of notice shall commence to run only from such actual receipt.

(c) *Number of copies.* Each Notice of Revocation of Concurrence shall be prepared in triplicate. The original thereof shall be filed with the Department and, at the same time that the original is transmitted to the Department, the duplicate thereof shall be sent to the carrier to whom the concurrence was given. The third copy shall be retained by the carrier issuing such notice.

(d) Amendment of tariffs when concurrence revoked. When a concurrence is revoked, a corresponding amendment of the tariff or tariffs affected shall be made by the issuing carrier of such tariffs, on not less than statutory notice, to become effective not

later than the effective date stated in the Notice of Revocation of Concurrence. In the event of failure to so amend the tariff or tariffs, the provisions therein shall remain applicable until lawfully canceled.

§ 221.142 Method of withdrawing portion of authority conferred by concurrence.

If a carrier desires to issue a concurrence conferring less authority than a previous concurrence given to the same carrier, the new concurrence shall not direct the cancellation of such previous concurrence. In such circumstances, such previous concurrence shall be revoked by issuing and filing a Notice of Revocation of Concurrence in a form acceptable to the Office of International Aviation. Such revocation notice shall include reference to the new concurrence.

Subpart P—Giving and Revoking Powers of Attorney to Agents

§ 221.150 Method of giving power of attorney.

(a) *Prescribed form of power of attorney.* A power of attorney prepared in accordance with a form acceptable to the Office of International Aviation shall be used by a carrier to give authority to an agent and (in the case of the agent being an individual) such agent's alternate to issue and file with the Department tariffs which contain local or joint fares or charges, including provisions governing such fares or charges, applicable via and for account of such carrier. Agents may be only natural persons or corporations (other than incorporated associations of air carriers). The authority conferred in a power of attorney may not be delegated to any other person.

(b) *Designation of tariff issuing person by corporate agent.* When a corporation has been appointed as agent it shall forward to the Department a certified excerpt of the minutes of the meeting of its Board of Directors designating by name and title the person responsible for issuing tariffs and filing them with the Department. Only one such person may be designated by a corporate agent, and the title of such designee shall not contain the word ''Agent''. When such a designee is replaced the Department shall be immediately notified in like manner of his successor. An officer or employee of an incorporated tariff-publishing agent may not be authorized to act as tariff agent in his/her individual capacity. Every tariff issued by a corporate agent shall be issued in its name as agent.

(c) *Number of copies.* Each power of attorney shall be prepared in triplicate. The original of each power of attorney shall be filed with the Department, the duplicate thereof shall be given to the agent in whose favor the power of attorney is issued, and the third copy shall be retained by the carrier who issued the power of attorney.

(d) *Conflicting authority prohibited.* In giving powers of attorney, carriers shall not give authority to two or more agents which, if used, would result in conflicting or duplicate tariff provisions.

§ 221.151 Method of revoking power of attorney.

(a) A power of attorney may be revoked only by filing with the Department in the manner specified in this section a Notice of Revocation of Power of Attorney in a form acceptable to the Office of International Aviation.

(b) *Sixty days' notice required.* Such Notice of Revocation of Power of Attorney shall be filed on not less than sixty days' notice to the Department. A Notice of Revocation of Power of Attorney will be deemed to be filed only upon its actual receipt by the Department, and the period of notice shall commence to run only from such actual receipt.

(c) *Number of copies.* Each Notice of Revocation of Power of Attorney shall be prepared in triplicate. The original thereof shall be filed with the Department and, at the same time that the original is transmitted to the Department, the duplicate thereof shall be sent to the agent in whose favor the power of attorney was issued (except, if the alternate agent has taken over the tariffs, the duplicate of the Notice of Revocation of Power of Attorney shall be sent to the alternate agent). The third copy of the notice shall be retained by the carrier.

(d) *Amendment of tariffs when power of attorney is revoked.* When a power of attorney is revoked, a corresponding amendment of the tariff or tariffs affected shall be made by the issuing agent of such tariffs, on not less than statutory notice, to become effective not later than the effective date stated in the Notice of Revocation of Power of Attorney. In the event of failure to so amend the tariff or tariffs, the provisions therein shall remain applicable until lawfully canceled.

§ 221.152 Method of withdrawing portion of authority conferred by power of attorney.

If a carrier desires to issue a power of attorney conferring less authority than a previous power of attorney issued in favor of the same agent, the new power of attorney shall not direct the cancellation of such previous power of attorney. In such circumstances, such previous power of attorney shall be revoked by issuing and filing a Notice of Revocation of Power of Attorney in a form acceptable to the Office of International Aviation. Such revocation notice shall include reference to the new power of attorney.

Subpart Q—Adoption Publications Required To Show Change in Carrier's Name or Transfer of Operating Control

§ 221.160 Adoption notice.

(a) When the name of a carrier is changed or when its operating control is transferred to another carrier (including another company which has not previously been a carrier), the carrier which will thereafter operate the properties shall immediately issue, file with the Department, and post for public inspection, an adoption notice in a form and containing such information as is approved by the Office of International Aviation. (The carrier under its former name or the carrier from whom the operating control is transferred shall be referred to in this subpart as the ''former carrier'', and the carrier under its new name or the carrier, company, or fiduciary to whom the operating control is transferred shall be referred to in this subpart as the ''adopting carrier''.)

(b) The adoption notice shall be prepared, filed, and posted as a tariff. The adoption notice shall be issued and filed by the adopting carrier and not by an agent.

(c) *Copies to be sent to agents and other carriers.* At the same time that the adoption notice is transmitted to the Department for filing, the adopting carrier shall send copies of such adoption notice to each agent and carrier to whom the former carrier has given a power of attorney or concurrence. (See § 221.163.)

§ 221.161 Notice of adoption to be filed in former carrier's tariffs.

At the same time that the adoption notice is issued, posted, and filed pursuant to § 221.160, the adopting carrier shall issue, post and file with the Department a notice in each effective tariff issued by the former carrier providing specific notice of the adoption in a manner authorized by the Office of International Aviation and which shall contain no matter other than that authorized.

§ 221.162 Receiver shall file adoption notices.

A receiver shall, immediately upon assuming control of a carrier, issue and file with the Department an adoption notices as prescribed by §§ 221.160 and

221.161 and shall comply with the requirements of this subpart.

§ 221.163 Agents' and other carriers' tariffs shall reflect adoption.

If the former carrier is shown as a participating carrier under concurrence in tariffs issued by other carriers or is shown as a participating carrier under power of attorney in tariffs issued by agents, the issuing carriers and agents of such tariffs shall, upon receipt of the adoption notice, promptly file on statutory notice the following amendments to their respective tariffs:

(a) Cancel the name of the former carrier from the list of participating carriers.

(b) Add the adopting carrier (in alphabetical order) to the list of participating carriers. If the adopting carrier already participates in such tariff, reference to the substitution notice shall be added in connection with such carrier's name in the list of participating carriers.

§ 221.164 Concurrences or powers of attorney to be reissued.

(a) Adopting carrier shall reissue adopted concurrences and powers of attorney. Within a period of 120 days after the date on which the change in name or transfer of operating control occurs, the adopting carrier shall reissue all effective powers of attorney and concurrences of the former carrier by issuing and filing new powers of attorney and concurrences, in the adopting carrier's name, which shall direct the cancellation of the respective powers of attorney and concurrences of the former carrier. The adopting carrier shall consecutively number its powers of attorney and concurrences in its own series of power of attorney numbers and concurrence numbers (commencing with No. 1 in each series if it had not previously filed any such instruments with the Department), except that a receiver or other fiduciary shall consecutively number its powers of attorney or concurrences in the series of the former carrier. The cancellation reference shall show that the canceled power of attorney or concurrence was issued by the former carrier.

(b) If such new powers of attorney or concurrences confer less authority than the powers of attorney or concurrences which they are to supersede, the new issues shall not direct the cancellation of the former issues; in such instances, the provisions of §§ 221.142 and 221.152 shall be observed. Concurrences and powers of attorney which will not be replaced by new issues shall be revoked in the form and manner and upon the notice required by §§ 221.141 and 221.151.

(c) *Reissue of other carriers' concurrences issued in favor of former carrier.* Each carrier which has given a concurrence to a carrier whose tariffs are subsequently adopted shall reissue the concurrence in favor of the adopting carrier. If the carrier which issued the concurrence to the former carrier desires to revoke it or desires to replace it with a concurrence conferring less authority, the provisions of §§ 221.141 and 221.142 shall be observed.

§ 221.165 Cessation of operations without successor.

If a carrier ceases operations without having a successor, it shall:

(a) File a notice in each tariff of its own issue and cancel such tariff in its entirety.

(b) Revoke all powers of attorney and concurrences which it has issued.

Subpart R—Electronically Filed Tariffs

§ 221.170 Applicability of the subpart.

(a) Every air carrier and foreign air carrier shall file its international passenger fares tariffs consistent with the provisions of this subpart, and part 221 generally. Additionally, any air carrier and any foreign air carrier may file its international passenger rules tariffs electronically in machine-readable form as an alternative to the filing of printed paper tariffs as provided for elsewhere in part 221. This subpart applies to all carriers and tariff publishing agents and may be used by either if the carrier or agent complies with the provisions of subpart R. Any carrier or agent that files electronically under this subpart must transmit to the Department the remainder of the tariff in a form consistent with part 221, Subparts A through Q, on the same day that the electronic tariff would be deemed received under § 221.190(b).

(b) To the extent that subpart R is inconsistent with the remainder of part 221, subpart R shall govern the filing of electronic tariffs. In all other respects, part 221 remains in full force and effect.

§ 221.180 Requirements for electronic filing of tariffs.

(a) No carrier or filing agent shall file an electronic tariff unless, prior to filing, it has signed a maintenance agreement or agreements, furnished by the Department of Transportation, for the maintenance and security of the on-line tariff database.

(b) No carrier or agent shall file an electronic tariff unless, prior to filing, it has submitted to the Department's Office of International Aviation, Pricing and Multilateral Affairs Division, and received approval of, an application containing the following commitments:

(1) The filer shall file tariffs electronically only in such format as shall be agreed to by the filer and the Department. (The filer shall include with its application a proposed format of tariff. The filer shall also submit to the Department all information necessary for the Department to determine that the proposed format will accommodate the data elements set forth in § 221.202.)

(2) The filer shall provide, maintain and install in the Public Reference Room at the Department (as may be required from time to time) one or more CRT devices and printers connected to its on-line tariff database. The filer shall be responsible for the transportation, installation, and maintenance of this equipment and shall agree to indemnify and hold harmless the Department and the U.S. Government from any claims or liabilities resulting from defects in the equipment, its installation or maintenance.

(3) The filer shall provide public access to its on-line tariff database, at Departmental headquarters, during normal business hours.

(4) The access required at Departmental headquarters by this subpart shall be provided at no cost to the public or the Department.

(5) The filer shall provide the Department access to its on-line tariff database 24 hours a day, 7 days a week, except, that the filer may bring its computer down between 6:00 a.m. and 6:00 p.m. Eastern Standard Time or Eastern Daylight Saving Time, as the case may be, on Sundays, when necessary, for maintenance or for operational reasons.

(6) The filer shall ensure that the Department shall have the sole ability to approve or disapprove electronically any tariff filed with the Department and the ability to note, record and retain electronically the reasons for approval or disapproval. The carrier or agent shall not make any changes in data or delete data after it has been transmitted electronically, regardless of whether it is approved, disapproved, or withdrawn. The filer shall be required to make data fields available to the Department in any record which is part of the on-line tariff database.

(7) The filer shall maintain all fares and rules filed with the Department and all Departmental approvals, disapprovals and other actions, as well as all Departmental notations concerning such approvals, disapprovals or other actions, in the on-line tariff database for a period of two (2) years after the fare or rule becomes

inactive. After this period of time, the carrier or agent shall provide the Department, free of charge, with a copy of the inactive data on a machine-readable tape or other mutually acceptable electronic medium.

(8) The filer shall ensure that its on-line tariff database is secure against destruction or alteration (except as authorized by the Department), and against tampering.

(9) Should the filer terminate its business or cease filing tariffs, it shall provide to the Department on a machine-readable tape or any other mutually acceptable electronic medium, contemporaneously with the cessation of such business, a complete copy of its on-line tariff database.

(10) The filer shall furnish to the Department, on a daily basis, on a machine-readable tape or any other mutually acceptable electronic medium, all transactions made to its on-line tariff database.

(11) The filer shall afford any authorized Departmental official full, free, and uninhibited access to its facilities, databases, documentation, records, and application programs, including support functions, environmental security, and accounting data, for the purpose of ensuring continued effectiveness of safeguards against threats and hazards to the security or integrity of its electronic tariffs, as defined in this subpart.

(12) The filer must provide a field in the Government Filing File for the signature of the approving U.S. Government Official through the use of a Personal Identification Number (PIN).

(13) The filer shall provide a leased dedicated data conditioned circuit with sufficient capacity (not less than 28.8K baud rate) to handle electronic data transmissions to the Department. Further, the filer must provide for a secondary or a redundancy circuit in the event of the failure of the dedicated circuit. The secondary or redundancy circuit must be equal to or greater than 14.4K baud rate. In the event of a failure of the primary circuit the filer must notify the Chief of the Pricing and Multilateral Affairs Division of the Department's Office of International Aviation, as soon as possible, after the failure of the primary circuit, but not later than two hours after failure, and must provide the name of the contact person at the telephone company who has the responsibility for dealing with the problem.

(c) Each time a filer's on-line tariff database is accessed by any user during the sign-on function the following statement shall appear:

The information contained in this system is for informational purposes only, and is a representation of tariff data that has been formally submitted to the Department of Transportation in accordance with applicable law or a bilateral treaty to which the U.S. Government is a party.

§ 221.190 Time for filing and computation of time periods.

(a) A tariff, or revision thereto, or a special tariff permission application may be electronically filed with the Department immediately upon compliance with § 221.180, and anytime thereafter, subject to § 221.400. The actual date and time of filing shall be noted with each filing.

(b) For the purpose of determining the date that a tariff, or revision thereto, filed pursuant to this subpart, shall be deemed received by the Department:

(1) For all electronic tariffs, or revisions thereto, filed before 5:30 p.m. local time in Washington, DC, on Federal business days, such date shall be the actual date of filing.

(2) For all electronic tariffs, or revisions thereto, filed after 5:30 p.m. local time in Washington, DC, on Federal business days, and for all electronic tariffs, or revisions thereto, filed on days that are not Federal business days, such date shall be the next Federal business day.

§ 221.195 Requirement for filing printed material.

(a) Any tariff, or revision thereto, filed in paper format which accompanies, governs, or otherwise affects, a tariff filed electronically, must be received by the Department on the same date that a tariff or revision thereto, is filed electronically with the Department under § 221.190(b). Further, such paper tariff, or revision thereto, shall be filed in accordance with the requirements of subparts A through Q of part 221. No tariff or revision thereto, filed electronically under this subpart, shall contain an effective date which is at variance with the effective date of the supporting paper tariff, except as authorized by the Department.

(b) Any printed justifications, or other information accompanying a tariff, or revision thereto, filed electronically under this subpart, must be received by the Department on the same date as any tariff, or revision thereto, filed electronically.

(c) If a filer submits a filing which fails to comply with paragraph (a) of this section, or if the filer fails to submit the information in conformity with paragraph (b) of this section, the filing will be subject to rejection, denial, or disapproval, as applicable.

§ 221.200 Content and explanation of abbreviations, reference marks and symbols.

(a) *Content.* The format to be used for any electronic tariff must be that agreed to in advance as provided for in § 221.180, and must include those data elements set forth in § 221.202. Those portions that are filed in paper form shall comply in all respects with part 221, subparts A through Q.

(b) *Explanation of abbreviations, reference marks and symbols.* Abbreviations, reference marks and symbols which are used in the tariff shall be explained in each tariff.

(1) The following symbols shall be used:

R—Reduction
I—Increase
N—New Matter
X—Canceled Matter
C—Change in Footnotes, Routings, Rules or Zones
E—Denotes change in Effective Date only.

(2) Other symbols may be used only when an explanation is provided in each tariff and such symbols are consistent throughout all the electronically filed tariffs from that time forward.

§ 221.201 Statement of filing with foreign governments to be shown in air carrier's tariff filings.

(a) Every electronic tariff filed by or on behalf of an air carrier that contains fares which, by international convention or agreement entered into between any other country and the United States, are required to be filed with that country, shall include the following statement:

The rates, fares, charges, classifications, rules, regulations, practices, and services provided herein have been filed in each country in which filing is required by treaty, convention, or agreement entered into between that country and the United States, in accordance with the provisions of the applicable treaty, convention, or agreement.

(b) The statement referenced in § 221.201(a) may be included with each filing advice by the inclusion of a symbol which is properly explained.

(c) The required symbol may be omitted from an electronic tariff or portion thereof if the tariff publication that has been filed with any other country pursuant to its tariff regulations bears a tariff filing designation of that country in addition to the D.O.T. number appearing on the tariff.

§ 221.202 The filing of tariffs and amendments to tariffs.

All electronic tariffs and amendments filed under this subpart, including those for which authority is sought to effect changes on less than bilateral/statutory

notice under § 221.212, shall contain the following data elements:

(a) A Filing Advice Status File—which shall include:

(1) Filing date and time;

(2) Filing advice number;

(3) Reference to carrier;

(4) Reference to geographic area;

(5) Effective date of amendment or tariff;

(6) A place for government action to be recorded; and

(7) Reference to the Special Tariff Permission when applicable.

(b) A Government Filing File—which shall include:

(1) Filing advice number;

(2) Carrier reference;

(3) Filing date and time;

(4) Proposed effective date;

(5) Justification text; reference to geographic area and affected tariff number;

(6) Reference to the Special Tariff Permission when applicable;

(7) Government control data, including places for:

(i) Name of the government analyst, except that this data shall not be made public, notwithstanding any other provision in this or any other subpart;

(ii) Action taken and reasons therefor.

(iii) Remarks, except that internal Departmental data shall not be made public, notwithstanding any other provision in this or any other subpart;

(iv) Date action is taken; and

(v) Personal Identification Number; and

(8) Fares tariff, or proposed changes to the fares tariffs, including:

(i) Market;

(ii) Fare code;

(iii) One-way/roundtrip (O/R);

(iv) Fare Amount;

(v) Currency;

(vi) Footnote (FN);

(vii) Rule Number, provided that, if the rule number is in a tariff, reference shall be made to that tariff containing the rule;

(viii) Routing (RG) Number(s), provided that the abbreviation MPM (Maximum Permissible Routing) shall be considered a number for the purpose of this file;

(ix) Effective date and discontinue date if the record has been superseded;

(x) Percent of change from previous fares; and

(xi) Expiration date.

(9) Rules tariff, or proposed changes to the rules tariffs.

(i) Rules tariffs shall include:

(A) Title: General description of fare rule type and geographic area under the rule;

(B) Application: Specific description of fare class, geographic area, type of transportation (one way, round-trip, etc.);

(C) Period of Validity: Specific description of permissible travel dates and any restrictions on when travel is not permitted;

(D) Reservations/ticketing: Specific description of reservation and ticketing provisions, including any advance reservation/ticketing requirements, provisions for payment (including prepaid tickets), and charges for any changes;

(E) Capacity Control: Specific description of any limitation on the number of passengers, available seats, or tickets;

(F) Combinations: Specific description of permitted/restricted fare combinations;

(G) Length of Stay: Specific description of minimum/maximum number of days before the passenger may/must begin return travel;

(H) Stopovers: Specific description of permissible conditions, restrictions, or charges on stopovers;

(I) Routing: Specific description of routing provisions, including transfer provisions, whether on-line or inter-line;

(J) Discounts: Specific description of any limitations, special conditions, and discounts on status fares, e.g. children or infants, senior citizens, tour conductors, or travel agents, and any other discounts;

(K) Cancellation and Refunds: Specific description of any special conditions, charges, or credits due for cancellation or changes to reservations, or for request for refund of purchased tickets;

(L) Group Requirements: Specific description of group size, travel conditions, group eligibility, and documentation;

(M) Tour Requirements: Specific description of tour requirements, including minimum price, and any stay or accommodation provisions;

(N) Sales Restrictions: Specific description of any restrictions on the sale of tickets;

(O) Rerouting: Specific description of rerouting provisions, whether on-line or inter-line, including any applicable charges; and

(P) Miscellaneous provisions: Any other applicable conditions.

(ii) Rules tariffs shall not contain the phrase ''intentionally left blank''.

(10) Any material accepted by the Department for informational purposes only shall be clearly identified as ''for informational purposes only, not part of official tariff'', in a manner acceptable to the Department.

(c) A Historical File—which shall include:

(1) Market;

(2) Fare code;

(3) One-way/roundtrip (O/R);

(4) Fare amount;

(5) Currency;

(6) Footnote (FN);

(7) Rule Number, provided that, if the rule number is in a tariff other than the fare tariff, reference shall be made to that tariff containing the rule;

(8) Rule text applicable to each fare at the time that the fare was in effect.

(9) Routing (RG) Number(s), provided that the abbreviation MPM (Maximum Permissible Routing) shall be considered a number for the purpose of this file;

(10) Effective Date;

(11) Discontinue Date;

(12) Government Action;

(13) Carrier;

(14) All inactive fares (two years);

(15) Any other fare data which is essential; and

(16) Any necessary cross reference to the Government Filing File for research or other purposes.

§ 221.203 Unique rule numbers required.

(a) Each ''bundled'' and ''unbundled'' normal economy fare applicable to foreign air transportation shall bear a unique rule number.

(b) The unique rule numbers for the fares specified in this section shall be set by mutual agreement between the filer and the Department prior to the implementation of any electronic filing system.

§ 221.204 Adoption of provisions of one carrier by another carrier.

When one carrier adopts the tariffs of another carrier, the effective and prospective fares of the adopted carrier shall be changed to reflect the name of the adopting carrier and the effective date of the adoption. Further, each adopted fare shall bear a notation which shall reflect the name of the adopted carrier and the effective date of the adoption, provided that any subsequent revision of an adopted fare may omit the notation.

§ 221.205 Justification and explanation for certain fares.

Any carrier or its agent must provide, as to any new or increased bundled or unbundled (whichever is lower) on-demand economy fare in a direct-service market, a comparison between, on the one hand, that proposed fare and, on the other hand, the ceiling fare allowed in that market based on the SFFL.

§ 221.206 Statement of fares.

All fares filed electronically in direct-service markets shall be filed as single factor fares.

§ 221.210 Suspension of tariffs.

(a) A fare, charge, rule or other tariff provision that is suspended by the Department pursuant to section 41509 of the statute shall be noted by the Department in the Government Filing File and the Historical File.

(b) When the Department vacates a tariff suspension, in full or in part, and after notification of the carrier by the Department, such event shall be noted by the carrier in the Government Filing File and the Historical File.

(c) When a tariff suspension is vacated or when the tariff becomes effective upon termination of the suspension period, the carrier or its agent shall refile the tariff showing the effective date.

§ 221.211 Cancellation of suspended matter.

When, pursuant to an order of the Department, the cancellation of rules, fares, charges, or other tariff provision is required, such action shall be made by the carrier by appropriate revisions to the tariff.

§ 221.212 Special tariff permission.

(a) When a filer submits an electronic tariff or an amendment to an electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and no related tariff material is involved, the submission shall bear a sequential filing advice number. The submission shall appear in the Government Filing File and the Filing Advice Status File, and shall be referenced in such a manner to clearly indicate that such changes are sought to be made on less than bilateral/statutory notice.

(b) When a filer submits an electronic tariff or an amendment to the electronic tariff for which authority is sought to effect changes on less than bilateral/statutory notice, and it contains related paper under § 221.195, the paper submission must bear the same filing advice number as that used for the electronic submission. Such paper submission shall be in the form of a revised tariff page rather than as a separate request for Special Tariff Permission. All material being submitted on a paper tariff page as part of an electronic submission will clearly indicate the portion(s) of such tariff page that is being filed pursuant to, and in conjunction with, the electronic submission on less than bilateral/statutory notice.

(c) Departmental action on the Special Tariff Permission request shall be noted by the Department in the Government Filing File and the Filing Advice Status File.

(d) When the paper portion of a Special Tariff Permission that has been filed with the Department pursuant to paragraph (b) of this section is disapproved or other action is taken by the Department, such disapproval or other action will be reflected on the next consecutive revision of the affected tariff page(s) in the following manner:

(1) Example of disapproval statement:

The portion(s) of ____ Revised Page ____ filed under EFA No. ____ was/were disapproved by DOT.

(2) Example of other action:

The portion(s) ____ Revised Page ____ filed under EFA No. ____ was/were required to be amended by DOT.

(e) When the Department disapproves in whole or in part or otherwise takes an action against any submission filed under this part, the filer must take corrective action within two business days following the disapproval or notice of other action.

(f) All submissions under this section shall comply with the requirements of § 221.202.

§ 221.300 Discontinuation of electronic tariff system.

In the event that the electronic tariff system is discontinued, or the source of the data is changed, or a filer discontinues its business, all electronic data records prior to such date shall be provided immediately to the Department, free of charge, on a machine-readable tape or other mutually acceptable electronic medium.

§ 221.400 Filing of paper tariffs required.

(a) After approval of any application filed under § 221.180 of this subpart to allow a filer to file tariffs electronically, the filer in addition to filing electronically must continue to file printed tariffs as required by subparts A through Q of part 221 for a period of 90 days, or until such time as the Department shall deem such filing no longer to be necessary: Provided that during the period specified by this section the filed printed tariff shall continue to be the official tariff.

(b) Upon notification to the filer that it may commence to file its tariffs solely in an electronic mode, concurrently with the implementation of filing electronically the filer shall:

(1) Furnish the Department with a copy of all the existing effective and prospective records on a machine-readable tape or other mutually acceptable electronic medium accompanied by an affidavit attesting to the accuracy of such records; and

(2) Simultaneously cancel such records from the paper tariff in the manner prescribed by subparts A through Q of part 221.

§ 221.500 Transmission of electronic tariffs to subscribers.

(a) Each filer that files an electronic tariff under this subpart shall make available to any person so requesting, a subscription service meeting the terms of paragraph (b) of this section.

(b) Under the required subscription service, remote access shall be allowed to any subscriber to the on-line tariff database, including access to the justification required by § 221.205. The subscription service shall not preclude the offering of additional services by the filer or its agent.

(c) The filer at its option may establish a charge for providing the required subscription service to subscribers: Provided that the charge may not exceed a reasonable estimate of the added cost of providing the service.

(d) Each filer shall provide to any person upon request, a copy of the machine-readable data (raw tariff data) of all daily transactions made to its on-line tariff database. The terms and prices for such value-added service may be set by the filer: Provided that such terms and prices shall be non-discriminatory, *i.e.*, that they shall be substantially equivalent for all similarly-situated persons.

§ 221.550 Copies of tariffs made from filer's printer(s) located in Department's public reference room.

Copies of information contained in a filer's on-line tariff database may be obtained by any user at Departmental Headquarters from the printer or printers placed in Tariff Public Reference Room by the filer. The filer may assess a fee for copying, provided it is reasonable and that no administrative burden is placed on the Department to require the collection of the fee or to provide any service in connection therewith.

§ 221.600 Actions under assigned authority and petitions for review of staff action.

(a) When an electronically filed record which has been submitted to the Department under this subpart, is disapproved (rejected), or a special tariff permission is approved or denied, under authority assigned by the Department of Transportation's Regulations, 14 CFR 385.13, such actions shall be understood to include the following provisions:

(1) *Applicable to a record or records which is/are disapproved (rejected).* The record(s) disapproved (rejected) is/are void, without force or effect, and must not be used.

(2) *Applicable to a record or records which is/are disapproved (rejected), and to special tariff permissions which are approved or denied.* This action is taken under authority assigned by the Department of Transportation in its Organization Regulations, 14 CFR 385.13. Persons entitled to petition for review of this action pursuant to the Department's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of this action. This action shall become effective immediately, and the filing of a petition for review shall not preclude its effectiveness.

(b) [Reserved]

PART 250—OVERSALES

2. The authority citation for part 250 continues to read as follows:

Authority: 49 U.S.C. chapters 401, 411, 413, 417.

§ 250.4 [Removed]

3. Section 250.4—Denied boarding compensation tariffs for foreign air transportation is removed.

4. A new part 293 is added as follows:

PART 293—INTERNATIONAL PASSENGER TRANSPORTATION

Subpart A—General

Sec.
293.1 Applicability.
293.2 Definitions.

Subpart B—Exemption From Filing of Tariffs

293.10 Exemption.
293.11 Required statement.
293.12 Revocation of exemption.

Subpart C—Effect of Exemption

293.20 Rule of construction.
293.21 Incorporation of contract terms by reference.
293.22 Effectiveness of tariffs on file.

Authority: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

Subpart A—General

293.1 Applicability.

This part applies to air carriers and foreign air carriers providing scheduled transportation of passengers and their baggage in foreign air transportation.

293.2 Definitions.

For purposes of this part the definitions in § 221.3 of this chapter apply.

Subpart B—Exemption From Filing Tariffs

293.10 Exemption.

(a) Air carriers and foreign air carriers are exempted from the duty to file passenger tariffs with the Department of Transportation, as required by 49 U.S.C. 41504 and 14 CFR part 221, as follows:

(1) The Assistant Secretary for Aviation and International Affairs will, by notice, issue and periodically update a list establishing the following categories of markets:

(i) In Category A markets, carriers are exempted from the duty to file all passenger tariffs unless they are nationals of countries listed in Category C, or are subject to the provisions of paragraph (c) of this section.

(ii) In Category B markets, carriers are exempted from the duty to file all passenger tariffs except those setting forth one-way economy-class fares and governing provisions thereto, unless they are nationals of countries listed in Category C, or are subject to the provisions of paragraph (c) of this section.

(iii) In Category C markets, carriers shall continue to file all passenger tariffs, except as provided in § 293.10(b);

(2) The Assistant Secretary will list country-pair markets falling in Categories A and C, taking into consideration the factors in paragraphs (a)(2) (i) through (iv) of this section. All country-pair markets not listed in Categories A or C shall be considered to be in Category B and need not be specifically listed.

(i) Whether the U.S. has an aviation agreement in force with that country providing double-disapproval treatment of prices filed by the carriers of the Parties;

(ii) Whether the country's Government has disapproved or deterred U.S. carrier price leadership or matching tariff filings in any market;

(iii) Whether the country's Government has placed significant restrictions on carrier entry or capacity in any market; and

(iv) Whether the country's government is honoring the provisions of the bilateral aviation agreement and there are no significant bilateral problems.

(b) By notice of the Assistant Secretary, new country-pair markets will be listed in the appropriate category, and existing country-pair markets may be transferred between categories.

(c) Notwithstanding a determination that a country is in Category A or B, if the Assistant Secretary finds that effective price leadership opportunities for U.S. carriers are not available between that country and any third country, carriers that are nationals of such country may be required to file tariffs, as provided under part 221 or as otherwise directed in the notice, for some or all of their services between the U.S. and third countries.

(d) Air carriers and foreign air carriers are exempted from the duty to file governing rules tariffs containing general conditions of carriage with the Department of Transportation, as required by 49 U.S.C. 41504 and 14 CFR part 221. A description of the general conditions of carriage will be included in the Assistant Secretary's initial notice.

(e) Notwithstanding paragraph (d) of this section, air carriers and foreign air carriers shall file and maintain a tariff with the Department to the extent required by 14 CFR 203.4 and other implementing regulations.

(f) Authority for determining what rules are covered by paragraph (d) of this section and for determining the filing format for the tariffs required by paragraph (e) of this section is delegated to the Director of the Office of International Aviation.

293.11 Required statement.

Each governing rules tariff shall include the following statements:

(a) ''Rules herein containing general conditions of carriage are not part of the official U.S. D.O.T. tariff.''

(b) ''The rules and provisions contained herein apply only to the passenger fares and charges that the U.S. Department of Transportation requires to be filed as tariffs.''

293.12 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in a notice issued by the Assistant Secretary for Aviation and International Affairs, and will identify the tariff matter to be filed, and the deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's Regulations for the tariff material to be filed, unless otherwise specified by the Department.

Subpart C—Effect of Exemption

293.20 Rule of construction.

To the extent that a carrier holds an effective exemption from the duty to file tariffs under this part, it shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription

requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, except as provided in § 293.21.

293.21 Incorporation of contract terms by reference.

Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract terms by reference (*i.e.*, without stating their full text) into the passenger ticket or other document embodying the contract of carriage for the scheduled transportation of passengers in foreign air transportation, provided that:

(a) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.107, paragraphs (a), (b), (c) and (d) are complied with, to the extent applicable;

(b) In addition to other remedies at law, a carrier may not claim the benefit under this section as against a passenger, and a passenger shall not be bound by incorporation of any contract term by reference under this part, unless the requirements of paragraph (a), of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for incorporation of terms by reference into contracts of carriage for the scheduled transportation of passengers in foreign air transportation.

293.22 Effectiveness of tariffs on file.

(a) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, passenger tariffs on file with the Department covered by the scope of the exemption will cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, and the provisions of 14 CFR part 221, and will be canceled by operation of law.

(b) One hundred and eighty days after the date of effectiveness of the Assistant Secretary's notice, pending applications for filing and/or effectiveness of any passenger tariffs covered by the scope of the exemption, will be dismissed by operation of law. No new filings or applications will be permitted after the date of effectiveness of the Assistant Secretary's notice except as provided under § 293.12.

Issued in Washington, D.C. on July 16, 1999.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

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July 27, 1999

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Field-Initiated Research and Evaluation Program; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1239]

RIN 1121–ZB73

Field-Initiated Research and Evaluation Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of funding availability.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) , pursuant to Public Law 105–277, October 19, 1998, the Omnibus Consolidated and Emergency Supplemental Appropriation Act of 1999, is issuing a solicitation for applications from public and private agencies, organizations, institutions, tribal and Alaskan Native communities, and individuals to conduct research and evaluation projects in four areas: Native American juvenile justice and delinquency prevention; evaluation of juvenile justice programs for female juvenile offenders; juvenile justice system operations, sanctions and treatments; and general research designed to inform and enhance the field of juvenile justice and delinquency prevention.

DATES: Applications under this program must be received no later than 5 p.m. ET on September 10, 1999.

ADDRESSES: Interested applicants must obtain an application kit from OJJDP's Juvenile Justice Clearinghouse at 800–638–8736. The application kit is also available online at the OJJDP Web site at www.ojjdp.ncjrs.org/grants/about.html#kit.

FOR FURTHER INFORMATION CONTACT: Charlotte Kerr, Deputy Division Director, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street NW., Washington, DC 20531; phone: 202–307–5929; e-mail: charlott@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this program is to generate high-quality research and evaluation that will inform and enhance the field of juvenile justice and delinquency prevention. Applications are encouraged from researchers and evaluators representing multiple academic disciplines and using innovative methodological strategies. The ideal project will not only increase the knowledge base regarding juvenile delinquency, but also will have practical implications for juvenile justice policy and practice.

Background

Since its inception in 1974, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has been charged with sponsoring research on juvenile crime and victimization. Projects supported by OJJDP have advanced the understanding of juvenile crime and its impact on society and have suggested appropriate responses in the areas of prevention, early intervention, and graduated sanctions.

In general, OJJDP funds research activities that derive from congressional mandates or address statutory priority areas that are narrowly defined. However, many creative and important research ideas deserving support arise outside the Federal Government. The Field-Initiated Research and Evaluation Program allows OJJDP to provide flexible funding for innovative and rigorous research that supports its mission. In past years, OJJDP has supported field-initiated research on such topics as gangs in correctional institutions, mental health issues in the juvenile justice system, and juvenile sex offending.

This year, OJJDP seeks applications in four topical areas: (1) Juvenile justice and delinquency prevention in tribal or Alaskan Native communities (Native American research); (2) evaluation of juvenile justice programs for female delinquents; (3) juvenile justice system operations, sanctions, and treatments; and (4) general research on topics related to juvenile justice and delinquency prevention. The background, goals, and objectives for each area are described below.

Note: Although some applications may be appropriate for more than one topical area (e.g., an evaluation of a program for Native American girls could qualify for areas 1 and 2), each application should be submitted under only *one* category.

(1) Native American Juvenile Justice and Delinquency Prevention

Background

The U. S. Department of Justice is currently involved in multiple research and programmatic efforts to address justice issues in tribal and Alaskan Native communities. Recent findings from the Bureau of Justice Statistics (BJS) report American Indians and Crime highlight the importance of such efforts. Based on multiple sources, including the National Crime Victimization Survey (NCVS) and the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) data, the report contains various findings with specific relevance for the juvenile population:

- Rates of violent victimization in every age group are higher among American Indians than among all other races.
- From 1992 to 1995, American Indians and Asian Americans were the only racial or ethnic groups to experience increases in the rates of abuse or neglect of children under age 15.
- Native Americans under age 18 are arrested for alcohol-related violations at a rate twice the national average.

The BJS study is the most comprehensive national report on issues of crime and justice affecting Native Americans. In general, there is little research on juvenile justice and delinquency prevention in tribal and Alaskan Native communities. All too frequently, those studies that are conducted reflect limited knowledge of local cultures and indigenous justice systems. In the past year, the Office of Justice Programs has sought guidance from Native American practitioners and researchers around the country on such issues as crime and justice research in Indian country, Alaskan tribal justice policies and practices, and youth gangs in Indian country. Recommendations for researchers that emerged from these consultations included the following: (1) investigators should make greater efforts to involve indigenous people in the design and implementation of their research; (2) research findings should have clear practical implications for the community in which the study was conducted, as well as for Native American communities in general; and (3) methods of inquiry should be based on and sensitive to local customs and values.

These recommendations also apply to projects under this Field-Initiated Research and Evaluation Program. Thus, projects under this initiative should reflect efforts to involve local community participants in the design and implementation of any research or evaluation conducted in tribal and Alaskan Native communities. Projects should use culturally appropriate methods of inquiry and should offer practical implications with relevance to both the local community and broader audiences. OJJDP expects to use the results of these projects to provide empirically based guidance regarding juvenile justice and delinquency prevention policies and practices in tribal and Alaskan Native communities.

In addition, these projects should help to develop and guide culturally appropriate research practices with tribal and Alaskan Native populations. OJJDP encourages the pursuit of new avenues of inquiry and innovative approaches to the problem of juvenile crime and delinquency in tribal and Alaskan Native communities. Such approaches are also being supported through OJJDP's Tribal Youth Program. Copies of the program announcement for the Tribal Youth Program and its evaluation are available from the Juvenile Justice Clearinghouse (800–638–8736) and online at www.ojjdp.ncjrs.org/grants/current.html.

Goals

The goal of this section of the field-initiated research and evaluation program is to foster original, rigorous scientific research that uses innovative research methods to study juvenile delinquency and juvenile justice in tribal and Alaskan Native communities. This program seeks empirical research on delinquent and criminal behavior both by and against tribal youth, interventions with youthful offenders, tribal juvenile justice system policies and practices, and alcohol and drug use by tribal youth.

Objectives

- Conceptualize and investigate research questions dealing specifically with tribal or Alaskan Native juvenile justice and delinquency prevention.
- Develop methodological approaches that are culturally sensitive, relevant and appropriate.
- Expand and validate hypotheses on juvenile delinquency as they relate to tribal and/or Alaskan Native youth.
- Develop knowledge that will inform new hypotheses, techniques, approaches, or methods to improve juvenile justice and delinquency prevention efforts both within and outside tribal and Alaskan Native territories.

Award Period

The project period will be up to 2 years.

Award Amount

Up to $400,000 is available for research and evaluation related to Native American juvenile justice and delinquency prevention. Individual grant amounts, which will be subject to negotiation, will not exceed $200,000 per project.

(2) Evaluation of Juvenile Justice Programs for Female Juvenile Offenders

Background

The appropriate and effective treatment of female offenders by the juvenile justice system is a matter of increasing interest to policymakers, practitioners, and the public. Although males remain responsible for the majority of juvenile crime, females represented 25 percent of all juvenile arrests in the United States in 1996. Most female delinquents come to the attention of the juvenile court for status offenses or nonviolent crimes (e.g., shoplifting, forgery). However, females have become increasingly involved in more serious and violent delinquent behavior. Therefore, there is growing concern that the juvenile justice system be able to effectively address the special needs of this population.

Although male and female delinquents experience many of the same problems (e.g., chaotic home environments, poverty, substance abuse), female offenders have unique needs that challenge the ability of the justice system to provide appropriate treatment. Many female delinquents have been victims of childhood sexual and/or physical abuse. Some are involved in relationships with abusive partners. Some enter the justice system pregnant or having already given birth to one or more children. Research suggests that gender-specific programming is needed to encourage healthy attitudes and behavior and promote social competence.

Traditionally, the juvenile justice system has paid little attention to the special needs of female offenders. The 1992 reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP Act) required all States applying for Federal formula grants under the JJDP Act to identify gaps in their provision of services to female juvenile offenders. As a result of this process, many States began to recognize the dearth of appropriate programs for this population. In the fall of 1998, OJJDP published *Juvenile Female Offenders: A Status of the States Report.* This report provides an inventory of State efforts to address the needs of at-risk girls and female juvenile offenders. Such efforts range from providing sensitivity training to correctional staff and probation officers to offering programs for teenage mothers.

Although the number of gender-specific programs for female offenders is increasing, little is known about their content, structure, or effectiveness. The purpose of this component of the Field-Initiated Research and Evaluation Program is to encourage researchers to evaluate specialized services for females in the juvenile justice system. Well-designed evaluations should demonstrate which approaches are most useful for this population, and provide findings so that policymakers and communities might replicate and implement programs found to be effective and cost-efficient.

Goals

The goal of this section of the field-initiated research and evaluation program is to stimulate high-quality process and impact (outcome) evaluations of juvenile justice programs for female juvenile offenders. The programs to be evaluated should be geared toward intervention within the different components of the juvenile justice system (e.g., assessment, detention, secure corrections, community-based treatment, aftercare). Programs that focus exclusively on prevention are not eligible under this initiative.

Considering the limited award period (a maximum of 2 years) and the amount of funding available (up to $300,000 per award), OJJDP expects that evaluations funded under this initiative will focus on process and/or short-term impact or outcome evaluations. Researchers are also encouraged to consider using this award to lay the groundwork for longer term evaluations, which may then be funded on an ongoing basis using funding from other sources. Ideally, investigators should collaborate with practitioners and program developers to build their evaluation into new or existing programs.

Objectives

- Conduct innovative evaluations of gender-specific programs for adolescent female offenders in the juvenile justice system.
- Identify promising programs and program models for meeting the needs of female juvenile delinquents.
- Improve the ability of the juvenile justice system to identify and meet the multiple needs of female offenders and increase the likelihood that female offenders will leave the juvenile justice system with an enhanced capacity to become responsible, productive citizens.
- Encourage collaborative working relationships among researchers, practitioners, and policymakers in the field of juvenile justice.
- Enhance the ability of community-based and institutional programs to conduct empirically based evaluations of their own effectiveness.

Award Period

The project period will be up to 2 years.

Award Amount

Up to $600,000 is available for the evaluation of juvenile justice programs for female juvenile offenders. Individual grant amounts, which will be subject to negotiation, will not exceed $300,000 per project.

(3) Juvenile Justice System Operations, Sanctions, and Treatments

Background

Early in this decade, OJJDP created the Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders. The Comprehensive Strategy identifies core principles for addressing juvenile crime at the national, State, and local level. Among these principles is the recognition that delinquency prevention is the most cost-effective approach to combating juvenile crime. However, the juvenile justice system must also be capable of responding immediately and effectively when delinquency does occur. Once youth have entered the juvenile justice system, graduated sanctions must be in place to allow the system to respond to offenders' individual needs while maintaining public safety.

Since 1993, the Balanced and Restorative Justice (BARJ) model has provided a framework for strengthening the juvenile justice system. The three objectives of the BARJ model reflect the principles of the Comprehensive Strategy. These objectives include: (1) Accountability; (2) competency; and (3) community protection. Accountability mandates that juvenile offenders receive appropriate sanctions for their offenses and requires that they make amends to the victim(s) and community they have harmed. Competency refers to the idea that contact with the juvenile justice system should increase the likelihood that offenders will become productive, responsible citizens. Finally, community protection means that the juvenile justice system has a duty to ensure public safety.

As the issue of accountability has received more emphasis within the juvenile justice system, the role of crime victims has expanded significantly. There has been a growing recognition that victims must play an active role in the juvenile justice process. State legislatures have passed laws mandating victims' rights and requiring restitution for the loss and inconvenience that victims experience. Some States have established a victims' bill of rights specifically for victims of juvenile crime, while others have added language that ensures that these victims are included under existing victims' rights legislation. Examples of rights accorded to victims of juvenile crime include the following: (1) Victims must be notified of relevant hearings and allowed to attend; (2) victims must be notified when offenders are released from custody; and (3) victim impact statements must be considered in sentencing, parole, and release decisions. In some communities, centralized victims' bureaus provide information, referral services, and supportive services such as victim advocacy, counseling, and financial compensation.

To accomplish the BARJ objectives of accountability, competency, and community protection, the juvenile justice system must combine graduated sanctions with increasingly intensive treatment and rehabilitative services. An effective system must include a broad range of available sanctions, from community programs to secure corrections. Risk and needs assessments should inform the placement of offenders in the system. Finally, aftercare is a critical, but often overlooked, component of the system. Juveniles who receive services while detained or incarcerated can quickly lose any treatment gains if such services are abruptly discontinued when the juvenile is released. The juvenile justice system must ensure that youth are smoothly reintegrated into the community and that the risk of their reoffending is greatly reduced.

The purpose of this background information is to provide a framework within which investigators might structure their research designs. Research is needed on such topics as: (1) Risk and need assessment measures; (2) ways to ensure accountability; (3) case management in the juvenile justice system; (4) implementation and appropriate targeting of graduated sanctions; (5) community-based approaches; (6) effective and innovative treatment strategies; (7) identification of gaps in the continuum of care; (8) the role of the victim in the juvenile justice system; (9) programming for specific subgroups of offenders, such as very young or serious and violent offenders; and (10) the development and evaluation of intensive aftercare approaches. Research proposals on additional topics relevant to juvenile justice system operations, sanctions, and treatments are, of course, welcome.

Goals

The goal of this section of the field-initiated research and evaluation program is to foster original, rigorous scientific research that will enhance the operations, sanctions, and treatments within the juvenile justice system. Research is sought that will not only increase the knowledge base, but also will provide empirical support for implementing specific juvenile justice policies and practices. Ideally, research funded under this initiative will improve the ability of the juvenile justice system to meet the needs of both juvenile offenders and the communities in which they reside.

Objectives

- Conceptualize and investigate new research questions related to operations, sanctions, and treatments in the juvenile justice system.
- Develop new methodological approaches to address important research questions.
- Generate and validate hypotheses regarding the nature and efficacy of the juvenile justice system's response to juvenile crime and delinquency.
- Develop knowledge that will lead to new hypotheses, techniques, methods, or approaches for improving the functioning of the juvenile justice system.
- Provide information that can be used by practitioners and policymakers who seek to improve the ability of the juvenile justice system to meet the needs of offenders and the public.
- Improve the ability of the juvenile justice system to identify and meet the multiple needs of juvenile offenders and improve the likelihood that youth will leave the juvenile justice system with an enhanced capacity for becoming responsible, productive citizens.

Award Period

The project period will be up to 2 years.

Award Amount

Up to $600,000 is available for research and evaluation of juvenile justice system operations, sanctions, and treatments. Individual grant amounts, which will be subject to negotiation, will not exceed $300,000 per project.

(4) General Research

Background

This component of the Field-Initiated Research and Evaluation Program provides flexible funding for research which, while it may not fit neatly under any of OJJDP's current initiatives, supports the agency's mission in significant and creative ways. The issues and problems currently confronting the juvenile justice system

require strategies and solutions that cut across traditional juvenile justice boundaries. In addition to criminologists, sociologists, psychologists, social workers, medical professionals, educators, child welfare specialists, and others have important roles to play in addressing juvenile delinquency and victimization. Ideally, field-initiated research should have practical implications for juvenile justice policies and practices.

Early in this decade, OJJDP created the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The general principles of the Strategy include (1) Strengthening the family; (2) supporting core social institutions; (3) promoting delinquency prevention; (4) intervening immediately and effectively when delinquent behavior occurs; (5) establishing a system of graduated sanctions for juvenile offenders; and (6) identifying and controlling the small group of serious, violent, and chronic juvenile offenders. Investigators applying under the general research component of the Field-Initiated Research and Evaluation Program may want to consider working in one of these areas.

Additionally, in November 1998, members of the Study Group on Serious and Violent Juvenile Offenders and the Study Group on Very Young Offenders were surveyed regarding their priorities for juvenile justice research. Their responses suggested that research is needed in the following areas: (1) risk and protective factors for juvenile offending; (2) risk and needs assessment instruments for courts and correctional facilities; (3) causes of early-onset offending; (4) characteristics and needs of very young offenders; (5) causes of desistance from offending; (6) causes of serious and violent offending; (7) successful and innovative intervention programs for specific subgroups of juvenile offenders (e.g., serious and violent offenders, very young offenders, girls, youth with prenatal exposure to drugs and alcohol); and (8) the impact of juvenile transfers to adult court.

Finally, investigators may want to consult OJJDP's Comprehensive Plan for Fiscal Year 1999, which is available on the OJJDP Web site at www.ojjdp.ncjrs.org. The Plan is based on the Comprehensive Strategy and contains the research and program initiatives that OJJDP plans to fund during this fiscal year. Applicants may want to develop projects that will complement the agency's proposed research and programs.

Goals

The goal of this section of the field-initiated research and evaluation program is to foster rigorous, original scientific research that uses innovative methods to further the agency's mission of enhancing the juvenile justice system and preventing juvenile delinquency. Research that demonstrates collaboration among multiple disciplines is strongly encouraged. Project results should be of practical use to practitioners and policymakers and increase the juvenile justice knowledge base.

Objectives

- Promote and support innovative research and evaluation in the field of juvenile justice and delinquency prevention.
- Conceptualize and investigate new research questions in the juvenile justice field.
- Develop new methodological approaches to addressing priority issues.
- Develop knowledge that can be used to craft effective programs, policies and strategies for reducing and preventing juvenile delinquency and victimization.
- Conduct research that will enhance the ability of the juvenile justice system to respond to the needs of both juvenile offenders and society at large.

Award Period

The project period will be up to 2 years.

Award Amount

Up to $600,000 is available for general research. Individual grant amounts, which will be subject to negotiation, will not exceed $300,000 per project.

Note: The information that follows applies to all four of the topical areas described above.

Products

Proposals should contain a description of all products that will originate from the project. At a minimum, each grantee will be required to produce a final report that provides an overview of the research project. This overview should contain the following: (1) The theory and hypotheses guiding the work; (2) a description of the research or evaluation methods; (3) research and evaluation results (both significant and nonsignificant); (4) any practical or policy implications of the results; and (5) recommendations for future study. If possible, grantees should indicate in their final report how their work might contribute to defining and/or implementing best practices in the field of juvenile justice. This final report should be publishable as an OJJDP research report. Applicants are also strongly encouraged to consider submitting their results for publication in a refereed journal.

Applicants must also indicate their willingness to provide at least one additional report suitable for publication as an OJJDP *Bulletin* or *Fact Sheet.* This report should be completed within 60 days of the grant's closing date.

Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, institutions, tribal and Alaskan Native communities, and individuals, or any combination of the above. Private, for-profit organizations must agree to waive any profit or fee. In the case of joint applications, one applicant must be clearly indicated as primary (for correspondence and award purposes) and the other(s) listed as coapplicant(s). OJJDP encourages collaborative relationships among researchers, practitioners, and tribal entities. If the research is of a collaborative nature, written assurances of the collaboration should be provided. Similarly, when specific programs or agencies are the subject of an applicant's research or evaluation, the application should include letters of commitment or cooperation from the relevant program or agency. Finally, applicants must demonstrate that they have experience or ability related to the type of research or evaluation that they are proposing to conduct.

Selection Criteria

Applications will be evaluated and rated by a peer review panel according to the criteria outlined below. In addition, the extent to which the project narrative makes clear and logical connections among the components listed below will be considered in assessing a project's merits.

Problem(s) To Be Addressed (20 points)

Applicants must include in the project narrative a clear description of the research questions to be addressed. Applicants should discuss how previous research supports and shapes these questions and should identify the relevance of these questions for the field of juvenile justice. The proposed research will be judged on its ability to contribute to knowledge and practice in the field of juvenile justice and delinquency prevention.

Goals and Objectives (10 points)

The application must include goals and objectives that are clear, concrete, and relevant to the field of juvenile justice. Goals should derive directly from the problems to be addressed. Objectives should consist of clearly defined, measurable tasks that will enable the applicant to achieve the goals of the project.

Project Design (40 points)

The application should present in detail the design of the project. Design elements should follow directly from the project's goals and objectives. The data to be collected and/or analyzed should clearly support the project's goals and objectives. The applicant should describe the research or evaluation methodology in detail and should demonstrate the validity and usefulness of the data that will be collected and/or analyzed.

The application must include a timeline that indicates when specific tasks will be initiated and completed. The timeline should be referenced as appropriate in the narrative, but should also be placed in appendix A of the application.

Management and Organizational Capability (20 points)

Applicants must demonstrate the existence of a management structure that will support the achievement of the project's goals and objectives in an efficient and cost-effective manner. In particular, applicants must ensure that the tasks delineated in the project timeline (see ''Project Design'' above) are adequately staffed. Résumés for key staff members should be included in appendix B.

Applicants should also demonstrate the organizational capacity to complete the work described in the ''Project Design'' section. The applicant should include a description of any similar projects it has undertaken previously. Applicants should also demonstrate knowledge and experience related to juvenile justice issues. In addition, applicants should provide evidence of their ability to work collaboratively with juvenile justice system practitioners or service providers, particularly in the project's area of study. Research that involves specific agencies, organizations, or programs, including those under governmental or tribal auspices, should submit appropriate letters of cooperation in appendix C.

Budget (10 points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost-effective in relation to the activities to be undertaken. All budgeted costs should be directly related to the achievement of project goals and objectives. A brief budget narrative should be included in this section.

Format

Proposals requesting awards of less than $50,000 will be considered ''small grants.'' Applications for small grants must limit the program narrative to 15 pages. Applicants requesting $50,000 or more must submit a program narrative of no more than 30 pages. These page limits do not include the budget narrative, appendixes, application forms, or assurances. At the end of the program narrative, applicants should indicate which author(s) were responsible for each of the narrative sections. Appendix A should contain the project's timeline with dates for initiation and completion of critical project tasks. Appendix B should contain the résumés for the principal investigator and key staff members. Appendix C should include all necessary letters of cooperation or support.

The narrative portion of the application must be submitted on 8½-by 11-inch paper using a standard 12-point font. The application should be double-spaced and printed on one side of the paper only. The narrative should be preceded by an abstract with a maximum length of 300 words.

These requirements are necessary to maintain a fair and uniform set of standards among all applicants. If the application fails to conform to these standards, it will not be eligible for consideration.

Catalog of Federal Domestic Assistance (CFDA) Number

For all these programs *except Native American Juvenile Justice and Delinquency Prevention,* the CFDA number, required on Standard Form 424, ''Application for Federal Assistance,'' is 16.542. *For Native American Juvenile Justice and Delinquency Prevention, the CFDA number is 16.731.* Standard Form 424 is included in OJJDP's Application Kit, which can be obtained by contacting the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The Application Kit is also available online at www.ojjdp.ncjrs.org/grants/about.htmltkit.

Under the ''Descriptive Title'' section of Standard Form 424, in addition to the project's title, applicants should indicate under which topical area they are applying (i.e., Native American research, evaluations of programs for female offenders, juvenile justice system operations, or general research).

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, the U.S. Department of Justice is requesting applicants to provide information on the following: (1) Active Federal grant awards supporting this project or related efforts, including other awards from the Department of Justice; (2) any pending applications for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) and (2) with the funding requested in this application. For each Federal award, applicants must include the program or project title, the Federal granting agency, the amount of the award, and a brief description of its purpose.

''Related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (i.e., the proposed project would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (e.g., to implement a planning effort funded by other Federal monies or to provide a substance abuse treatment or educational component within an existing juvenile justice project).
- Services of some kind (e.g., technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535.

Note: In the lower left-hand corner of the envelope, the applicant must clearly write ''*Field-Initiated Research and Evaluation Program*'' and specify which topical area is addressed in the application (i.e., Native American research, evaluations of programs for female offenders, juvenile justice system operations, or general research).

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. ET on September 10, 1999.

Contact

For further information, contact Charlotte Kerr, Deputy Division Director, Research and Program Development Division, at 202–307–5929. Alternatively, e-mail inquiries can be sent to Charlott@ojp.usdoj.gov.

References

Bureau of Justice Statistics. 1999. *American Indians and Crime.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Community Research Associates. 1998. *Juvenile Female Offenders: A Status Report of the States.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Robin Lubitz,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–19056 Filed 7–26–99; 8:45 am]

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federal register

Tuesday
July 27, 1999

Part IV

Department of Housing and Urban Development

Second Notice of Funding Availability; Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs, Fiscal Year 1999; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4416–N–02]

Second Notice of Funding Availability; Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs, Fiscal Year 1999

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability for fiscal year (FY) 1999 for Section 8 Family Self-Sufficiency (FSS) program coordinators.

SUMMARY: *Purpose of Program.* The Section 8 FSS program is intended to promote the development of local strategies to coordinate the use of assistance under the Section 8 rental certificate and rental voucher programs with public and private resources to enable participating families to achieve economic independence and self-sufficiency. An FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

Available Funds. This is the second NOFA issued under this program for FY 1999. The first NOFA was issued on March 8, 1999 (64 FR 11278). Because funding remains available under this program, HUD is issuing a second Section 8 FSS Program Coordinators NOFA (FSS Program Coordinators NOFA). This second FSS Program Coordinators NOFA announces the availability of approximately $9 million remaining in Fiscal Year (FY) 1999 to fund Section 8 FSS program coordinators. Housing agencies that applied for funding under the March 8, 1999 FSS Program Coordinators NOFA will not receive additional funding under this NOFA.

Eligible Applicants. Public housing agencies (HAs) eligible to receive funding under this NOFA are only those that did not apply for funding under the first FY 99 FSS Program Coordinators NOFA, published on March 8, 1999 (March 8, 1999 FSS Program Coordinators NOFA) that either (1) Received funding under the FY 98 NOFA for Section 8 FSS Program Coordinators; or (2) did not receive funds under the FY 98 Section 8 FSS Program Coordinators NOFA and are authorized through their HUD-approved FSS Action Plan to administer Section 8 FSS programs of at least 25 FSS slots. Under this NOFA, both the voluntary Section 8 FSS slots and the mandatory Section 8 FSS slots reflected in the HA's HUD-approved FSS Action Plan are counted in determining the HA's Section 8 FSS program size. HAs that did not apply for funding under the March 8, 1999 FSS Program Coordinators NOFA that have Section 8 FSS programs of fewer than 25 approved slots, also may receive funding under this NOFA, if they are applying jointly with one or more other HAs, so that between or among the HAs they have HUD approval to administer at least 25 Section 8 FSS slots. There is no maximum Section 8 program size limit for HAs eligible to apply for funding under this NOFA.

Indian Housing Authorities (IHAs) are not eligible for funding under this NOFA since the Native American Housing Assistance and Self Determination Act of 1996 does not allow HUD to enter into new Annual Contributions Contracts (ACCs) with IHAs after September 30, 1997.

Application Deadline. The application deadline for the FSS Programs Coordinators is August 26, 1999, at the time described under section I of Additional Information of this NOFA.

ADDITIONAL INFORMATION

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date. The application deadline for funding under this Section 8 FSS Programs Coordinators NOFA is August 26, 1999, at the time described in Section I of this NOFA. The application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, HUD will treat as ineligible for consideration any application that is not received by the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Address for Submitting Applications. The original completed application should be submitted to the HA's local HUD Field Office HUB (Attention: HUB, Director of Public Housing) or local HUD Field Office Program Center (Attention: Program Center Coordinator). Throughout this NOFA, the Field Office HUBs and Program Centers will be referred to as the local HUD Field offices. Applicants should not submit any copies of their applications to HUD Headquarters.

Mailed Applications. Applications will be considered timely filed if postmarked on or before 12 midnight on the application due date and received by the HA's local HUD Field Office on or within ten (10) days of the application due date.

Applications Sent by Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received by the appropriate local HUD Field Office before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. Applications must be delivered to the appropriate local HUD Field Office by 6:00 pm local time on the due date. Hand carried applications will be accepted during normal business hours before the application due date. On the application due date, business hours will be extended to 6:00 pm.

For Application Kits, Further Information and Technical Assistance: There is no application kit for this NOFA. For answers to your questions, you may contact either the Public and Indian Housing Resource Center at 1–800–955–2232 or the HUB Director of Public Housing or the Program Center Coordinator in the local HUD Field Office. Hearing- or speech-impaired individuals may call HUD's TTY number 1–800–877–8339 (the Federal Information Relay Service TTY). Information can be accessed via the Internet at http://www.hud.gov. Prior to the application deadline, staff at the numbers given above will be available to provide general guidance, but not guidance in actually preparing the application. Following selection, but prior to award, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD.

II. Amount Allocated

For this second NOFA, FY 1999 funding in the amount of approximately $9 million remains available for HA administrative fees for Section 8 FSS program coordinators.

III. Program Description; Eligible Applicants; Eligible Activities

(A) Program Description

In recent years, HUD provided funding for Section 8 FSS program coordinators to HAs with Section 8 programs of fewer than 1,000 units. The FY 1994 and FY 1995 funds were awarded to these HAs based on a request for funding, and all complete

applications were funded. The FY 1996 funds were awarded based on a competitive NOFA. In FY 1996, state and regional HAs that administered more than 1,000 rental vouchers and certificates, but fewer than 1,000 mandatory FSS slots, were also eligible to apply, and some received funding. In FY 1997, HUD allocated funds for Section 8 FSS program coordinators to allow HAs that were previously funded to continue to pay a Section 8 FSS coordinator. Since funding for Section 8 FSS program coordinators was limited, HUD did not accept applications from HAs that were not previously funded. In FY 1998, HUD awarded funds to HAs that were funded for Section 8 FSS program coordinators in FY 1997 to continue to pay for an FSS coordinator for another year and was also able to fund additional eligible small HAs and state and regional HAs that did not receive Section 8 FSS program coordinator funding in the previous year.

HUD determined to make a sufficient amount available under the FY 99 Section 8 Program Coordinator NOFAs to enable HAs, including state and regional HAs, with approval to administer Section 8 FSS programs of at least 25 slots, to hire up to one Section 8 FSS program coordinator for one year at a reasonable cost, as determined by the HA and HUD based on salaries for similar positions in the locality. HUD approval to administer a Section 8 FSS program of a certain size is obtained when HUD approves the HA's Action Plan. In its Action Plan the HA indicates the number of families it will serve in its Section 8 FSS program, through both mandatory and voluntary slots. There is no maximum Section 8 rental certificate/voucher program size limit for HAs eligible to apply for funding under this NOFA. Each eligible HA is limited to an award of $46,350 under this NOFA, except that if HAs apply jointly, the maximum applies to the application as a whole, not to each HA. HAs that applied for funding under the March 8, 1999 FSS Program Coordinators NOFA will not receive additional funding under this NOFA.

(B) Eligible Applicants

(1) *HAs that received funding under the FY 98 FSS Program Coordinators NOFA.* All HAs that received funding under the FY 98 NOFA for Section 8 FSS program coordinators that did not apply for funding under the first Section 8 FSS Program Coordinators NOFA, the March 8, 1999 NOFA, will be funded in FY 1999 under this second NOFA to the extent funds are available, except those HAs submitting applications that are ineligible under Section VII(C) of this NOFA, provided the HA certifies on the required Attachment A certification of this NOFA, subject to HUD verification, that it has hired an FSS program coordinator with funding previously awarded for that purpose under the FY 98 Section 8 FSS Program Coordinators NOFA and has made progress in implementing the FSS program demonstrated by having completed activities in each of the categories in section 2 of the required Attachment A certification. The HAs funded in FY 98 will receive 103 percent of FY 98 funding (not to exceed $46,350) unless the HA submits a request for a higher or lower amount, subject to the $46,350 maximum. HUD will not provide FY 99 funding to any HA that received Section 8 FSS Program Coordinator funding in FY 98 that does not comply with all of the above requirements.

(2) *HAs that did not receive funding under the FY 98 Section 8 FSS program Coordinators NOFA.* HAs, including state and regional HAs, that did not receive FSS coordinator funding in FY 98 and did not apply for funding under the March 8, 1999 FSS Program Coordinators NOFA are eligible to apply under this NOFA if the HA has a HUD-approved FSS Action Plan authorizing the HA to administer a Section 8 FSS program of at least 25 Section 8 FSS slots. Both voluntary and mandatory Section 8 FSS slots are counted in determining the HAs Section 8 FSS Program size. HAs with HUD approval to administer Section 8 FSS programs of fewer than 25 slots may also apply if they apply jointly with one or more other HA so that between or among the HAs they have HUD approval to administer at least 25 Section 8 FSS slots. If HAs apply jointly, the $46,350 maximum amount that may be requested applies to the application as a whole, not to each HA separately. Joint applicants must specify a lead co-applicant which will receive and administer the FSS program coordinator funding.

HUD is opening eligibility for funding under this NOFA to HAs with larger Section 8 rental certificate/voucher programs because it believes that this action will support welfare reform activities across the nation. The FSS program has been found to be a critical element in welfare reform efforts in many communities.

HUD is requiring that applicants under this NOFA have HUD approval to administer Section 8 FSS programs of at least 25 FSS slots to ensure that the Section 8 FSS program coordinator funds are used in a cost-effective manner. The Department expects that Section 8 FSS programs of fewer than 25 FSS slots can be managed within HA resources.

(C) Eligible Activities

Funds are available under this NOFA to employ or otherwise retain the services of up to one Section 8 FSS program coordinator for one year. A part-time Section 8 FSS program coordinator may be retained where appropriate. Under the Section 8 FSS program, HAs are required to use Section 8 rental assistance together with public and private resources to provide supportive services to enable participating families to achieve economic independence and self-sufficiency. Effective delivery of supportive services is a critical element in a successful FSS program.

IV. Program Requirements

(A) Program Coordinator Role

HAs administering the FSS program use program coordinating committees (PCCs) to assist them to secure resources and implement the FSS program. The PCC is made up of representatives of local government, job training and employment agencies, local welfare agencies, educational institutions, child care providers, nonprofit service providers, and businesses.

An FSS program coordinator works with the PCC and with local service providers to assure that program participants are linked to the supportive services they need to achieve self-sufficiency. The FSS program coordinator may ensure, through case management, that the services included in participants' contracts of participation are provided on a regular, ongoing and satisfactory basis, and that participants are fulfilling their responsibilities under the contracts.

(B) Staffing Guidelines

Under normal circumstances, a full-time FSS program coordinator should be able to serve approximately 50 FSS participants, depending on the coordinator's case management functions.

(C) Eligible Applicants With HUD-Approved Exceptions to Mandatory Minimum Program Size

If HUD has approved either a full or partial exception to implementing a Section 8 FSS program of the mandatory minimum size for an eligible HA, solely because of lack of funds for reasonable administrative costs, the approval of the exception is hereby rescinded after funding for a Section 8 FSS program coordinator is awarded under this NOFA.

(D) Other Requirements

(1) *Compliance With Fair Housing and Civil Rights Laws.* All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements.* Applicants must comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972. In addition to compliance with the civil rights requirements listed at 24 CFR section 5.105, each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964, U.S.C. sections 2000e *et seq.*; the Equal Pay Act, 29 U.S.C. section 206(d); the Age Discrimination in Employment Act of 1967, 29 U.S.C. sections 621 *et seq.*, and Titles I and V of the Americans with Disabilities Act, 42 U.S.C. sections 12101 *et seq.*

(3) *Affirmatively Furthering Fair Housing.* Each successful applicant will have a duty to affirmatively further fair housing. After the application is approved, applicants will be required to identify the specific steps that they will take to (1) address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (2) remedy discrimination in housing; or (3) promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses in a manner which will affirmatively further fair housing.

V. Application Selection Process

The funds available under this NOFA are not being awarded on a competitive basis. The Department anticipates that there may be sufficient funds available under the NOFA to fund all applications that meet the NOFA requirements. Applications will be reviewed by the local HUD Field Office to determine whether or not they are technically adequate based on the NOFA requirements. Categories of applications that will not be funded are stated in Section VII(C) of this NOFA.

Upon completion of its review, each local HUD field office will prepare a listing of all technically adequate letters and certifications, which includes the total number of Section 8 rental certificates/rental vouchers administered by the HA, FSS program size reflected in the HA's HUD-approved Section 8 FSS Action Plan, and the amount of funding approved for each applicant. This listing will be forwarded to the Grants Management Center, 501 School Street, SW, Suite 800, Washington, DC 20024, which will then allocate the available funding among approvable applications. Approvable applications identified by each HUD field office will be grouped into two categories: *Category 1*—Applications from HAs that received Section 8 FSS program coordinator funding in FY 98; *Category 2*—Applications from HAs, including state and regional HAs, that did not receive Section 8 FSS program coordinator funding in FY 98. No applicant that applied for funding under the March 8, 1999 FSS Program Coordinators NOFA will be eligible for funding in either Category 1 or 2 under this second FSS Program Coordinators NOFA.

All technically adequate applications will be funded to the extent funds are available. If HUD receives applications for funding greater than the amount made available under this NOFA, HUD will first fund all eligible category 1 applications starting from the smallest HAs first (i.e., those HAs with the smallest combined rental voucher and certificate programs first). If funding remains, HUD will then fund eligible applicants in Category 2 in size order starting from the smallest HAs first. If there are not sufficient monies to fund all applications from HAs with the same combined Section 8 rental certificate voucher program size, funding will be provided based on the size of the HA's Section 8 FSS program, reflected in the HA's HUD-approved Section 8 FSS Action Plan, starting with the largest approved Section 8 FSS program.

VI. Application Submission Requirements

(A) Application Requirement for HAs that Received FY 98 FSS Program Coordinator Funding

(1) *Applications for Funding at 103 percent of FY 98 Funding.* Each HA that received funding for a Section 8 FSS program coordinator under the FY 98 NOFA, and that did not apply for funding under the March 8, 1999 FSS Program Coordinators NOFA that wishes to receive funding under this NOFA at 103 percent of the FY 98 funding subject to the $46,350 maximum, must complete a certification in the format shown as ''Attachment A'' of this NOFA and submit it to the appropriate local HUD field office by the due date. The completed Attachment A certification along with the Fair Housing Certification (Attachment C of this NOFA) and the Certification Regarding Lobbying (Attachment D of this NOFA) constitute the entire HA application for funding under this section.

(2) *Application for Funding Other than 103 Percent of their FY 98 Funding Amount.* Any HA that received Section 8 FSS Program Coordinator funding in FY 98 and that did not apply for funding under the March 8, 1999 FSS Program Coordinators NOFA that wishes to receive funding for FY 99 at an amount either higher or lower than 103 percent of the FY 98 funding (subject to the $46,350 maximum) must submit the completed Attachment A certification, the Attachment C Fair Housing Certification, the Attachment D Certification Regarding Lobbying, and the salary comparability information required in items 4 and 5 of the Attachment B letter required under Section VI(B) of this NOFA.

(B) Request for FSS Program Coordinator Funds by Eligible HAs That Were Not Funded in FY 98

The applications of all HAs that did not receive funding under the FY 98 NOFA and that did not apply for funding under the March 8, 1999 FSS Program Coordinators NOFA must contain the following information stated in a letter from the Executive Director of the HA to the HUB, Director of Public Housing, or the Program Center Coordinator in the local HUD field office (see sample letter format, Attachment B). That letter plus the Fair Housing and Equal Opportunity Certification which is Attachment C of this NOFA and the Certification

Regarding Lobbying which is Attachment D of this NOFA constitute the entire HA application for funding under this section. The HA ''Attachment B'' letter must confirm that the HA did not apply for funding under the March 8, 1999 FSS NOFA and state:

(1) The total number of budgeted Section 8 rental certificates and rental vouchers from the most recent HUD-approved form HUD–52672, Supporting Data for Annual Contributions Estimates Section 8 Housing Assistance Payments Program.

(2) The total number of families currently enrolled in the HA's Section 8 FSS program.

(3) The total number of voluntary and mandatory Section 8 FSS slots reflected in the HUD-approved FSS Action Plan of the HA; *OR,* where HAs are applying jointly, the combined total HUD-approved Section 8 FSS program slots.

(4) The annual salary proposed for the Section 8 FSS program coordinator, plus any fringe benefits. Do not include costs of training, transportation, clerical support, equipment, supplies, or other administrative costs or overhead. The program coordinator salary should be set as follows:

(a) Determine the salary level, taking into consideration salaries for comparable jobs, modified by the hours worked.

(b) Set the annual salary, including any fringe benefits that pertain to the job.

(5) Evidence that demonstrates salary comparability with similar positions in the local jurisdiction.

(6) Joint applicants must indicate which HA will be the lead applicant and will receive and administer the FSS program coordinator funding.

(C) *Fair Housing Certification and Certification Regarding Lobbying*

All HAs applying for funding under this NOFA must submit the Certification Regarding Fair Housing and Equal Opportunity which is included as Attachment C of this NOFA and the Certification Regarding Lobbying which is Attachment D of this NOFA.

VII. Corrections to Deficient Applications

(A) Acceptable Applications

To be eligible for processing, an application must be received by the appropriate local HUD field office no later than the date and time specified in this NOFA. The local HUD field office will initially screen all applications and notify HAs of technical deficiencies by letter.

(B) *Correction of Deficient Applications*

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any selection criterion. In order not to unreasonably exclude applications from being rated and ranked, HUD may, however, contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. *Examples* of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

(C) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the local HUD field office will disapprove HA applications that it determines are not acceptable for processing. The HUD notification of rejection letter must state the basis for the decision.

(2) Applications from HAs that fall into any of the following categories are ineligible for funding under this NOFA and will not be processed:

(a) An HA application submitted after the deadline date for this NOFA.

(b) An application from an HA that is not an eligible HA under Section III(B) of this NOFA or an application that does not comply with the requirements of Section VI(A) or VI(B) of this NOFA.

(c) An application from an HA that does not meet the requirements of Section IV.D(1) of this NOFA, Compliance with Fair Housing and Civil Rights Laws.

(d) An application from an HA that has serious unaddressed, outstanding Inspector General audit findings, or HUD Office management review findings for one or more of the following programs: Rental Voucher, Rental Certificate or Moderate Rehabilitation.

(e) An applicant that applied for funding under the March 8, 1999 FSS Program Coordinators NOFA.

VIII. Findings and Certifications

(A) Paperwork Reduction Act

The Section 8 information collection requirements contained in this notice were submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2577–0198. 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.

(B) Environmental Requirements

In accordance with provisions of 24 CFR Part 50.19(c)(5)(ii), a finding of no significant impact is not required under this Notice. This NOFA provides funding under 24 CFR Part 984, which does not contain environmental review provisions because it concerns activities that are listed in 24 CFR 50.19(b) as categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 C.F.R. 4321) (''NEPA''). Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under NEPA. No environmental review is required in connection with the award of assistance under this NOFA, because the NOFA only provides funds for employing a coordinator that provides public and supportive services, which are categorically excluded under 24 CFR 50.19(b)(4) and (12).

(C) Catalog of Federal Domestic Assistance Numbers

The catalog of Federal Domestic Assistance number for the Section 8 rental certificate program is 14.855. The number for the Section 8 rental voucher program is 14.857.

(D) Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have ''federalism implications'' within the meaning of the Order. The NOFA makes funds available for HAs to employ or otherwise retain the services of up to one FSS program coordinator for one year. As such, there are no direct implications on the relationship between the national government and the states or on the distribution of power and

responsibilities among various levels of government.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate that basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included as Attachment D of this NOFA.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

IX. Authority

The Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1999 (Pub. L. No. 105–265, approved October 21, 1998) authorizes funding for program coordinators under the Section 8 FSS program. As a result, the Department determined to make a sufficient amount available under this NOFA, under 24 CFR part 984, in accordance with section 984.302(b), to enable HAs to hire up to one Section 8 FSS program coordinator for one year at a reasonable cost as determined by the HA and HUD, based on salaries for similar positions in the locality.

Dated: July 16, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Attachment A.—Required Certification Format for HAs That Received FY 98 Section 8 FSS Program Coordinator Funding *

Dear HUD Field Office HUB Director of Public Housing or Field Office Program Center Coordinator:

In connection with the second FY 99 NOFA for Section 8 FSS program coordinators, [enter date of publication of this NOFA publication], I hereby certify for the _____ (enter name) HA that:

(1) The HA has hired a Section 8 FSS program coordinator using HUD funds provided for that purpose on _____ (enter the ACC effective date of FY 98 FSS program coordinator funding increment), and

(2) The HA has (check all that apply):

____ (a) Formed and convened an FSS program coordinating committee,

____ (b) Obtained HUD approval of its Section 8 FSS action plan,

____ (c) Executed contracts of participation with FSS participants.

(3) The HA has_____ (enter number) Section 8 families currently enrolled in its Section 8 FSS program.

(4) The total number of (both voluntary and mandatory) Section 8 FSS slots identified in the HA's HUD-approved action plan or, when HAs are applying jointly, the combined total of Section 8 FSS program slots in the HUD-approved Action Plan is _____.

(5) The total number of budgeted Section 8 rental certificates and rental vouchers from the most recent HUD-approved HUD 52672 form is _____.

(**Note:** For HAs applying jointly, provide the total for all HAs included in the application.)

(6) The HA did not apply for Section 8 Program Coordinator funding under the Section 8 FSS Program Coordinators NOFA published on March 8, 1999.

Sincerely,

Executive Director

* **Note:** To qualify for funding under this NOFA, HAs that received Section 8 FSS Program Coordinator funding in FY 98 must

have hired an FSS program coordinator with funding awarded under that NOFA and demonstrate activities in each of the categories in section 2.(a), 2.(b) and 2(c) of this Attachment A certification.

Attachment B—New Requests for Section 8 FSS Program Coordinator Funds Sample Letter Format

Dear HUD Field Office HUB Director of Public Housing or Field Office Program Center Coordinator:

This is to request funds to pay the salary of a Section 8 Family Self-Sufficiency (FSS) program coordinator for one year, for the _____ housing agency (HA) Section 8 FSS program.

The __ HA did not apply for funding under the March 8, 1999 Section 8 FSS Program Coordinators NOFA.

1. Total number of budgeted Section 8 rental certificates and rental vouchers from the most recent HUD-approved form HUD–52672, Supporting Data for Annual Contributions Estimates Section 8 Housing Assistance Payments Program: _____.
2. Total number of families currently enrolled in the HA's Section 8 FSS program: _____.
3. Total number of Section 8 FSS program slots based on the number of (both voluntary and mandatory) FSS slots identified in the HA's HUD-approved Action Plan OR, when HAs are applying jointly, the combined total of Section 8 FSS program slots in the HUD-approved Action Plans of the HAs _____.
4. Section 8 FSS Program Coordinator Salary:
   a. *Salary level*, based on salaries for comparable jobs (modified by number of hours worked) _____
   b. *Annual Salary* plus Fringe Benefits: _____ Hours/Week; _____ $/Hour; _____ Fringe Rate(%)
   Annual Salary_____
5. Attachment: Evidence demonstrating salary comparability to similar positions in the local jurisdiction.
6. For joint applications: The lead applicant HA that will receive and administer the Section 8 FSS program coordinator funding is: _____.

If there are any questions, please contact _____ at _____.

Sincerely,

Executive Director.

Attachments

Attachment C—Fair Housing and Equal Opportunity Certifications

The housing agency (HA) certifies that in administering the funding for the Section 8 Family Self-Sufficiency program coordinators it will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing. CDBG recipients also must certify to compliance with section 109 of the Housing and Community Development Act.

_____

Name of HA

_____

Signature and Title of HA Representative

_____

Date

Attachment D—Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1342, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature of HA Representative

_____

Name of Signatory (Print or Type)

_____

Name of HA

_____

Date signed

[FR Doc. 99–19122 Filed 7–22–99; 2:10 pm]

BILLING CODE 4210–33–P

federal register

Tuesday
July 27, 1999

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 2 and 52

Federal Acquisition Regulation; Commercial Items—Nongovernmental Purposes; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 52

[FAR Case 98–304]

RIN 9000–AI41

Federal Acquisition Regulation; Commercial Items—Nongovernmental Purposes

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 implement Section 803(a)(2)(D) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 by revising the definition of ''commercial item'' to provide specific guidance on the meaning and appropriate application of the term ''purposes other than government purposes'' at 41 U.S.C. 403(12)(A).

DATES: Comments should be submitted on or before September 27, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.98–304@gsa.gov.

Please cite FAR case 98–304 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAR case 98–304.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the definition of ''commercial item'' at FAR 2.101 and the definition in the clause at FAR 52.202–1, DEFINITION, to provide specific guidance on the meaning and appropriate application of the term ''purposes other than government purposes'' at 41 U.S.C. 403(12)(A). This change implements Section 803(a)(2)(D) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261). Section 803(a)(2)(D), effective upon enactment, requires that the FAR be revised to provide this specific guidance.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule 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 the rule merely clarifies existing language and does not change existing policy. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 98–304), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2 and 52

Government procurement.

Dated: July 22, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR parts 2 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 2 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. In section 2.101(b), revise paragraph (a) of the definition ''Commercial item'' to read as follows:

PART 2—DEFINITION OF WORDS AND TERMS

2.101 Definitions.

* * * * *

(b) * * *

* * * * *

Commercial item means—

(a) Any item, other than real property, that—

(1) Has been sold, leased, or licensed to the general public (or has been offered for sale, lease, or license to the general public, with a likelihood that the offer will be accepted within a reasonable time); and

(2) Is of a type customarily used by the general public for purposes other than the performance of work for a Government entity.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In section 52.202–1, revise the date of the clause and paragraph (c)(1) to read as follows:

52.202–1 Definitions.

* * * * *

Definitions (Date)

* * * * *

(c) *Commercial item* means—

(1) Any item, other than real property, that—

(i) Has been sold, leased, or licensed to the general public (or has been offered for sale, lease, or license to the general public, with a likelihood that the offer will be accepted within a reasonable time); and

(ii) Is of a type customarily used by the general public for purposes other than the performance of work for a Government entity.

* * * * *

[FR Doc. 99–19097 Filed 7–26–99; 8:45 am]

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federal register

Tuesday
July 27, 1999

Part VI

Environmental Protection Agency

40 CFR Part 262

Project XL Site-Specific Rulemaking for University Laboratories at the University of Massachusetts Boston, Boston, MA; the Boston College, Chestnut Hill, MA; and the University of Vermont, Burlington, VT; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[FRL–6408–4]

Project XL Site-Specific Rulemaking for University Laboratories at the University of Massachusetts Boston, Boston, MA; the Boston College, Chestnut Hill, MA; and the University of Vermont, Burlington, VT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; request for comments and draft final project agreement.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing this rule to implement a project under the Project XL program that would provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended for the University of Massachusetts-Boston, Boston, MA, Boston College, Chestnut Hill, MA and the University of Vermont, Burlington, VT (the Universities). The principal objective of this Laboratory XL Project is to pilot a flexible, performance-based system for managing laboratory waste. To achieve this, today's proposed rule would provide regulatory flexibility to allow the participating laboratories at the Universities to replace existing requirements for hazardous waste generators with a comprehensive Laboratory Environmental Management Plan designed for each University. The terms of the overall XL project are contained in the draft Final Project Agreement (FPA) on which EPA is also requesting comments. The draft Final Project Agreement (FPA) is available for public review and comment at the EPA Docket in Washington DC, in the EPA Region I library, at the Universities, and on the world wide web at http://www.epa.gov/projectxl/. Following a review of the public comments and appropriate changes, the FPA would be signed by delegates from the EPA, the Massachusetts Department of Environmental Protection (MADEP), the Vermont Department of Environmental Conservation (VTDEC) and the Universities.

DATES: Public Comments: Comments on the proposed rule and/or FPA must be received on or before August 26, 1999. All comments should be submitted in writing to the address listed below.

Public Hearing: Commenters may request a public hearing by August 10, 1999 during the public comment period. Commenters requesting a public hearing should specify the basis for their request. If EPA determines that there is sufficient reason to hold a public hearing, it will do so by August 17, 1999, during the last week of the public comment period. Requests for a public hearing should be submitted to the address below. If a public hearing is scheduled, the date, time, and location will be available through a **Federal Register** notice or by contacting Ms. Gina Snyder or Mr. George Frantz at the Region 1 office.

ADDRESSES: Request to Speak at Hearing: Requests for a hearing should be mailed to the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F–1999–NEUP–FFFFF. A copy should also be sent to Ms. Gina Snyder at U.S. EPA Region I. Ms. Gina Snyder may be contacted at the following address: U.S. Environmental Protection Agency, Region I (SPE), 1 Congress St., Suite 1100, Boston, MA, 02114, (617) 918–1837.

Comments: Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F–1999–NEUP–FFFFF.

Viewing Project Materials: A docket containing the proposed rule, draft Final Project Agreement, supporting materials, and public comments is available for public inspection and copying at the RCRA Information Center (RIC), located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00 am to 4:00 pm Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–1999–NEUP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page. Project materials are also available for review for today's action on the world wide web at http://www.epa.gov/projectxl/.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region I, 1 Congress Street, Suite 1100 (LIB), Boston, MA 02114–2023 during normal business hours. Persons wishing to view the duplicate docket at the Boston location are encouraged to contact Ms. Gina Snyder or Mr. George Frantz in advance, by telephoning (617) 918–1837 or (617) 918–1883.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Snyder or Mr. George Frantz, U.S. Environmental Protection Agency, Region I (SPE), Assistance and Pollution Prevention Division, 1 Congress Street, Suite 1100, Boston, MA 02114–2023. Ms. Snyder can be reached at (617) 918–1837 and Mr. Frantz can be reached at (617) 918–1883. Further information on today's action may also be obtained on the world wide web at http://www.epa.gov/projectxl/.

SUPPLEMENTARY INFORMATION: The development and implementation of an Environmental Management Plan would be piloted at these three Universities in their laboratories at areas that are currently managed as satellite accumulation areas (see 40 CFR 262.34(c)). Hazardous waste managed at all other areas of each University would continue to be subject to current RCRA regulations. This pilot is intended to test the effectiveness of an integrated, flexible, performance-based approach for managing hazardous waste in university laboratories to determine whether this approach promotes better management of laboratory wastes than the current standards.

In an effort to more efficiently manage hazardous waste and minimize the volume of waste generated in the university laboratory setting, the proposed rule would provide for a ''temporary conditional deferral'' from two specific RCRA requirements that apply to generators of hazardous waste, 40 CFR 262.11—Hazardous Waste Determination, and 262.34(c)—Satellite Accumulation, which includes requirements for container management. Instead, laboratory waste would be managed in accordance with a Laboratory Environmental Management Plan until it reaches each University's on-site hazardous waste accumulation area where a determination would be made by Environmental Health and Safety personnel as to whether the waste can be redistributed and reused at the University or whether it must be managed as a RCRA hazardous waste. The proposed rule would define laboratory waste as a hazardous chemical that results from laboratory scale activities and includes the following: excess or unused hazardous chemicals that may or may not be reused outside their laboratory of origin; hazardous chemicals determined to be RCRA hazardous waste as defined in 40 CFR part 261; and hazardous chemicals that will be determined not to be RCRA

hazardous waste pursuant to the new proposed rule at 40 CFR 262.106. Making a solid and hazardous waste determination at a central location would allow professionals within the Universities' Environmental, Health and Safety program to more easily manage the laboratory waste and to increase reuse opportunities.

The deferral of specified RCRA requirements is ''temporary.'' It remains in effect only for the four-year term of this Laboratory XL project. The four-year term is based upon the date of promulgation of the final rule when the Universities will commence the development of their Laboratory Environmental Management Plans (EMP). Following review of its EMP, each University would notify the applicable state agency and EPA in writing of the date on which it intends to implement its EMP. The proposed rule would become effective in the designated participating laboratories only after such written notification. Section III.D.2. and IV.F.1. discuss the aspects of state implementation of the proposed rule.

The deferral of the specified RCRA requirements is also ''conditional.'' It is conditioned upon each University's implementation and compliance with the Laboratory Environmental Management Standard set forth in 40 CFR part 262, subpart J of this proposed rule. The Laboratory Environmental Management Standard includes specific requirements for the management of laboratory waste that ensure protection of human health and the environment while providing some flexibility to encourage chemical reuse and waste minimization. These requirements are termed Minimum Performance Criteria. They are enforceable in the same way as current RCRA standards are enforceable to ensure that handling of laboratory waste would be protective of human health and the environment. During this XL project, the proposed requirements set forth in the proposed Subpart J (including the Environmental Management Plan requirements) would also be enforceable under RCRA section 3008.

The Environmental Management Standard (EMS) in subpart J contains requirements for each University to create and implement an Environmental Management Plan (EMP) to cover all of its participating laboratories. The elements of the EMP in the proposed rule are expected to function as an outline of the procedures that must be in place to manage laboratory waste in order to both minimize the amount of waste generated, while allowing for the maximum reuse of the waste that is generated. Although the EMP must describe how each laboratory will comply with the specific Minimum Performance Criteria, the Minimum Performance Criteria are requirements that stand on their own. The proposed deferral of the hazardous waste determination is conditioned on compliance with all of the requirements of the EMS, including the Minimum Performance Criteria. These criteria ensure that the handling of laboratory waste would be protective of human health and the environment by establishing how laboratory waste would be managed within the laboratory, and in transit to the on-site hazardous waste accumulation area for each University.

EPA has agreed to allow the Universities to undertake this XL project with the requested regulatory flexibility to determine if the proposed performance-based Environmental Management Plan approach would result in superior environmental performance and significant cost savings to the universities.

Today's proposed rulemaking, and the state actions described in section IV.F.1. of this preamble that parallel today's action, will not in any way affect the provisions or applicability of any other existing or future regulations.

EPA is soliciting comments on this rulemaking. EPA will publish responses to comments in a subsequent final rule. The XL Project will enter the implementation phase when, in addition to promulgation of the final rule, all signatories to the XL Project sign the Final Project Agreement. Implementation of the Environmental Management Plan(s) will occur after the individual EMPs have been developed by each university, and reviewed by EPA and the appropriate State agency to ensure adherence to the Environmental Management Standard, prior to commencement of the new system.

Outline of Today's Document

The information presented in this preamble is organized as follows:

I. Authority
II. Overview of Project XL
III. Overview of the University Laboratory XL Project Pilot
A. To What Laboratories Would the Proposed Rule Apply?
B. What Problems Have the University Laboratories Identified?
C. What Solutions Are Proposed by the University Laboratory XL Project?
1. A New Integrated Performance-Based System
2. Laboratory Environmental Management Standard (EMS)
3. Laboratory Environmental Management Plan (EMP)
4. Minimum Performance Criteria
5. How the New System Would Work
6. Comparison of the Minimum Performance Criteria with Current RCRA Regulations
7. Comparison of the Proposed Rule with Current OSHA and RCRA Regulatory Requirements
8. How the Laboratory XL Project Will Result in Superior Environmental Performance
D. What Regulatory Changes will be Necessary to Implement this Project?
1. Federal Regulatory Changes
2. State Regulatory Changes
E. Why is EPA Supporting this New Approach to Laboratory Waste Management?
F. How Have Various Stakeholders Been Involved in this Project?
G. How Will this Project Result in Cost Savings and Paperwork Reduction?
H. How Will EPA Ensure the Integrity and Comprehensiveness of Each University's Laboratory Environmental Management Plan?
I. How Will the Terms of the Laboratory XL Project and Proposed Rule be Enforced?
J. How Long Will this Project Last and When Will it be Complete?
IV. Additional Information
A. How to Request a Public Hearing
B. How Does this Rule Comply With Executive Order 12866?
C. Is a Regulatory Flexibility Analysis Required?
D. Is an Information Collection Request Required for this Project Under the Paperwork Reduction Act?
E. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?
F. RCRA & Hazardous and Solid Waste Amendments of 1984
1. Applicability of Rules in Authorized States
2. Effect on Massachusetts and Vermont Authorization
G. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
H. Does this Rule Comply with Executive Order 12875: Enhancing Intergovernmental Partnerships?
I. How Does this Rule Comply with Executive Order 13084: Consultation and Coordination with Indian Tribal Governments?
J. Does this Rule Comply with the National Technology Transfer and Advancement Act?

I. Authority

EPA is publishing this proposed regulation under the authority of sections 2002, 3001, 3002, 3003, 3006, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6912, 6921, 6922, 6923, 6926, 6930, 6937, 6938, and 6974).

II. Overview of Project XL

The draft FPA sets forth the intentions of EPA and the Universities with regard to a project developed under Project XL, an EPA initiative to allow regulated entities to achieve better environmental results at less cost. The proposed regulation would facilitate implementation of the project. Project XL—''eXcellence and Leadership''—was announced on March 16, 1995, as a central part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to EPA's ability to test new strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project(s), if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance.

The XL program is intended to allow EPA to experiment with potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. As part of this experimentation, the EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. The EPA may also modify rules, on a site-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, EPA expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (provided that the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as section 8001 of RCRA.

XL Criteria

To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected Federal, state and tribal agencies to be selected.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 ''Principles for Development of Project XL Final Project Agreements'' document. For further discussion as to how the University Laboratories XL project addresses the XL criteria, readers should refer to the Final Project Agreement available from the EPA RCRA docket or Region 1 library for this action (see **ADDRESSES** section of today's preamble).

XL Program Phases

The Project XL program is compartmentalized into four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that they would like to consider as an XL pilot, the second phase where the project sponsor works with EPA and interested stakeholders in developing an XL proposal, the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal, the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing a Final Project Agreement and legal mechanism. After promulgation of the final rule (or other legal mechanism) for the XL pilot, and after the Final Project Agreement has been signed by all designated parties, the XL pilot proceeds into the implementation phase and evaluation phase.

Final Project Agreement

The Final Project Agreement (FPA) is a written agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the proposed pilot project. It addresses the eight Project XL criteria, and the expectation of the Agency that this XL project will meet those criteria. The Final Project Agreement identifies performance goals and indicators (monitoring schedule) which will enable the laboratories to clearly illustrate the baseline quantities. The draft FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits. The FPA also discusses the administration of the agreement, including dispute resolution and termination. The Final Project Agreement is available for review in the docket for today's action, and also is available on the world wide web at http://www.epa.gov/projectxl/.

III. Overview of the University Laboratories XL Project

EPA is today requesting comments on the draft FPA and proposed rule to implement key provisions of this Project XL initiative. Today's proposed rule would facilitate implementation of the draft FPA (the document that embodies EPA's intent to implement this project) that has been developed by EPA, Massachusetts Department of

Environmental Protection (MADEP), Vermont Department of Environmental Conservation (VTDEC), the Universities, and other stakeholders. After comments on the draft FPA have been considered, EPA, MADEP, VTDEC, and the three Universities expect to sign a final FPA. Today's proposed rule would not be effective in Massachusetts and Vermont until those states have made conforming changes.

A. To What Laboratories Would the Proposed Rule Apply?

The Proposed Rule would apply only to participating laboratories at the following three Universities:

- University of Massachusetts Boston, Boston, MA
- Boston College, Chestnut Hill, MA
- University of Vermont, Burlington, VT

Boston College is classified as a Small Quantity Generator (SQG). The University of Massachusetts Boston and the University of Vermont are classified as Large Quantity Generators (LQG). The University of Massachusetts Boston is an LQG solely as a generator of acute wastes in excess of the one kilogram per month threshold. Additionally, the University of Vermont operates a part B permitted facility for the storage of hazardous wastes. Participating laboratories at all the Universities currently generate and manage hazardous waste and the Universities fully expect that some of the laboratory wastes that would be generated and managed under the Environmental Management Plans would meet the definition of a RCRA hazardous waste.

The University laboratories that would be affected by this project are used for research and teaching purposes. A breakdown of the individual Universities' laboratories is shown in Table 1 below. The table also identifies each Universities' on-site hazardous waste accumulation areas which would continue to be regulated under existing federal and state RCRA regulation:

TABLE 1.—LABORATORY XL PROJECT PARTICIPANT INFORMATION

Institution	Student body	Number of labs	Departments participating	Location of current hazardous waste accumulation areas [1]
Boston College Chestnut Hill, MA	14,000	120	Chemistry, Biology, Geology, Physics, Psychology.	Merkert Chemistry Building, 2609 Beacon St., Boston MA; Higgins Building, 140 Commonwealth Ave., Chestnut Hill MA.
University of Massachusetts Boston Boston, MA.	13,000	150	Chemistry, Biology, Psychology, Anthropology, Geology and Earth Sciences, and Environmental, Coastal and Ocean Sciences.	Science Building (Bldg. #080); McCormack Building (Bldg. #020); and Wheatley Building (Bldg. #010) 100 Morrissey Blvd., Boston MA
University of Vermont Burlington, VT	10,000	400	Colleges of: Agriculture and Life Sciences; Arts and Sciences; Medicine; and Engineering and Mathematics; and Schools of: Nursing; Allied Heath Sciences; and Natural Resources.	Given Bunker, 89 Beaumont Ave., Burlington VT.

[1] **Note:** These accumulation areas would still be fully covered by the current federal and state RCRA regulations. This XL project, for example, would not allow any increased air emissions that would otherwise be controlled under the current RCRA regulations such as the subpart CC hazardous waste organic air emission standards that apply to large quantity generators who accumulate hazardous waste on-site.

B. What Problems Have the University Laboratories Identified?

To understand the problems faced by the Universities and the purpose behind the proposed rule, it is necessary to understand the context in which the proposed rule has arisen and to consider the experience of university laboratories as regulated entities under both the Occupational Safety and Health Act (OSHA) and RCRA. While both statutes have the common objective of protecting human health, RCRA makes a clear distinction between hazardous waste and hazardous chemicals in a laboratory setting. There are specific handling and management requirements for ''hazardous wastes'' under RCRA which do not apply to the larger universe of ''hazardous chemicals'' regulated by the Occupational Safety and Health Administration. Researchers are familiar with the specialized system developed for laboratory work by OSHA, which includes the requirement to develop and implement a Chemical Hygiene Plan (CHP). This systematic approach, incorporating a specific plan, can also be applied to the management of hazardous waste that sometimes results from the use of hazardous chemicals in the laboratory. However, under the current system, laboratories are required to implement and to track two parallel, and not always consistent chemical management systems within the laboratory setting.

The Universities have proposed streamlining the management of chemicals in the laboratory by having a single system addressing hazardous chemicals that will result in both better management and a reduction in the quantity of laboratory wastes that have to be disposed. This streamlining will result in a number of changes, which when combined in a single systematic approach to chemical management, are expected to provide results that are superior to those provided by the current regulatory framework.

An example of one area that will be streamlined is the process for training laboratory workers. OSHA's chemical standard requires that the employer provide employees with information and training on the hazards of chemicals present in their area. RCRA requires large quantity generators to ensure that facility personnel complete classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable requirements. RCRA requires small quantity generators to ensure that all employees are familiar with proper waste handling and emergency procedures relevant to their responsibilities. The new system proposed in this rule would require the same standardized training for all laboratory workers, including: students, personnel in positions related to hazardous waste management, and laboratory employees. This systematic training approach can cover both safety

and environmental concerns when performed through the integration of chemical hygiene planning and environmental management planning. This is expected not only to streamline but also to upgrade existing training, and to provide students—the laboratory workers of the future—with a better understanding of the environmental impacts of their work and how to minimize those impacts.

The university laboratory setting is decentralized, with various departments funding diverse types of research. The university community is also diverse and subject to the regular turnover of students and researchers. This decentralized setting, when combined with rules that vary from state to state (as discussed in sections D.2. and E., below) and between federal RCRA and federal OSHA standards, often leads to the unnecessary and premature disposal of chemicals after an individual laboratory has no use for them. This is true even for unused chemicals that may be reusable elsewhere at the University. A more centralized system should result in more effective decision making with regard to chemical disposition and should result in increased chemical reuse. Therefore, one of the larger changes to result from this proposed project would be the centralization of the system for managing chemical wastes. This would allow decisions regarding chemical disposition to more easily occur at a centralized area where knowledge of campus-wide needs for chemicals can be factored into decisions as to whether unused or used chemicals (formerly disposed as waste) can be reused within the University.

The implementation of the current system is further complicated by the structure of university laboratories which is different from industrial settings where RCRA has been quite effective. Industrial settings commonly have ongoing processes which generate a single waste at a fairly regular rate of generation. With potentially hundreds of small laboratories within one university, each producing small amounts of multiple wastes on a noncontinuous basis, the overall management of hazardous wastes becomes more difficult. For example, it can be difficult for universities to comply with the current requirements that result in 3 day removal timeframes for hazardous waste in excess of 55 gallons at their satellite areas (managed under 40 CFR 262.34(c) or equivalent state provisions). Waste generation in manufacturing settings is generally more uniform and continuous than it is in university research laboratories where the rate of waste generated is often unpredictable. This uncertainty makes it difficult for a university to predict when satellite accumulation limits may be exceeded and to arrange for removal of the waste within the required amount of time. This proposed alternative system for university laboratories attempts to address their atypical circumstances by allowing them to set up a monthly pick-up schedule for laboratory waste. With the ability to be proactive in setting up schedules for waste pickups, EH&S professionals at the Universities would be able to avoid a reactive mode of operation, to proactively develop a systematic approach for re-use of chemicals on-site, and to operate that system based on the schedule they could develop under this proposal.

The difficulty of managing laboratory wastes has been the subject of nation-wide discussions within the university and research community throughout the past decade. Many organizations including the Campus Safety, Health and Environmental Management Association, the National Research Council, and the American Chemical Society have all sought a better way to properly manage and handle hazardous chemicals in the laboratory, and to comply with the requirements of both OSHA and RCRA. In the New England area, the Laboratory Consortium for Environmental Excellence (LCEE) was formed to explore viable alternatives to the current parallel regulatory scheme and to promote best management practices for laboratories. As a result of exhaustive reviews and interviews with universities and research organizations across the country, a consensus was reached regarding the need to harmonize the RCRA and OSHA regulatory systems through a performance-based management system that would actively promote prudent practices, encourage chemical reuse and recycling, minimize costs, and increase efficiency.

The central purpose of this Laboratory XL project is to test the effectiveness of an integrated, performance-based environmental management system which is consistent with the objectives of RCRA and which would complement the applicable OSHA regulations.

C. What Solutions Are Proposed by the University Laboratory XL Project?

1. A New Integrated Performance-Based System

The University Laboratory XL project proposes to test the effectiveness of an integrated, flexible, performance-based system for managing hazardous wastes in laboratories which (1) would result in pollution prevention and streamlined procedures for managing hazardous wastes and hazardous chemicals at universities, (2) would meet the objectives of both the RCRA and OSHA regulatory programs combined and (3) would be at least as protective of human health and the environment as the current system.

This project would pilot an alternative approach to hazardous waste management in University laboratories which is more systematic and more centralized than the approach implemented by Universities under the current system. At the same time, the pilot integrates some of the current RCRA hazardous waste regulations with current OSHA regulations by proposing that universities develop a plan similar to the CHP but designed for the management of environmental aspects of their activities to facilitate the creation of an integrated and consistent system for managing laboratory waste in laboratories. As a result of the efficiencies gained from the harmonization of the OSHA CHP and the RCRA-oriented Laboratory Environmental Management Plan, the new system is expected to provide a better management approach for laboratories and to result in increased pollution prevention while still ensuring protection of human health and the environment.

To achieve this objective, the Universities would like to pursue a regulatory model of a Laboratory Environmental Management Standard (EMS) that identifies both the elements for the effective management of laboratory wastes, and the minimum performance requirements for handling wastes in each individual laboratory. The proposed Laboratory EMS sets out all the requirements for the proposed alternative system of managing laboratory waste. First and foremost, the Laboratory EMS would include Minimum Performance Criteria for the management of laboratory wastes within the laboratory and en route to the on-site hazardous waste accumulation area. These criteria are the requirements that would be an alternative to 40 CFR 262.34(c) in the laboratory. The Minimum Performance Criteria are a set of measurable requirements that are similar to the current RCRA requirements. Each of the elements of the Minimum Performance Criteria is described in full in today's proposed rule and is briefly explained below. In addition, the Laboratory EMS would also require the development of a Laboratory Environmental Management Plan (EMP). The EMP would be written by each University to document its specific procedures for how it would

conform with the Laboratory EMS. The EMP would also describe the procedures each laboratory would follow in order to meet the Minimum Performance Criteria. The elements of the EMP are summarized below in Table 2.

2. Laboratory Environmental Management Standard (EMS)

Today's proposed rule is called the ''Laboratory Environmental Management Standard''. It would include a definition section (40 CFR 262.102), the requirements for waste management in the laboratory, or the Minimum Performance Criteria, (40 CFR 262.104) and the specific requirement that each University develop a Laboratory Environmental Management Plan (40 CFR 262.105). Proposed subpart J also contains requirements detailing the organizational responsibilities and the training requirements of each participating University laboratory (40 CFR 262.105). The Laboratory EMS would provide the umbrella framework for an effective system for the management of university laboratory waste. It would contain all the elements, from definitions through waste determination requirements (40 CFR 262.106), that would make up the new systematic approach proposed for university laboratories. The proposed Laboratory EMS was originally modeled after the general structure and format of the OSHA ''Occupational Exposure to Hazardous Chemicals in Laboratories'' standard which requires a Chemical Hygiene Plan.

3. Laboratory Environmental Management Plan (EMP)

The Laboratory EMS would require the development of a Laboratory EMP which would be the mechanism through which the Laboratory EMS is put into practice at each University. The Laboratory EMP, modeled on OSHA's Chemical Hygiene Plan, would be a comprehensive plan to be developed by each University. The EMP would document the procedures, practices and programs to (a) manage laboratory waste in a manner that is protective of human health and the environment and (b) that would be implemented to achieve compliance with the requirements of the Laboratory EMS and the Minimum Performance Criteria. It is through the Laboratory EMP that the Universities would have the opportunity and the obligation to design a performance-based system to complement the OSHA requirements, to encourage waste minimization, and the redistribution and reuse of laboratory waste. The Laboratory EMP would identify specific elements to be implemented by each University, including requirements for pollution prevention policies and procedures.

One of the objectives of the EMP and the overall XL project is to erase the distinction between unused chemicals and waste chemicals in the laboratory setting, so that the value in reusing chemicals can be realized. This would be accomplished by defining laboratory waste to include hazardous chemicals that result from laboratory scale activities and which may or may not constitute RCRA hazardous wastes. In the proposal, laboratory waste is defined as ''a hazardous chemical that results from laboratory scale activities and includes the following: excess or unused hazardous chemicals that may or may not be reused outside their laboratory of origin; hazardous chemicals determined to be RCRA hazardous waste as defined in 40 CFR part 261; and hazardous chemicals that will be determined not to be RCRA hazardous waste pursuant to 40 CFR 262.106.'' Thus, all ''laboratory waste'' would be managed under a single standard while in the laboratory. The determination that a laboratory waste could not be reused and would be a RCRA solid waste, and as to whether such solid waste would be a RCRA hazardous waste, would be made at a centralized area, by Environmental Health and Safety professionals.

4. Minimum Performance Criteria

The proposed requirements for the laboratory EMP include a requirement that the EMP include procedures to assure compliance with certain Minimum Performance Criteria (MPC) specified in the proposed regulation. The proposed Minimum Performance Criteria set forth minimum requirements for the management of laboratory waste and have been designed to ensure that laboratory waste will be managed in a manner protective of human health and the environment. The requirements in the Minimum Performance Criteria include provisions which are consistent with current RCRA requirements, including labeling and container management. The criteria have a wider application than current RCRA requirements because the definition of laboratory waste includes some materials that are not RCRA hazardous waste.

5. How the New System Would Work

This new proposed system would help each University to centralize and coordinate its chemical management practices and demonstrate environmental performance beyond what would likely be achieved under the existing system.

Currently, there are two potential impediments to such centralization and coordination. The first is the hazardous waste determination requirement under 40 CFR 262.11. If this determination is made in the individual laboratory, decisions with regard to reuse are inevitably decentralized since the hazardous waste determination necessitates a prior solid waste determination. To the extent that these decisions are made by laboratory workers who do not have a complete sense of the chemical needs of the entire university, such decisions are often premature and do not maximize the potential for re-use. The second potential impediment under the current system is the requirement under 40 CFR 262.34(c) that hazardous waste in excess of 55 gallons be removed within three days of reaching the 55-gallon limit. Such a time constraint results in constant, unplanned, episodic pick-ups which are in themselves, time-consuming. In contrast, the extended accumulation period of 30 days should allow for a more coordinated and efficient pick-up and delivery system which would free up staff time, and allow for the development of infrastructure and training designed to increase waste minimization and an organized and coordinated campus-wide chemical reuse system.

The EMP and the Minimum Performance Criteria would work together to form the alternative system for the management of laboratory waste. The following outline presents a step-by-step overview of how the Laboratory Environmental Management Standard would work once this rule is finalized and conforming changes are adopted by Vermont and Massachusetts.

Development of the Environmental Management Plan

Step 1: Within six months, each University would develop its Environmental Management Plan (EMP) addressing all the elements required by 40 CFR 262.105, summarized in Table 2, below. Applicable RCRA requirements would remain in full effect in the laboratories prior to the EMP being written, reviewed, and implemented. For the purpose of this Laboratory XL project, each University would consult with EPA, and the state of Massachusetts (DEP) or Vermont (DEC) in the development of its EMP. The centerpiece of the new system would be the individual Laboratory Environmental Management Plan. The EMP would include detailed specific elements that would have to be

included and implemented by each University. Each University would be expected to craft an Environmental Management Plan that is tailored to the structure and individual needs of the University and its laboratories. A summary of the elements in the Environmental Management Plans is outlined in Table 2. These are more fully detailed in the proposed rule at 40 CFR 262.105.

Step 2: Once completed, the EMP would be made available on each University's web site. So that EPA can continue to evaluate this XL project, EPA-Region I would review each EMP to confirm that it meets all of the requirements of 40 CFR 262.105. The relevant state agencies may also review the EMP. Each University would also be working on how it will implement its EMP, which would include training laboratory workers with regard to the requirements of the Minimum Performance Criteria pursuant to the procedures contained in the Environmental Management Plan.

TABLE 2.—SUMMARY OF MAJOR ELEMENTS REQUIRED IN LABORATORY ENVIRONMENTAL MANAGEMENT PLANS

General:
The EMP must include a description of specific measures a University will take to protect human health and the environment from hazards associated with the management of laboratory wastes.

Administration:
1. An environmental policy, including commitments to regulatory compliance, waste minimization, risk reduction and continual improvement of the environmental management system.
2. A description of roles and responsibilities for the implementation and maintenance of the Laboratory Environmental Management Plan.
3. A pollution prevention plan.
4. Provisions for information dissemination and training.
5. Procedures for the development and approval of changes to the EMP.

Waste Management and Conformance Review:
6. Criteria that laboratory workers shall comply with for managing, containing and labeling laboratory wastes.
7. Procedures for inspecting a laboratory to assess conformance with the requirements of the Environmental Management Plan.
8. Procedures to assure compliance with the Minimum Performance Criteria (MPC).
9. Procedures for the identification of environmental management plan noncompliance and the assignment of responsibility, timelines and corrective actions to prevent their reoccurrence.
10. Criteria for the identification of physical and chemical hazards and the control measures to reduce the potential for releases to the environment of laboratory wastes.

Reporting/Recordkeeping:
11. The University's system for identifying and tracking legal and other requirements applicable to the management and disposal of designated laboratory wastes.
12. The University's system for conducting annual surveys of hazardous chemicals of concern.
13. The recordkeeping requirements to document conformance with the EMP.

Removal of Waste:
14. Procedures relevant to the timely and safe removal of laboratory wastes.
15. Procedures and work practices for safely transporting or moving laboratory wastes.

Maintenance:
16. Procedures for conducting laboratory clean-outs.

Emergency:
17. Emergency preparedness and response procedures.

Step 3: Following review of its EMP, each University would notify the relevant state agency in writing of the date on which it intends to implement its EMP. For purposes of this XL project, each University would also notify EPA Region I. The proposed rule would become effective in the laboratories only after such written notification.

Implementation of the Environmental Management Plan Including Procedures for Meeting the Minimum Performance Criteria

The EMP would cover the management requirements for laboratory waste until that waste reaches the designated on-site hazardous waste accumulation area, including emergency response requirements in the Minimum Performance Criteria while the waste is in transit to the accumulation area. The following steps outline procedures at a laboratory once the EMP would be in place and operational:

Step 4: Information and training would have been provided to laboratory workers to comply with the Minimum Performance Criteria as well as OSHA per the University's Laboratory Environmental Management Plan. Hazardous chemicals would be received at the University, distributed to the laboratory and placed in storage in the laboratory in accordance with any and all requirements imposed by OSHA, Fire Codes and/or building permits. If those chemicals pose a new or unique hazard for which a worker has not received prior training, the worker would receive new information and training so that they could understand and implement the relevant elements of the EMP.

Step 5: Hazardous chemicals would be used in the research or teaching laboratory under the direction of a trained individual, and laboratory waste would be generated from those laboratory scale activities.

Step 6: The laboratory waste would be managed in accordance with the Minimum Performance Criteria and the University's specific Laboratory EMP which would include the University-specific procedures for meeting those criteria. These procedures would include ensuring that the laboratory waste generated as a result of laboratory scale activities in Step 5 is placed in containers and labeled with a chemical name and hazard warning as per the Minimum Performance Criteria and the procedures for meeting those criteria as outlined in the Environmental Management Plan. For example, the Laboratory EMP may specify the type of label the University requires for each type of laboratory waste and how that label must be filled out.

Step 7: Each laboratory would be able to temporarily hold up to 55-gallons of laboratory waste (or up to 1 quart of acutely hazardous laboratory waste) prior to having to put a date on the waste. Upon reaching the 55 gallon or 1 quart limit in the laboratory, the laboratory waste container(s) would be marked with the date. Any laboratory waste held in excess of these limits before the dated laboratory waste is

removed would also be managed as described in Step 6, and the excess would be limited in quantity to an additional 55 gallons (or an additional 1 quart of acutely hazardous laboratory waste). Excess waste accumulated before dated laboratory waste is removed would also have to be marked with the date it reaches the 55 gallon or 1 quart limit and would subsequently be removed from the laboratory as described in Step 8.

Step 8: Once laboratory waste is dated, the University EH&S staff would be immediately informed that the laboratory waste would have to be removed to the on-site hazardous waste accumulation area within 30 days of the label date.

Step 9: The laboratory waste referred to in Step 8 would be picked up (within thirty days of the dates referred to in Step 8) by EH&S department representatives and directly transferred to a designated on-site hazardous waste accumulation area (as defined in the definitions at proposed 40 CFR 262.102). Current hazardous waste accumulation areas at each of the Universities are shown in Table 1. Designated hazardous waste accumulation areas would be listed in the EMP.

Step 10: As soon as the laboratory waste is received at the on-site hazardous waste accumulation area, the University EH&S staff or designated trained professionals, would make a determination as to whether it is a solid waste under RCRA, and if it is a solid waste, the staff would determine whether it is a hazardous waste in accordance with 40 CFR 262.11, as required by proposed 40 CFR 262.106. Once the laboratory waste is received at the on-site hazardous waste accumulation area, the proposed ''temporary conditional deferral'' would no longer apply, and the laboratory waste that is determined to be hazardous waste would be managed in accordance with current RCRA requirements.

Step 11: If the laboratory waste could be reused, the University EH&S staff would arrange for its redistribution and reuse within the University. If EH&S staff determine that the laboratory waste is a solid waste and it is hazardous, it would be managed in accordance with all applicable RCRA requirements.

6. Comparison of Minimum Performance Criteria with Current RCRA Regulations

EPA intends that laboratory waste be managed safely. The Minimum Performance Criteria contained in proposed 40 CFR 262.104 have been developed by the University laboratories and EPA to ensure that laboratory waste is managed in a manner that is protective of human health and the environment. The following discussion demonstrates how specific provisions in the Minimum Performance Criteria would compare with RCRA provisions currently in effect. EPA is describing the current RCRA provisions as a point of comparison for the requirements proposed today, but is not proposing any changes to these current RCRA provisions.

(i) *Labeling:* Current RCRA regulations require that containers of hazardous waste in satellite accumulation areas be labeled either with the words ''hazardous waste'' or with other words that identify the contents. Today's rule would contain a requirement that laboratory waste would have to be labeled or tagged with the chemical name and general hazard class. Where a laboratory container is too small to be effectively labeled or where containers of like wastes are consolidated, such as where test tubes are stored in a rack or where similar wastes are being consolidated in a lab-pack shipping container, the secondary container (e.g. the rack containing the test tubes or the DOT shipping container) would have to be labeled. The Environmental Management Plan would include specific procedures that lab workers would have to follow to carry out the MPC requirements for labeling in the laboratories.

(ii) *Quantity Limitations:* Current federal RCRA regulations for satellite accumulation areas require that any hazardous waste accumulated at any point of generation in excess of 55 gallons (or one quart of acutely hazardous laboratory waste) be removed within three days. Current regulations do not limit the number of points of generation within an individual laboratory as long as hazardous waste is accumulated in accordance with all the requirements of 40 CFR 262.34(c). Thus, a given laboratory could potentially accumulate well over 55 gallons under the current rules. However, under the proposed rule, the Universities would be limited to temporarily holding 55 gallons of laboratory waste per laboratory, and no matter how many points of generation there are within a laboratory, any laboratory would be limited to 110 gallons. While this proposed restriction may prove to be more restrictive than the current system, this approach represents an experiment to be tested under this XL project. Although this approach could result in a limit that is considerably less than what a laboratory might be allowed to accumulate under current law, today's proposed rule would grant the Universities flexibility on the amount of time allowed to remove excess waste from the laboratory. (See (iv) below.)

(iii) *Quantity Limitation for Excess Laboratory Waste:* Current RCRA regulations do not place specific limits on the amount of ''excess'' hazardous waste, beyond 55 gallons, that a generator may accumulate in satellite areas during the three days prior to removal of such excess. Today's proposed rule specifically limits such excess in the laboratory setting to an additional 55 gallons of laboratory waste (or an additional 1 quart of acutely hazardous laboratory waste). Thus, the maximum amount of laboratory waste which may be held in a University laboratory at any time under today's proposed rule would be 110 gallons (or two quarts of acutely hazardous laboratory waste). While this requirement may prove to be more restrictive than the current system, this approach represents an experiment to be tested under this XL project, and it would ensure that there would not be excessive quantities of waste in the laboratories during the 30-day timeframe discussed below.

(iv) *Timing Limitations:* Current RCRA regulations state that a generator may accumulate up to 55 gallons of hazardous waste (or one quart of acutely hazardous waste) under 40 CFR 262.34(c) and within three days of exceeding that 55 gallons must comply with the requirements of 40 CFR 262.34(a) or other applicable requirements with respect to the excess over 55 gallons (or one quart). Under the proposed rule, all laboratory waste that has reached threshold amounts would have to be removed from the lab within 30 days, instead of three days. EPA is granting flexibility on the timing of removal to allow for a more efficient pick-up schedule which will in turn allow University staff to devote additional resources to make centralized decisions about the reuse of laboratory waste. As noted above, to ensure that large quantities of waste are not held in laboratories, today's proposal limits the excess to an additional 55 gallons of laboratory waste (or one additional quart of acutely hazardous laboratory waste).

(v) *Dating and Removal Requirements:* Current RCRA regulations require that a generator mark the container holding hazardous waste in excess of 55 gallons of hazardous waste (or one quart of acutely hazardous waste) with the date the excess amount began accumulating. Today's proposed rule would contain a requirement that

when laboratory waste reaches the threshold of 55 gallons (or one quart of acutely hazardous laboratory waste) it must be dated. Once laboratory waste is dated, the laboratory would have 30 days to remove it from the laboratory to the on-site hazardous waste accumulation area.

(vi) *Hazardous Waste Accumulation Areas:* Once satellite accumulation quantity limits are met, current RCRA regulations require generators to comply (within 3 days) with 40 CFR 262.34(a) or other applicable provisions. Under today's proposed rule, the accumulated laboratory waste would be directly transferred to a designated on-site hazardous waste accumulation area. Once the laboratory waste is received at the on-site hazardous waste accumulation area, the proposed ''temporary conditional deferral'' would no longer apply, and the laboratory waste that is determined to be hazardous waste would be managed in accordance with § 262.34(a) or other applicable RCRA requirements. In this regard, the proposed alternative system is meant to work in the same way as the current system.

(vii) *Container Management:* Current RCRA regulations set forth at 40 CFR 265.173(a), as referenced by § 262.34(c)(1)(i), require that containers of hazardous wastes be closed at all times, except when it is necessary to add or remove wastes. Today's proposed rule would contain the same requirement but allows the University to make exceptions for in-line waste collection containers. Some experiments use a process for the ''in-line collection'' of waste, which is a system that automatically collects waste while an experiment is running. Such systems may collect waste through a physically connected apparatus, such as, for example, gas chromatographs. Gas chromatographs commonly carry the chemical sample through the instrument using tubing that leads from the instrument to waste collection bottles on the back of the instrument. Each tube commonly runs through a stopper set into each small collection bottle. Other types of equipment use in-line collection systems that, while not physically connected, are nevertheless a necessary part of the apparatus as a means to collect waste, such as distillation equipment. In these types of systems, the waste is collected in an otherwise uncovered container (e.g., waste drips from a tube into the container) while the experiment is running—although the entire apparatus would be covered or hooded to prevent the release of volatile hazardous vapors or fumes. The apparatus set-up provides the physical control otherwise provided by the laboratory worker, who ensures during an experiment that containers are closed, except when he or she needs to add or remove a chemical. The proposed rule for this XL project proposes that such systems for the in-line collection of waste would be a circumstance in which waste may be added, consistent with the requirement that containers containing waste be kept closed (i.e., when a container is permissibly ''open'' for the adding of waste). To be considered as in-line waste collection, the University would describe this arrangement for in-line waste collection in their EMP. This part of the proposed rule addresses the need for flexibility around the diverse conditions of research and experimentation that constitute the work of the University laboratories, while at the same time minimizing the potential for release. (Note that this rule does not change the meaning of ''release'' under RCRA.) This flexibility is limited to specific circumstances in order to address the unique configuration of some research and laboratory instrumentation such as gas chromatographs and DNA synthesizers. The flexibility is being proposed for in-line waste collection due to laboratory scale experimentation.

Today's proposed rule also specifies that containers be compatible with their contents, and be in good condition. These requirements are equivalent to the current requirements at 40 CFR 262.34(c)1(i) which reference section 265.171 and section 265.172 regulating the condition of containers and compatibility of waste in satellite accumulation areas.

(viii) *Inspections:* Current RCRA regulations require that satellite accumulation areas (those areas regulated by 40 CFR 262.34(c), at or near any point of generation where wastes accumulate) be under the control of the operator of the process. Although in each laboratory, laboratory waste could only be generated under the control of the trained laboratory workers, today's proposed rule would also contain a requirement for regular inspections of containers of laboratory wastes within the laboratory to ensure that the containers are meeting requirements for container management. The frequency of these inspections would be at least once per year and would otherwise be based on laboratory practices. Specific inspection schedules would be specified in the Environmental Management Plan. Other Minimum Performance Criteria include

(ix) *Posting of Emergency Notification Procedures:* Today's proposed rule would contain a requirement that includes posting of emergency notification procedures and evacuation procedures for laboratory workers. Current RCRA regulations require facilities to include such information in a contingency plan (large quantity generators) or to ensure that all employees are thoroughly familiar with emergency procedures (small quantity generators). Today's proposed rule makes no changes to those requirements. Emergency response and notification procedures, under the proposed rule, would be required for participating laboratories that otherwise could be regulated under 40 CFR 262.34(c), and the EMPs must address all aspects of laboratory waste management, including emergencies (see Table 2 for an outline of EMP requirements and the proposed rule at 40 CFR 262.105).

(x) *Emergency Response:* Today's proposed rule would contain a requirement that emergency response equipment and procedures for emergency response be appropriate to the hazards in the laboratory. Current RCRA regulations require equipment appropriate to the hazards presented at a facility and specify procedures that must be followed for particular emergencies. The proposal also includes a requirement to comply with spill response provisions set forth in 40 CFR 263.30 and 263.31 for spills of laboratory waste that may occur while it is en route to the on-site hazardous waste accumulation area.

(xi) *Training Requirements:* Today's proposed rule would contain a requirement that laboratory workers receive training so that they can implement and comply with the Minimum Performance Criteria. Training under the EMP is required when a laboratory worker is first assigned to a laboratory and when a laboratory waste poses a new or unique hazard for which the worker has not received prior training.

(xii) *General Compliance:* Today's proposed rule would contain a statement that laboratory waste management must not result in the release of hazardous constituents into the land, air and water where such release would be prohibited by federal law.

As noted in Table 2, above, additional requirements for laboratories under this proposed system would be included in

the Environmental Management Plan (EMP).

As previously mentioned, the proposed Minimum Performance Criteria described above would only apply to the management of laboratory waste within laboratories and while en route to an on-site hazardous waste accumulation area. Once received at an on-site hazardous waste accumulation area, the laboratory waste would be subject to all applicable RCRA requirements. A participating University could, for example, accumulate any laboratory waste that is determined to be hazardous waste at the hazardous waste accumulation area in accordance with the current requirements of 40 CFR 262.34 (for 90 or 180 day on-site accumulation). EPA is not proposing any changes to the requirements Universities would have to meet in order to accumulate waste on-site for 90 (large quantity generators) or 180 days (small quantity generators).

7. Comparison of the Proposed Rule With Current OSHA and RCRA Regulatory Requirements

The following discussion demonstrates how specific provisions in the proposal compare with current OSHA and RCRA requirements. EPA is describing the current RCRA provisions as a point of comparison for the requirements proposed today, but is not proposing any changes to these current RCRA provisions.

The OSHA Chemical Hygiene Plan (CHP) set forth at 29 CFR 1910.1450(e)(3) requires that the CHP address: (i) standard operating procedures, (ii) criteria used to determine when to implement control measures, (iii) fume hood functioning, (iv) employee training, (v) circumstances requiring prior approval, (vi) provisions for medical consultation, (vii) designation of responsible personnel, (viii) provisions for protection for work with particularly hazardous substances and (ix) annual review of the plan and its effectiveness.

Although current OSHA regulations may require a Chemical Hygiene Plan for laboratories, there is no parallel requirement under RCRA. No regulations currently require the Universities to implement a Laboratory Environmental Management Plan as would be required by today's proposed rule. Moreover, while many of the Minimum Performance Criteria delineated in the proposed requirements would be similar to current RCRA requirements for satellite accumulation of hazardous waste (in the laboratory areas which are currently regulated under 40 CFR 262.34(c)), some limitations have been proposed beyond what current RCRA requirements allow, such as limiting each laboratory to 55 gallons of laboratory waste.

Existing RCRA requirements for satellite accumulation (under 40 CFR 262.34(c)) require that containers: (i) be at or near the point of generation, (ii) be under the control of the operator, (iii) be marked with the words ''hazardous waste'' or the contents, (iv) be in good condition, (v) be compatible with their contents, and (vi) be kept closed except as necessary to add or remove waste. In addition, accumulation is limited to 55 gallons of hazardous waste per point of generation. Any excess waste over 55 gallons must within three days comply with 262.34(a) or other applicable provisions. Existing RCRA regulations also require that a generator make a hazardous waste determination. The current federal regulations do not require management plans for these areas.

The proposed Laboratory Environmental Management Standard has been drafted in an attempt to align RCRA requirements that would apply to hazardous wastes in laboratories with the OSHA requirements for hazardous chemical handling in laboratories, in order to provide for the more efficient management of laboratory waste. This would be accomplished by the crafting of an Environmental Management Plan that would implement standard operating procedures for managing laboratory waste, just as the CHP requires standard operating procedures relevant to safety and health considerations when working with hazardous chemicals.

While the Laboratory Environmental Management Plan proposed in this project is intended to function in the same way as the OSHA CHP, the requirements of the Laboratory Environmental Management Standard would be more effective at managing laboratory wastes. For example, the Laboratory Environmental Management Standard would require procedures for an annual review of high hazard chemicals (defined in the Environmental Management Standard under ''hazardous chemicals of concern'') in the laboratory, while no such requirement currently exists under RCRA or OSHA. In addition, the Laboratory Environmental Management Standard would require an institutional process that is not required by current regulations for (i) setting environmental objectives and targets, and (ii) the promotion of pollution prevention and environmental improvements.

The current RCRA system allows generators to accumulate hazardous waste at satellite accumulation areas under 40 CFR 262.34(c). The requirements under 40 CFR 262.34(c) set specific requirements for container management, labeling, and accumulation times. No written plans are currently required for a facility to set forth and document the procedures that they will use to comply with the requirements of § 262.34(c). In today's proposed rule, the Universities would be required not only to comply with proposed requirements on container management, labeling and holding times pursuant to proposed § 262.104, which offers some flexibility but still ensures protection of human health and the environment, they would also have to specifically document the procedures they will use to comply with proposed § 262.104. In addition, to documenting the procedures for complying with the Minimum Performance Criteria of § 262.104, the Universities would also have to develop and document the procedures for all of the elements in Table 2, i.e.: (i) their environmental policy, (ii) roles and responsibilities, (iii) a pollution prevention plan, (iv) their system for tracking requirements applicable to laboratory waste, (v) criteria for identifying physical and chemical hazards and control measures to reduce releases, (vi) a system for conducting surveys of hazardous chemicals of concern, (vii) procedures for cleaning out laboratories, (viii) criteria with which laboratory workers would be required to comply in managing laboratory waste according to the Minimum Performance Criteria, (ix) procedures for safe and timely removal of wastes from laboratories, (x) procedures for emergencies, (xi) procedures for training, (xii) procedures for safe transfer of waste to the accumulation areas, (xiii) procedures for regularly inspecting a laboratory to assess conformance with the requirements of the EMP, (xiv) procedures for identifying environmental management plan nonconformances and corrective actions, (xv) recordkeeping requirements to document conformance with their EMP. This Laboratory Environmental Management Plan would be an entirely new requirement imposed upon the Universities. (This proposed requirement doesn't change existing institutional RCRA requirements. For example any University that is currently required to have a Contingency Plan would still be required to have a Contingency Plan).

EPA envisions a three-part compliance assurance program to ensure that this proposed system

adequately protects human health and the environment. First, because EPA expects the Minimum Performance Criteria to operate as an equivalent, alternative system to the current RCRA requirements in 40 CFR 262.34(c), EPA expects the first level of assurance to be similar to the inspection system currently in place. Thus, at the laboratory level, the first level: the management of laboratory waste would have to be in conformance with the Minimum Performance Criteria. The second level would be the documentation of procedures: the Laboratory EMP would have to be written in conformance with the requirements of the standard proposed at 40 CFR 262.105. The third level would be operational: the operations ongoing in all the laboratories that are participating would have to be in conformance with the procedures described in the EMP. Thus, this proposal provides two additional levels of review for satellite storage of hazardous waste, while allowing the Universities to be more centralized in their operations and to adopt a more coherent approach to management of laboratory wastes.

8. How the Laboratory XL Project Will Result in Superior Environmental Performance

The Laboratory XL Project is designed to achieve environmental results that are superior to what is currently achieved by the current RCRA regulatory system. The aim of the proposal is to enable the Universities to more easily manage all hazardous chemicals under a logical, integrated scheme. Under the proposed model, environmental professionals at the Universities would, at on-site hazardous waste accumulation areas, determine whether there are any opportunities, throughout the University, for reuse of laboratory waste or whether the laboratory waste is hazardous waste.

As a result, the Laboratory XL project is expected first and foremost to result in increased pollution prevention. In a 1996 survey of approximately 100 academic institutions conducted by the Campus Safety Health and Environmental Management Association, nearly 95 percent of respondents reported that they reused or recycled less than one percent of the hazardous chemical waste otherwise destined for disposal. In the FPA, the Universities have committed themselves to increased hazardous waste reduction. The Universities have set specific pollution prevention goals including (i) a 10 percent reduction in the overall amount of hazardous waste generated from participating laboratories (from baseline) and (ii) a 20 percent increase (from baseline) in reuse of laboratory waste over the life of the project. In accordance with the FPA for this project, the Universities participating in this XL project would report each year on their progress in meeting these goals.

Second, under this proposed rule, each University would implement their procedures for an annual assessment of those hazardous chemicals that they believe pose significant risks (based on physical or health hazards, or defined shelf-life) in an effort to minimize risks to human health and the environment and to monitor materials that might otherwise accumulate on the shelf or require disposal.

In addition, this XL project would promote the following:

- *Setting of Environmental Objectives and Targets and Pollution Prevention:* The systematic approach to environmental management would enable the University to organize waste management functions to achieve goal setting, better tracking, pollution prevention, and control. This process is outlined in more detail in the Final Project Agreement.

- *Streamlining of the Regulatory Process:* By setting up a complementary system that essentially attempts to integrate EPA and OSHA requirements, the project would streamline the overall regulatory process for laboratories, reducing the burden on the Universities and resulting in a more efficient and protective approach to chemical management.

- *Increased Environmental Awareness:* The implementation and continuous improvement of the Laboratory Environmental Management Standard for laboratories would enhance environmental awareness among researchers and students leading to a transfer of good environmental management practices to the larger community.

Finally, the implementation of the Laboratory Environmental Management Standard would achieve superior environmental performance because criteria would be set for the systematic management of all laboratory wastes. Some of the laboratory wastes would otherwise not be managed under the requirements of RCRA (such as ethidium bromide wastes and virgin or unused chemicals on the shelf and that haven't consistently been defined as hazardous waste.)

D. What Regulatory Changes Will Be Necessary to Implement This Project?

1. Federal Regulatory Changes

Today's proposal would provide the Universities with a temporary conditional deferral from two specific RCRA regulations: Hazardous Waste Determination: 40 CFR 262.11, and the Satellite Accumulation Provisions: 40 CFR 262.34(c). The site-specific rule necessary to allow for the temporary conditional deferral, and being proposed by EPA today, would add a paragraph (j) to 40 CFR 262.10 to clarify that the temporary holding of laboratory wastes within the participating University laboratories would be covered by a new section to 40 CFR part 262, subpart J. Proposed subpart J would fully describe the conditions to be met for each University's management of laboratory waste and by its Laboratory Environmental Management Plan as outlined above, in the sections C.2., C.3. and C.4 of this preamble.

(i) Hazardous Waste Determination: 40 CFR 262.11: Current regulation requires that generators make a determination as to whether a solid waste is a RCRA hazardous waste. The proposed rule would identify the specific point at which the Universities would make this determination. Under the proposed rule, the Universities would not make a hazardous waste determination until the laboratory waste is received at the on-site Hazardous Waste Accumulation Areas identified in Table 1 above. These areas would be the point where decisions would be made as to whether the laboratory waste would be reused within the University, accumulated for up to 90- or 180-days pursuant to 40 CFR 262.34, or sent to a RCRA permitted (or interim status) treatment, storage or disposal facility.

Because universities have such small and diverse waste streams and have large numbers of small laboratories, EPA recognizes the resource efficiency in making the hazardous waste determination at the on-site hazardous waste accumulation area. This approach would enable the university to determine whether laboratory waste can be reused on site at a central area, where the connections between departments and laboratories on a university-wide basis can be better made by the institution's professional environmental health and safety personnel. EPA also recognizes that while laboratory wastes remain in the laboratory, they would be managed pursuant to the Laboratory Environmental Management Standard as embodied in the proposed subpart J which includes Minimum Performance Criteria to ensure that they would be

managed in a manner protective of human health and the environment.

(ii) Satellite Accumulation Provisions: 40 CFR 262.34(c): This regulation governs the satellite accumulation of hazardous waste. It states in paragraph (1) that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without complying with paragraph 262.34(a) provided the generator: (i) complies with sections 265.171, 265.172 and 265.173(a); and (ii) marks the containers with the words ''Hazardous Waste'' or with other words that identify the contents. Paragraph (2) states that a generator that accumulates in excess of the amounts in paragraph (1) must, with respect to the excess amount, comply within three days with 40 CFR 262.34(a) or other applicable provisions. This paragraph also requires that the generator must mark the container holding the excess accumulation with the date the excess began accumulating.

This proposed rule would allow the Universities to manage hazardous waste in the laboratories without complying with § 262.34(c). Specifically, the Universities would not be required to comply with the 3-day accumulation time limit that applies to hazardous waste in excess of 55 gallons. Instead, under the proposed rule, Universities would be allowed to take 30 calendar days to remove the waste in their laboratories once the 55 gallon (or one quart of acutely hazardous laboratory waste) threshold is reached, while complying with their Environmental Management Plans. The extension from 3 to 30 days would allow for University environmental, health and safety professionals to collect and remove laboratory wastes during planned, systematic and scheduled intervals rather than the current reactive and episodic pick-ups which, in an institution with over a hundred laboratories, can be extremely inefficient, diverting environmental, health and safety department staff time from more proactive measures. By providing additional time for waste pickups to be carefully scheduled, this proposed rule should enable university environmental professionals to provide additional training to students and other laboratory workers and to develop waste minimization, reuse and recycling opportunities for chemicals from the university laboratories. In addition, while laboratory waste is being held in the laboratory, the Universities would have to manage it in compliance with minimum performance criteria.

Thus, the result of today's rule is that 40 CFR 262.34(c) would no longer be the only alternative available to manage waste in the individual laboratories at the Universities. Another system would be available under the proposed rule at 40 CFR part 262, subpart J, which sets forth the requirements of the Laboratory Environmental Management Plan (proposed § 262.105), and the Minimum Performance Criteria (proposed § 262.104).

Proposed subpart J would only apply within the Universities' laboratories and while the laboratory waste is en route to an on-site hazardous waste accumulation area. Once the laboratory waste is received at the on-site hazardous waste accumulation area, subpart J would no longer apply and laboratory waste that is determined to be hazardous waste would be subject to all applicable RCRA requirements.

2. State Regulatory Changes

The state of Vermont and the Commonwealth of Massachusetts are authorized under section 3006 of RCRA to implement the federal RCRA program. Thus, these state programs operate in lieu of the federal program. Moreover, Vermont and Massachusetts hazardous waste management regulations, codified in Code of Vermont Regulations and 310 Code of Massachusetts Regulations (CMR) 30.00, respectively, contain equivalent or more stringent, requirements as compared to the Federal regulations at 40 CFR 262.10 and 262.34(c). The Universities are subject to the Vermont (for the University of Vermont) and the Massachusetts (for the University of Massachusetts Boston and Boston College) state regulations, which would include requirements that the hazardous waste in laboratories be handled according to the accumulation provisions of RCRA. Therefore, conforming state regulatory changes or legal mechanisms must be implemented in addition to the proposed federal changes to undertake this new system.

E. Why Is EPA Supporting This New Approach to Laboratory Waste Management?

EPA is supporting the regulatory model contained in today's rule because it provides for a degree of environmental protection that is at least as protective as that which existing RCRA regulations would provide for the participating laboratories. The model also promotes systemic, integrated cost-effective compliance which should increase opportunities for waste minimization through the centralization of waste determinations. EPA and the Universities anticipate that chemicals which would have been disposed of as waste should be redistributed and reused through the centralized hazardous waste determination process. In addition, by providing the Universities the flexibility to schedule regular waste pickups, professional resources can be redirected from reactive waste management to proactive waste management.

EPA hopes that this proposed rule will result in a successful innovative pilot of a new system for universities and research organizations as unique workplaces where researchers and students often move from one jurisdiction to another throughout the country. If this pilot is successful, EPA hopes that this system could be translated into a national program, to address the confusion regarding the RCRA rules that has been reported by the universities. By implementing a standard system for universities, laboratory workers would remain cognizant of the requirements for managing chemicals, and in particular, waste chemicals, no matter where in the U.S. they are performing their research. EPA recognizes that the proposed new system may not be appropriate or necessary for some institutions such as small colleges but may, at some point, depending on the results of this XL project, consider the possibility of offering it as a regulatory option.

Finally, for this pilot, the Universities would be implementing continuous improvement systems which would include training, planning, and self-inspections in ways that have never been tested before.

F. How Have Various Stakeholders Been Involved in This Project?

Stakeholder involvement during the project development stage was encouraged in several ways. The methods included communicating through the media (newspaper, e-mails, and the LCEE website); directly contacting interested parties and offering an educational program regarding the regulatory requirements impacted by the XL project. Stakeholders have been kept informed on the project status via mailing lists, newspaper articles, public meetings and the establishment of a website at URL: http://esf.uvm.edu/LabXL.

Representatives from Second Nature and Ecologia, national environmental interest groups (with members participating in the ISO14000 standard setting process), and the Tellus Institute (a nationally recognized nonprofit

corporation providing research on, among other issues, environmental management performance and reporting) have participated in conference calls and meetings with the Project XL team and provided comments during the development of the proposed Final Project Agreement. A representative of the national environmental group, the Environmental Defense Fund, has also been a participant in commenting on this proposal. These representatives continue to be notified of project meetings and activities.

The university and research community is a diverse and busy one. Each University has held individual local stakeholder meetings in an effort to engage their surrounding communities. However, few local stakeholders other than employees of the facilities have expressed interest in actively participating in the development of the project. Copies of all comment letters, as well as EPA's response to comment letters, will be located in the rulemaking Docket (see the **ADDRESSES** section of today's preamble).

As this XL project continues to be implemented, the stakeholder involvement program would shift its focus to ensure that: (1) Stakeholders are apprised of the status of project implementation and (2) Stakeholders have access to information sufficient to judge the success of this Project XL initiative. Anticipated stakeholder involvement during the term of the project will likely include other general public meetings to present periodic status reports, availability of data and other information generated. In addition to the EPA, VTDEC, and MADEP reporting requirements of today's rulemaking, the FPA includes provisions whereby the University Laboratories will make copies of interim project reports available to all interested parties. A public file on this XL project has been maintained at the website http://esf.uvm.edu/labxl throughout project development, and the Universities have committed to continue to update it as the project is implemented. Additional information is available at EPA's website at http://www.epa.gov/projectxl.

A detailed description of this program and the stakeholder support for this project is included in the Final Project Agreement, which is available through the docket or through EPA's Project XL site on the Internet (see **ADDRESSES** section of this preamble).

G. How Will This Project Result in Cost Savings and Paperwork Reduction?

Laboratory waste management currently accounts for the most substantial expense for environmental, health and safety programs at the participating Universities. This XL Project would allow academic institutions to more effectively promote and implement waste minimization programs in laboratories which would reduce waste disposal costs and minimize chemical purchasing costs. The opportunity to develop a systematic, planned procedure for the pickup of laboratory wastes and centralization of waste management decisions would also enable Environmental Health and Safety Departments to more effectively utilize staff on proactive activities such as training and implementing chemical reuse and waste minimization programs.

Additionally, a certain amount of paperwork associated with RCRA compliance is likely to be reduced in the long term, while in the short term the requirement to write Environmental Management Plans would add additional paperwork. Once the Laboratory EMP is written, the annual review of the Chemical Hygiene Plans required by OSHA, and the review of the Environmental Management Plan could be accomplished in one step. The Universities do not expect significant paperwork reduction gains given the fact that the RCRA requirements would still be fully applicable once the laboratory waste reaches the on-site hazardous waste accumulation areas.

H. How Will EPA Ensure the Integrity and Comprehensiveness of Each University's Laboratory Environmental Management Plan?

EPA, along with MA DEP and VT DEC and designated stakeholders would have sufficient opportunity to review and comment on the Laboratory EMP's as they are being developed by the Universities. In this pilot project, once its Laboratory EMP is complete, each University would formally submit their own Laboratory EMP to EPA and the applicable state for a final review of its conformance with the requirements of the Laboratory Environmental Management Standard. Because the Universities would be working with the agencies in developing their EMP, it is expected that they would be able to respond quickly to any possible comments or concerns raised by the agencies.

I. How Will the Terms of the Laboratory XL Project and Proposed Rule Be Enforced?

All XL projects must include a legally enforceable mechanism to ensure accountability and superior environmental performance. EPA retains its full range of enforcement options under the proposed rule. The enforcement response on the part of EPA would vary depending upon the actual performance of each University and the severity of any violation. So that EPA can continue to evaluate this XL project, each University would be evaluated by EPA Region I through regular inspections based on the following four criteria:

1. Does the University have an Environmental Management Plan as required by the Laboratory Environmental Management Standard?
2. Does the University's Environmental Management Plan include the required policy and procedural elements specified in the Laboratory Environmental Management Standard?
3. Is the University in compliance with the Minimum Performance Criteria as set forth in the Laboratory Environmental Management Standard at 40 CFR 262.104?
4. To what degree do the University's environmental management practices in the laboratory conform to its Environmental Management Plan?

Today's proposed rule includes a termination provision, in addition to EPA's usual enforcement options, which authorizes EPA to remove from this XL project any University that does not comply with the Laboratory Environmental Management Standard as described in the rule. In the event of such removal, the temporary conditional deferral would be revoked and the Universities would be required to submit to EPA an implementation schedule setting forth how the Universities would plan to come into full compliance regulations within 90 days from such notice. The schedule would reflect the Universities' intent to use their best efforts to come into compliance as quickly as practicable within the 90 day transition period. During this 90 day transition period, the provisions of this proposed rule and the University's Environmental Management Plan would apply in full. At the conclusion of the 90 day period, the applicable RCRA regulations would again apply to the Universities in full.

The rationale for the 90-day transition period is to allow sufficient time for the Universities to reinstate the operational and administrative infrastructure

necessary for proper RCRA compliance. Such a transition will likely require the dismantling of the Environmental Management Plan and its component parts. Retraining and reverting to the implementation of the current RCRA system would include, among other things, (1) the re-establishment of 3-day pick-ups of hazardous waste from the University laboratories, (2) making early hazardous waste determinations in the laboratories, and (3) the re-training of hundreds of laboratory workers. Most importantly, this transition might require the acquisition of funding and resources which were unnecessary under the streamlined Environmental Management Plan. For example, additional funding might be needed for the re-negotiation of contract terms with hazardous waste contractors who might be needed for additional hazardous waste pick-ups. Finally, the Universities may receive such a revocation notice during the summer or during a semester break when staff and graduate students are less available for re-training. For all of these reasons, and given the fact that the proposed rule and Environmental Management Plan would be fully applicable during this time, EPA is confident that the 90-day time frame is reasonable.

J. How Long Will This Project Last and When Will It Be Complete?

As with all XL projects testing alternative environmental protection strategies, the term of the University Laboratory XL project is one of limited duration. Today's proposed rule would set the term of the XL Project at four years after the effective date of this rule.

Because Project XL is a voluntary and experimental program, today's proposed rule contains provisions that allow the project to conclude prior to the end of the four years in the event that it is desirable or necessary to do so. For example, an early conclusion would be warranted if the project's environmental benefits do not meet the Project XL requirement for the achievement of superior environmental results. In addition, new laws or regulations may become applicable to the Universities' laboratories during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that the University Laboratories are achieving under this project. Similarly, the Universities may also request that the temporary conditional deferral be revoked prior to the four years if the experimental project does not provide sufficient benefits for the Universities to justify continued participation.

If an early conclusion to the project is determined to be appropriate, today's rule provides a mechanism for EPA to legally conclude the project prior to the four years, through a notice of termination, which would trigger the 90-day transitional period described above in this preamble discussion. While EPA, the state environmental agencies and the Universities have broad discretion and latitude to initiate an early conclusion of the project, both expect to exercise their good faith and judgment in determining whether exercising this option is appropriate.

EPA reserves the discretion to terminate a project and an FPA in the event a University fails to comply with or meet its obligations in the proposed rule, or its supplementary commitments contained in the FPA. The FPA and the site specific rule also provide for the project sponsor's return to compliance with existing regulatory requirements following termination.

IV. Additional Information

A. How To Request a Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding this regulation in accordance with 40 CFR part 25. Persons wishing to make an oral presentation on the site specific rule to implement the University Laboratory XL project should contact Ms. Gina Snyder or Mr. George Frantz of the Region I EPA office, at the address given in the **ADDRESSES** section of this document. Any member of the public may file a written statement before the hearing, or after the hearing, to be received by EPA no later than August 10, 1999. Written statements should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing, and written statements provided at the hearing will be available for inspection and copying during normal business hours at the EPA addresses for docket inspection given in the **ADDRESSES** section of this preamble.

B. How Does This Rule Comply With Executive Order 12866?

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this final rule will be significantly less than $100 million and will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of today's rulemaking and the considerable public involvement in the development of the proposed Final Project Agreement, the EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq*, 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 rule will not have a significant impact on a substantial number of small entities because it only affects three institutions, the University of Massachusetts in Boston, Massachusetts, Boston College in Boston, Massachusetts, and the University of Vermont in Burlington, Vermont. These universities are not small entities. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

This action applies only to three universities, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

E. Does This Project Trigger the Requirements of the 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 of 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.

As noted above, this rule is applicable only to the three universities in Massachusetts and Vermont. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. RCRA and Hazardous and Solid Waste Amendments of 1984

1. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA program for hazardous waste within the state. (See 40 CFR part 271 for the standards and requirements for authorization.) States with final authorization administer their own hazardous waste programs in lieu of the federal program. Following authorization, EPA retains enforcement authority under sections 3008, 7003 and 3013 of RCRA.

After authorization, federal rules written under RCRA (non-HSWA), no longer apply in the authorized state except for those issued pursuant to the Hazardous and Solid Waste Act Amendments of 1984 (HSWA). New federal requirements imposed by those rules do not take effect in an authorized state until the state adopts the requirements as state law.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized states at the same time they take effect in nonauthorized states. EPA is directed to carry out HSWA requirements and prohibitions in authorized states until the state is granted authorization to do so.

2. Effect on Massachusetts and Vermont Authorization

Today's proposed rule, if finalized, would be promulgated pursuant to non-HSWA authority, rather than HSWA. Massachusetts and Vermont have received authority to administer most of the RCRA program; thus, authorized provisions of each State's hazardous waste program are administered in lieu of the federal program. Massachusetts and Vermont have received authority to administer hazardous waste standards for generators. As a result, if today's proposed rule is finalized, it would not be effective in Massachusetts and Vermont until the State adopts equivalent legal mechanisms or requirements as state law. It is EPA's understanding that subsequent to the promulgation of this rule, Massachusetts and Vermont intend to propose rules or other legal mechanisms containing equivalent provisions. EPA may not enforce these requirements until it approves the State requirements as a revision to the authorized State program.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

The 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 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 Executive Order 13045 because it is not an economically significant rule, as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

H. Does This Rule Comply With Executive Order 12875: Enhancing Intergovernmental Partnerships?

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. 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 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.

I. How Does This Rule Comply With Executive Order 13084: Consultation and Coordination With Indian Tribal Governments?

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. 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. There are no communities of Indian tribal governments located in the vicinity of the university laboratories. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Does This Rule Comply With the 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 standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 262

Environmental protection, Accumulation time, Hazardous waste, Waste determination.

Dated: July 21, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 262 of Chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

Subpart A—General

1. Section 262.10 is amended by adding paragraph (j) to read as follows:

§ 262.10 Purpose, scope, and applicability.

* * * * *

(j)(1) Universities that are participating in the Laboratory XL project are the University of Massachusetts Boston in Boston, Massachusetts, Boston College in Chestnut Hill, Massachusetts, and the University of Vermont in Burlington, Vermont (''Universities''). The Universities generate laboratory wastes, (as defined in 40 CFR 262.102) some of which will be hazardous wastes. As long as the Universities comply with all the requirements of 40 CFR Part 262, Subpart J, the Universities' laboratories that are participating in the University Laboratories XL Project as identified in Table 1, are not subject to the provisions of 40 CFR 262.11, 262.34(c), 40 CFR Part 264, 40 CFR Part 265, and the permit requirements of 40 CFR Part 270 with respect to said laboratory wastes.

TABLE 1.—LABORATORY XL PROJECT PARTICIPANT INFORMATION

Institution	Approx. number of labs	Departments participating	Location of current hazardous waste accumulation areas
Boston College, Chestnut Hill, MA	120	Chemistry, Biology, Geology, Physics, Psychology.	Merkert Chemistry Building, 2609 Beacon St., Boston MA; Higgins Building, 140 Commonwealth Ave., Chestnut Hill, MA.
University of Massachusetts Boston, Boston, MA.	150	Chemistry, Biology, Psychology, Anthropology, Geology and Earth Sciences, and Environmental, Coastal and Ocean Sciences.	Science Building (Bldg. #080); McCormack Building (Bldg. #020); and Wheatley Building (Bldg. #010), 100 Morrissey Blvd., Boston, MA.
University of Vermont, Burlington, VT	400	Colleges of: Agriculture and Life Sciences, Arts and Sciences, Medicine, and Engineering and Mathematics; and Schools of: Nursing, Allied Heath Sciences, and Natural Resources.	Given Bunker, 89 Beaumont Ave., Burlington, VT.

(2) Each University shall have the right to change its respective departments or the on-site location of its hazardous waste accumulation areas listed in Table 1 upon written notice to the Regional Administrator for EPA—Region I and the appropriate state agency. Such written notice will be

provided at least ten days prior to the effective date of any such changes.

2. Part 262 is amended by adding Subpart J to read as follows:

Subpart J—University Laboratories XL Project—Laboratory Environmental Management Standard

Sec.
262.100 To what organizations does this subpart apply?
262.101 What is in this subpart?
262.102 What special definitions are included in this subpart?
262.103 What is the scope of the laboratory environmental management standard?
262.104 What are the minimum performance criteria?
262.105 What must be included in the laboratory environmental management plan?
262.106 When must a hazardous waste determination be made?
262.107 Under what circumstances will a university's participation in this environmental management standard pilot be terminated?
262.108 When will this subpart expire?

§ 262.100 To what organizations does this subpart apply?

This Subpart applies to an organization that meets all three of the following conditions:

(a) It is one of the three following academic institutions: The University of Massachusetts Boston in Boston, Massachusetts, Boston College in Chestnut Hill, Massachusetts, or the University of Vermont in Burlington, Vermont (''Universities''); and

(b) It is a laboratory at one of the Universities (identified pursuant to § 262.105(c)(2)(ii)) where laboratory scale activities, as defined in § 262.102, result in laboratory waste; and

(c) It complies with all the requirements of this Subpart.

§ 262.101 What is in this subpart?

This Subpart provides a framework for a new management system for wastes that are generated in University laboratories. This framework is called the Laboratory Environmental Management Standard. The standard includes some specific definitions that apply to the University laboratories. It contains specific requirements for how to handle laboratory waste that are called Minimum Performance Criteria. The standard identifies the requirements for developing and implementing an environmental management plan. It outlines the responsibilities of the management staff of each participating university. Finally, the standard identifies requirements for training people who will work in the laboratories or manage laboratory waste. This Subpart contains requirements for RCRA solid and hazardous waste determination, and circumstances for termination and expiration of this pilot.

§ 262.102 What special definitions are included in this subpart?

For purposes of this Subpart, the following definitions apply:

Acutely Hazardous Laboratory Waste means a laboratory waste, defined in the Environmental Management Plan as posing significant potential hazards to human health or the environment and which must include RCRA ''P'' wastes, and may include particularly hazardous substances as designated in a University's Chemical Hygiene Plan under OSHA, or Extremely Hazardous Substances under the Emergency Planning and Community Right to Know Act.

Emergency means any occurrence such as, but not limited to, equipment failure, rupture of containers or failure of control equipment which results in the potential uncontrolled release of a hazardous chemical into the environment and which requires agency or fire department notification and/or reporting.

Environmental Management Plan (EMP) means a written program developed and implemented by the university which sets forth standards and procedures, responsibilities, pollution control equipment, performance criteria, resources and work practices that both protect human health and the environment from the hazards presented by laboratory wastes within a laboratory and between a laboratory and the hazardous waste accumulation area, and satisfies the plan requirements defined elsewhere in this Subpart. Certain requirements of this plan are satisfied through the use of the Chemical Hygiene Plan (see, 29 CFR § 1910.1450), or equivalent, and other relevant plans, including a waste minimization plan. The elements of the Environmental Management Plan must be easily accessible, but may be integrated into existing plans, incorporated as an attachment, or developed as a separate document.

Environmental Objective means an overall environmental goal of the organization which is verifiable.

Environmental Performance means results of the data collected pursuant to implementation of the Environmental Management Plan as measured against policy, objectives and targets.

Environmental Target means an environmental performance requirement of the organization which is quantifiable, where practicable, verifiable and designed to be achieved within a specified time frame.

Hazardous Chemical means any chemical which is a physical hazard or a health hazard. A physical hazard means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive. A health hazard means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term ''health hazard'' includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system and agents which damage the lungs, skin, eyes or mucous membranes.

Hazardous Chemical of Concern means a chemical that the organization has identified as having the potential to be of significant risk to human health or the environment if not managed in accordance with procedures or practices defined by the organization.

Hazardous Waste Accumulation Area means the on-site area at a University where the University will make a solid and hazardous waste determination with respect to laboratory wastes.

In-Line Waste Collection means a system for the automatic collection of laboratory waste which is directly connected to or part of a laboratory scale activity and which is constructed or operated in a manner which prevents the release of any laboratory waste therein into the environment during collection.

Laboratory means, for the purpose of this Subpart, an area within a facility where the laboratory use of hazardous chemicals occurs. It is a workplace where relatively small quantities of hazardous chemicals are used on a non-production basis. The physical extent of individual laboratories within an organization will be defined by the Environmental Management Plan. A laboratory may include more than a single room if the rooms are in the same building and under the common supervision of a laboratory supervisor.

Laboratory Clean-Out means an evaluation of the chemical inventory of a laboratory as a result of laboratory renovation, relocation or a change in laboratory supervision that may result in the transfer of laboratory wastes to the hazardous waste accumulation area.

Laboratory Environmental Management Standard means the

provisions of this Subpart and includes the requirements for preparation of Environmental Management Plans and the inclusion of Minimum Performance Criteria within each Environmental Management Plan.

Laboratory Scale means work with substances in which containers used for reactions, transfers and other handling of substances are designed to be safely and easily manipulated by one person. ''Laboratory Scale'' excludes those workplaces whose function is to produce commercial quantities of chemicals.

Laboratory Waste means a hazardous chemical that results from laboratory scale activities and includes the following: excess or unused hazardous chemicals that may or may not be reused outside their laboratory of origin; hazardous chemicals determined to be RCRA hazardous waste as defined in 40 CFR Part 261; and hazardous chemicals that will be determined not to be RCRA hazardous waste pursuant to 40 CFR 262.106.

Laboratory Worker means a person who is assigned to handle hazardous chemicals in the laboratory and may include researchers, students or technicians.

Legal and Other Requirements means requirements imposed by, or as a result of, governmental permits, governmental laws and regulations, judicial and administrative enforcement orders, non-governmental legally enforceable contracts, research grants and agreements, certification specifications, formal voluntary commitments and organizational policies and standards.

Senior Management means senior personnel with overall responsibility, authority and accountability for managing laboratory activities within the organization.

Universities means the following academic institutions; University of Vermont, Boston College, and the University of Massachusetts Boston, which are participants in this Laboratory XL project and which are subject to the requirements set forth in this Subpart I.

§ 262.103 What is the scope of the laboratory environmental management standard?

The Laboratory Environmental Management Standard will not affect or supersede any legal requirements other than those described in § 262.10(j). The requirements that continue to apply include, but are not limited to, OSHA, Fire Codes, wastewater permit limitations, emergency response notification provisions, or other legal requirements applicable to University laboratories.

§ 262.104 What are the minimum performance criteria?

The Minimum Performance Criteria that each University must meet in managing its Laboratory Waste are:

(a) Each University must label all laboratory waste with the chemical name and general hazard class. If the container is too small to hold a label, the label must be placed on a secondary container.

(b) Each University may temporarily hold up to 55 gallons of laboratory waste or one quart of acutely hazardous laboratory waste, or weight equivalent, in each laboratory, but upon reaching these thresholds, each University must mark that laboratory waste with the date when this threshold requirement was met (by dating the container(s) or secondary container(s)).

(c) Each university must remove all of the dated laboratory waste from the laboratory for direct delivery to the hazardous waste accumulation area within 30 days of reaching the threshold amount identified in paragraph (b) of this section.

(d) In no event shall the excess laboratory waste that a laboratory temporarily holds before dated laboratory waste is removed exceed an additional 55 gallons of laboratory waste (or one additional quart of acutely hazardous laboratory waste). No more than 110 gallons of laboratory waste total (or no more than two quarts of acutely hazardous laboratory waste total) may be temporarily held in a laboratory at any one time. Excess laboratory waste must be dated and removed in accordance with the requirements of paragraphs (b) and (c) of this section.

(e) Containers of laboratory wastes must be:

(1) Closed at all times except when wastes are being added to (including during in-line waste collection) or removed from the container;

(2) Maintained in good condition and stored in the laboratory in a manner to avoid leaks;

(3) Compatible with their contents to avoid reactions between the waste and its container; and must be made of, or lined with, materials which are compatible with the laboratory wastes to be temporarily held in the laboratory so that the container is not impaired; and

(4) Inspected regularly (at least annually) to ensure that they meet requirements for container management.

(f) The management of laboratory waste must not result in the release of hazardous constituents into the land, air and water where such release is prohibited under federal law.

(g) The requirements for emergency response are:

(1) Each University must post notification procedures, location of emergency response equipment to be used by laboratory workers and evacuation procedures;

(2) Emergency response equipment and procedures for emergency response must be appropriate to the hazards in the laboratory such that hazards to human health and the environment will be minimized in the event of an emergency;

(3) In the event of a fire, explosion or other release of laboratory waste which could threaten human health or the environment, the laboratory worker must follow the notification procedures under paragraph (g)(1) of this section.

(h) Each University must investigate, document, and take actions to correct and prevent future incidents of hazardous chemical spills, exposures and other incidents that trigger a reportable emergency or that require reporting under paragraph (g) of this section.

(i) Each University may only transfer laboratory wastes from a laboratory directly to an on-site designated hazardous waste accumulation area. Notwithstanding 40 CFR 263.10(a), each University must comply with requirements for transporters set forth in 40 CFR 263.30 and 263.31 in the event of a discharge of laboratory waste en route from a laboratory to an on-site hazardous waste accumulation area.

(j) Each University must provide laboratory workers with information and training so that they can implement and comply with these Minimum Performance Criteria.

§ 262.105 What must be included in the laboratory environmental management plan?

(a) Each University must include specific measures it will take to protect human health and the environment from hazards associated with the management of laboratory wastes and from the reuse, recycling or disposal of such materials outside the laboratory.

(b) Each University must write, implement and comply with an Environmental Management Plan that includes the following:

(1) The specific procedures to assure compliance with each of the Minimum Performance Criteria set forth in § 262.104.

(2) An environmental policy, or environmental, health and safety policy, signed by the University's senior management, which must include

commitments to regulatory compliance, waste minimization, risk reduction and continual improvement of the environmental management system.

(3) A description of roles and responsibilities for the implementation and maintenance of the Laboratory Environmental Management Plan.

(4) A system for identifying and tracking legal and other requirements applicable to laboratory waste, including the procedures for providing updates to laboratory supervisors.

(5) Criteria for the identification of physical and chemical hazards and the control measures to reduce the potential for releases of laboratory wastes to the environment, including engineering controls, the use of personal protective equipment and hygiene practices, containment strategies and other control measures.

(6) A pollution prevention plan, including, but not limited to, roles and responsibilities, training, pollution prevention activities, and performance review.

(7) A system for conducting and updating annual surveys of hazardous chemicals of concern and procedures for identifying acutely hazardous laboratory waste.

(8) The procedures for conducting laboratory clean-outs with regard to the safe management and disposal of laboratory wastes.

(9) The criteria that laboratory workers must comply with for managing, containing and labeling laboratory wastes, including: an evaluation of the need for and the use of any special containers or labeling circumstances, and the use of laboratory wastes secondary containers including packaging, bottles, or test tube racks.

(10) The procedures relevant to the safe and timely removal of laboratory wastes from the laboratory.

(11) The emergency preparedness and response procedures to be implemented for laboratory waste.

(12) Provisions for information dissemination and training, provided for in paragraph (d) of this section.

(13) The procedures for the development and approval of changes to the Environmental Management Plan.

(14) The procedures and work practices for safely transferring or moving laboratory wastes from a laboratory to a hazardous waste accumulation area.

(15) The procedures for regularly inspecting a laboratory to assess conformance with the requirements of the Environmental Management Plan.

(16) The procedures for the identification of environmental management plan noncompliance, and the assignment of responsibility, timelines and corrective actions to prevent their reoccurrence.

(17) The recordkeeping requirements to document conformance with this Plan.

(c) Organizational responsibilities for each university. Each University must:

(1) Develop and oversee implementation of its Laboratory Environmental Management Plan.

(2) Identify the following:

(i) Annual environmental objectives and targets;

(ii) Those laboratories covered by the requirements of the Laboratory Environmental Management Plan.

(3) Assign roles and responsibilities for the effective implementation of the Environmental Management Plan.

(4) Determine whether laboratory wastes received at a hazardous waste accumulation area are solid wastes under RCRA and, if so, whether they are hazardous.

(5) Develop, implement, and maintain:

(i) Policies, procedures and practices governing its compliance with the Environmental Management Plan and applicable federal and state hazardous waste regulations.

(ii) Procedures to monitor and measure relevant conformance and environmental performance data for the purpose of supporting continual improvement of the Environmental Management Plan.

(iii) Policies and procedures for managing environmental documents and records applicable to this Environmental Management Standard.

(6) Ensure that:

(i) Its Environmental Management Plan is available to laboratory workers, vendors, employee representatives, visitors, on-site contractors, and upon request, to governmental representatives.

(ii) Personnel designated by each University to handle laboratory wastes and RCRA hazardous waste receive appropriate training.

(iii) The Environmental Management Plan is reviewed at least annually by senior management to ensure its continuing suitability, adequacy and effectiveness. The reviews may include, but not be limited to, a consideration of monitoring and measuring information, Laboratory Environmental Management Standard performance data, assessment and audit results and other relevant information and data.

(d) What are the Information and Training Requirements for Each University? (1) Each University must provide laboratory workers with information and training so that they understand and can implement the elements of each University's Environmental Management Plan that are relevant to the laboratory workers' responsibilities.

(2) Each University must provide the information and training to each laboratory worker when he/she is first assigned to a work area where laboratory wastes may be generated. Each University must retrain a laboratory worker when a laboratory waste poses a new or unique hazard for which the laboratory worker has not received prior training and as frequently as needed to maintain knowledge of the procedures of the Environmental Management Plan.

(3) Each University must provide an outline of training and specify who is to receive training in its Environmental Management Plan.

(4) Each University must ensure that laboratory workers are informed of:

(i) The contents of this Subpart and the Laboratory Environmental Management Plan(s) for the laboratory(ies) in which they will be performing work;

(ii) The location and availability of the Environmental Management Plan;

(iii) Emergency response measures applicable to laboratories;

(iv) Signs and indicators of a hazardous substance release;

(v) The location and availability of known reference materials relevant to implementation of the Environmental Management Plan; and

(vi) Environmental training requirements applicable to laboratory workers.

(5) Each University must train Laboratory workers in:

(i) Methods and observations that may be used to detect the presence or release of a hazardous substance;

(ii) The chemical and physical hazards associated with laboratory wastes in their work area;

(iii) The relevant measures a laboratory worker can take to protect human health and the environment; and

(iv) Details of the Environmental Management Plan sufficient to ensure they manage laboratory waste in accordance with the requirements of this Subpart.

(6) Requirements pertaining to Laboratory visitors:

(i) Laboratory visitors, such as on-site contractors or environmental vendors, that require information and training under this standard must be identified in the Environmental Management Plan.

(ii) Laboratory visitors identified in the Environmental Management Plan must be informed of the existence and location of the Environmental Management Plan.

(iii) Laboratory visitors identified in the Environmental Management Plan must be informed of relevant policies, procedures or work practices to ensure compliance with the requirements of the Environmental Management Plan.

(7) Each University must define methods of providing objective evidence and records of training and information dissemination in its Environmental Management Plan.

§ 262.106 When must a hazardous waste determination be made?

Each University must evaluate all laboratory wastes to determine whether they are solid wastes under RCRA and, if so, determine pursuant to 40 CFR 262.11(a) through (d) whether they are hazardous wastes, as soon as the laboratory wastes reach the University's Hazardous Waste Accumulation area(s). At this point each University must determine whether the laboratory waste will be reused or whether it must be managed as RCRA solid or hazardous waste. Laboratory waste that is determined to be hazardous waste is no longer subject to the provisions of this Subpart and must be managed in accordance with all applicable RCRA requirements.

§ 262.107 Under what circumstances will a university's participation in this environmental management standard pilot be terminated?

(a) EPA retains the right to terminate a University's participation in this Laboratory XL project if the University:

(1) Is in non-compliance with the Minimum Performance Criteria in § 262.104; or

(2) Has actual environmental management practices in the laboratory that do not conform to its Environmental Management Plan; or

(3) Is in non-compliance with the Hazardous Waste Determination requirements of § 262.106.

(b) In the event of termination, EPA will provide the University with 15 days written notice of its intent to terminate. During this period, which commences upon receipt of the notice, the University will have the opportunity to come back into compliance with the Minimum Performance Criteria, its Environmental Management Plan, or the requirements for making a hazardous waste determination at § 262.106 or to provide a written explanation as to why it was not in compliance and how it intends to return to compliance. If, upon review of the University's written explanation, EPA then re-issues a written notice terminating the University from this XL Project, the provisions of § 262.107(c) will immediately apply and the University shall have 90 days to come into compliance with the applicable RCRA requirements deferred by § 262.10(j). During the 90-day transition period, the provisions of this Subpart shall continue to apply to the University.

(c) If a University withdraws from this XL project, or receives a notice of termination pursuant to this section, it must submit to EPA and the state a schedule for returning to full compliance with RCRA requirements at the laboratory level. The schedule must show how the University will return to full compliance with RCRA within 90 days from the date of the notice of termination or withdrawal.

§ 262.108 When will this subpart expire?

This Subpart will expire on [INSERT DATE 4 YEARS FROM EFFECTIVE DATE OF FINAL RULE].

[FR Doc. 99–19123 Filed 7–26–99; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
July 27, 1999

Part VII

Department of Justice

Bureau of Prisons

28 CFR Part 540

Correspondence: Inspection of Outgoing General Correspondence; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP 1094–P]

RIN 1120–AA89

Correspondence: Inspection of Outgoing General Correspondence

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. This amendment does not apply to special mail.

DATES: Comments due by September 27, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on correspondence (28 CFR part 540, subpart B). Current regulations on this subject were published in the **Federal Register** on October 1, 1985 (50 FR 40109) and were amended on February 1, 1991 (56 FR 4159), and on December 18, 1995 (61 FR 65204).

Current provisions on general correspondence specify that outgoing general mail from inmates in a minimum or low security level institution may be sealed by the inmate and sent out unopened and uninspected under certain circumstances. Outgoing general mail from inmates in medium, high, and administrative facilities may not be sealed by the inmate and is subject to inspection. As part of a general review of security measures at Bureau institutions, the Bureau is proposing to require that general mail from all inmates, regardless of institution security level, be sent out unsealed and subject to inspection. Special mail is unaffected by this amendment.

The Bureau believes that inspection of outgoing mail from inmates in minimum or low security level institutions is consistent with the application of other Bureau policies pertaining to contacts with the public. This amendment serves to ensure the secure operation of all institutions by reducing the potential for inmates to use sealed mail for criminal activity.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

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

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic at the address given above.

List of Subjects in 28 CFR Part 540

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 540 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

Part 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552A; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039, 28 U.S.C. 509, 510, 28 CFR 0.95–0.99.

2. In § 540.14, paragraph (b) is revised, paragraph (c) is removed, and paragraph (d) is redesignated as new paragraph (c).

§ 540.14 General correspondence.

* * * * *

(b) Except for ''special mail,'' all outgoing mail from an inmate (whether sentenced or unsentenced) may not be

sealed by the inmate and may be read and inspected by staff.

* * * * *

[FR Doc. 99–19067 Filed 7–26–99; 8:45 am]

BILLING CODE 4410–05–P

federal register

Tuesday
July 27, 1999

Part VIII

The President

Proclamation 7210—Imposition of Restraints on Imports of Certain Steel Products From the Russian Federation

Executive Order 13131—Further Amendments to Executive Order 12757, Implementation of the Enterprise for the Americas Initiative

Federal Register
Vol. 64, No. 143
Tuesday, July 27, 1999

Presidential Documents

Title 3—

The President

Proclamation 7210 of July 22, 1999

Imposition of Restraints on Imports of Certain Steel Products From the Russian Federation

By the President of the United States of America

A Proclamation

1. Article XI of the June 1, 1990, Agreement between the United States of America and the Russian Federation on Trade Relations (''the 1990 Agreement''), which was entered into pursuant to title IV of the Trade Act of 1974, as amended (''the Trade Act''), provides that the Parties will consult with a view toward finding means of preventing market disruption, and authorizes the Parties to take action, including the imposition of import restrictions, to achieve this goal.

2. The Government of the United States and the Government of the Russian Federation (''Russia'') have mutually agreed that the conditions of Article XI of the 1990 Agreement have been met with respect to U.S. imports of certain steel products from Russia described in the Annex to this proclamation. Further, the Governments have concluded an Agreement Concerning Trade in Certain Steel Products from the Russian Federation (''the 1999 Agreement'') on remedial and preventative measures to address market conditions with respect to such products.

3. Section 125(c) of the Trade Act (19 U.S.C. 2135(c)) provides that whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to the Trade Act, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States.

4. In pursuance of its rights under the 1990 Agreement, the United States Government is withdrawing, suspending, or modifying its obligations under Article I of the 1990 Agreement with respect to the certain steel products described in the Annex to this proclamation by establishing import restrictions to address market conditions with respect to these products.

5. I have determined that, effective immediately and continuing so long as the 1999 Agreement remains in effect, it is appropriate to proclaim import restrictions as set forth in the Annex to this proclamation in order to exercise the rights and fulfill the obligations of the United States under the 1990 Agreement.

6. Section 125(f) of the Trade Act (19 U.S.C. 2135(f)) requires the President to provide an opportunity for interested parties to present views at a public hearing prior to taking action pursuant to section 125(b), (c), or (d) of the Trade Act (19 U.S.C. 2135(b), (c), or (d)). Interested parties presented their views at a hearing held on March 2, 1999.

7. Section 301 of title 3, United States Code, authorizes the President to delegate his authority to the head of any department or agency in the executive branch to perform without approval, ratification, or other action by the President any function that is vested in the President by law.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 125(c) of the Trade Act (19 U.S.C. 2135(c)) and section 301 of title 3, United States Code, do proclaim that:

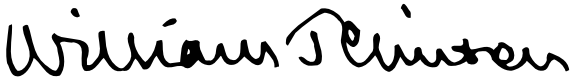
(1) Pursuant to U.S. rights under the 1990 Agreement and to implement and enforce the 1999 Agreement, imports of certain steel products from Russia are restricted as provided in the Annex to this proclamation.

(2) The Secretary of Commerce (''the Secretary'') is authorized to exercise my authority to administer the import restrictions on certain steel products consistent with the 1999 Agreement as proclaimed herein. The Secretary shall provide instructions and any necessary interpretive guidance to the Commissioner, U.S. Customs Service, concerning the import restrictions set forth in this proclamation.

(3) Such restrictions shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in the Annex and shall remain in effect during the period of the 1999 Agreement.

(4) All provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of July, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



Billing code 3195–01–P

Annex

IMPORT RESTRICTIONS

Section A: Export Limits

Effective July 12, 1999, the United States Customs Service shall deny entry to any imports of certain steel products from Russia, in excess of the export limits established below, or which otherwise fail to comply with the instructions issued by the Secretary of Commerce.

The export limits for the certain steel products from Russia to the United States for the calendar year 1999 are as follows:

Certain Steel Product	Quantity (in metric tons)
Cold-Rolled Flat-Rolled Carbon Quality Steel	340,000
Certain Cold-Rolled Stainless, Alloy and Other Carbon Steel Products	15,356
Semifinished Steel Products	950,000
Galvanized Sheet Products	55,000
Other Metallic Coated Flat-Rolled Products	0
Certain Tin Mill Products	0
Electrical Sheet Products	15,356
Heavy Structural Shapes	65,000
Rails	0
Hot-Rolled Bars (hot-rolled bars, reinforcing bar, and light shapes)	85,000
Cold-Finished Bars	36,000
Pipe and Tube Products	40,000
Wire Rod Products	0
Hot-Rolled Steel Stainless and Alloy Prods.	25,073
Pig Iron	575,000

Section B: Definitions

References to the provisions of the Harmonized Tariff Schedule of the United States, annotated ("HTSUS"), as of June 30, 1999.

(1) Certain Cold-Rolled Stainless, Alloy and Other Carbon Steel Products are defined as the following:

Certain stainless, alloy, and iron or non-alloy cold-rolled (cold-reduced) flat-rolled steel products, of rectangular shape, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10

times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape, and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e. products which have been "worked after rolling") -- for example, products which have been beveled or rounded at the edges.

Specifically excluded from this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy ("HSLA") steels, and motor lamination steels if in coils and of a width greater than 0.5 inches, regardless of thickness, and if less than 4.75 mm; if in straight lengths, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products to be excluded from the scope of this action, unless otherwise provided, regardless of definitions in the HTSUS, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are excluded from the scope of this action unless specifically included. The following products, by way of example, are included in the scope of this action:

I. SAE grades (formerly also called AISI grades) above 2300;

II. Ball bearing steels, as defined in the HTSUS;
III. Tool steels, as defined in the HTSUS;
IV. Silico-manganese steel, as defined in the HTSUS;
V. Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
VI. Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
VII. All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

The covered merchandise may be reported under the following HTSUS categories: 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7219.31.0010, 7219.31.0050, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.32.0045, 7219.32.0060, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.33.0045, 7219.33.0070, 7219.33.0080, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.34.0050, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.35.0050, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, 7220.90.0080, 7223.00.5000, 7225.11.0000, 7225.19.0000, 7225.99.0010, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8015, 7225.50.8085, 7225.90.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7005, 7226.92.7050, 7226.92.8005, 7226.92.8050, 7226.99.0000, 7229.90.1000.

Cold-rolled steel is equivalent to AISI categories 32 (cold-rolled sheet), 37 (cold-rolled strip), and 28 (black plate).

(2) Semifinished Steel Products are defined as the following:

Certain iron and steel products (whether or not stainless, other alloy, or non-alloy) in the following forms: ingots and other primary forms; semifinished products (whether or not of rectangular cross-section, and whether or not with a width measuring at least twice the thickness).

The merchandise is classified in the HTSUS at subheadings: 7206.10.0000, 7206.90.0000, 7207.11.0000, 7207.12.0010, 7207.12.0050, 7207.19.0030, 7207.19.0090, 7207.20.0025, 7207.20.0045, 7207.20.0075, 7207.20.0090, 7218.10.0000,

7218.91.0015, 7218.91.0030, 7218.91.0060, 7218.99.0015, 7218.99.0030, 7218.99.0045, 7218.99.0060, 7218.99.0090, 7224.10.0005, 7224.10.0045, 7224.10.0075, 7224.90.0005, 7224.90.0015, 7224.90.0025, 7224.90.0035, 7224.90.0045, 7224.90.0055, 7224.90.0065, and 7224.90.0075.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Semifinished steel is equivalent to AISI categories 1A (ingots and steel for castings) and 1B (blooms, billets, and slabs).

(3) Galvanized Sheet Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight flat-rolled lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic coating of zinc, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this action is classified in the HTSUS at subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.70.6030, 7210.70.6060, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7225.91.0000, 7225.92.0000, 7226.93.0000, and 7226.94.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this action is dispositive.

Galvanized Sheet Products reflect AISI categories 33A (hot-dipped galvanized sheet/strip) and 33B (electrolytic galvanized sheet/strip).

(4) Other Metallic Coated Flat Rolled Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic coating (other than zinc, tin, chromium oxides, or chromium and chromium oxides), or clad, with metals such as aluminum, lead, aluminum-zinc alloys, and nickel, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this action is classified in the HTSUS at subheadings: 7210.20.0000, 7210.61.0000, 7210.69.0000, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7225.99.0090, and 7226.99.0000.

Other Metallic Coated Flat-Rolled Products reflect AISI category 34 (metallic sheet and strip).

(5) Rails are defined as the following:

Rails, whether or not used, for railway and tramway construction and replacement. This includes load-bearing rails such as standard T, light, crane, and girder rails, and conductor or electrical rails.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7302.10.1010, 7302.10.1015, 7302.10.1025, 7302.10.1035, 7302.10.1045, 7302.10.1055, 7302.10.1065, 7302.10.1075, 7302.10.5020, 7302.10.5040, and 7302.10.5060.

Rails reflect AISI categories 7 (standard rails), 8 (other rails), and 41 (used rails).

(6) Certain Tin Mill Products are defined as the following:

Hot-rolled or cold-rolled flat-rolled products, either in coils (regardless of dimension) or in straight lengths (if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness), with a metallic plating of tin, chromium oxides, or chromium and chromium oxides, regardless of any additional coatings (e.g., paint, varnish, or plastics).

The merchandise subject to this action is classified in the HTSUS at subheadings: 7210.11.0000, 7210.12.0000, 7210.50.0000, and 7212.10.0000.

Certain Tin Mill Products reflect AISI categories 29 (tin plate) and 29A (tin-free sheet).

(7) Electrical Sheet Products are defined as the following:

Cold-rolled flat-rolled alloy steels, or that contain by weight at least 0.6 percent of silicon but not more than 6 percent of silicon and not more than 0.08 percent of carbon. They may also contain by weight not more than 1 percent of aluminum but no other element in a proportion that would give the steel the characteristics of another alloy steel.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7225.11.0000, 7225.19.0000, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, and 7226.19.9000. Electrical Sheet Products reflect AISI category 35 (electrical sheet).

(8) Heavy Structural Shapes are defined as the following:

Angles, shapes, and sections having a uniform cross section across their length, of alloy (other than tool steel as defined by the HTS) or non-alloy steel, whether hot-rolled, hot-formed, or hot-extruded, with a height of at least 80 mm. Included are shapes such as U, I, H, and T.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7216.31.0000, 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.40.0010, 7216.40.0050, 7216.50.0000, 7216.99.0000, 7222.40.3020, 7222.40.3040, 7228.70.3020, 7228.70.3040, and 7301.10.0000.

Heavy Structural Shapes reflect AISI categories 4 (structural heavy shapes) and 5 (steel piling).

(9) Hot-Rolled Bars are defined as the following:

Hot-rolled products, not in coils, whether of alloy (other than tool steel as defined by the HTSUS) or non-alloy steel, with a uniform solid cross section along their whole length, that do not meet the definition for flat-rolled products outlined in the HTSUS, in the following shapes:

a. circles, segments of circles, ovals, rectangles (including squares), triangles, or other convex polygons, which do not include indentations, ribs, grooves or other deformations produced during the rolling process ("hot-rolled bars");

b. circles, segments of circles, ovals, rectangles (including squares), triangles, or other convex polygons, which include indentations, ribs, grooves or other deformations produced during the rolling process ("reinforcing bars" or "rebars");

c. angles, shapes, and sections such as U, I, H, L, and T with a height of less than 80 mm ("light shapes").

The merchandise subject to this action is classified in the HTSUS at subheadings: 7213.10.0000, 7213.20.0000, 7213.99.0060, 7214.10.0000, 7214.20.0000, 7214.30.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0015, 7214.99.0030, 7214.99.0045, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.1000, 7216.10.0010, 7216.10.0050, 7216.21.0000,

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Hot-Rolled Bars reflect AISI categories 14 (hot-rolled bars), 15 (reinforcing bars), and 14A (light shapes).

(10) Cold Finished Bars are defined as the following:

Cold-finished (e.g. cold-rolled, cold-drawn, turned) products, not in coils, whether of alloy (other than tool steel as defined by the HTS) or non-alloy steel, with a uniform solid cross section along their whole length, that do not meet the definition for flat-rolled products outlined in the HTS, in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, or other convex polygons, regardless of whether they include indentations, ribs, grooves or other deformations produced during the rolling process (rebar).

The merchandise subject to this action is classified in the HTSUS at subheadings: 7215.10.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.3000, 7215.90.5000, 7222.20.0005, 7222.20.0045, 7222.20.0075, 7222.30.0000, 7228.20.5000, 7228.50.5005, 7228.50.5050, and 7228.60.8000.

Cold-Finished Bars reflect AISI category 16 (cold-finished bars).

(11) Pipe and Tube Products are defined as the following:

Hollow steel products of either circular or non-circular cross section, of alloy (e.g. stainless) or non-alloy steel, whether seamless or not seamless (e.g. welded, open seam), whether plain end or finished (e.g. upset, threaded, coupled), regardless of size.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7304, 7305, and 7306.

Pipe and Tube Products reflect AISI categories 18 (standard), 19 (oil country tubular goods), 20 (line pipe), 21A (mechanical tubing), 21B (pressure tubing), 21C&D (stainless pipe and tubing), 21E (pipe and tube, not classified), 22A (structural pipe and tubing), and 22B (structural pipe and tubing for piling).

(12) Wire Rod Products are defined as the following:

Hot-rolled bars and rods, whether of alloy (other than tool steel as defined by the HTSUS) or non-alloy steel, in irregularly wound

coils, which have a solid cross section, generally round in cross-sectional shape.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7221.00.0015, and 7221.00.0030.

Wire Rod Products reflect AISI category 3 (wire rod).

(13) Pig Iron is defined as the following:

Iron-carbon alloys that are not usefully malleable, containing more than 2% by weight of carbon.

The merchandise subject to this action is classified in the HTSUS at subheadings: 7201.10.0000, 7201.20.0000, 7201.50.3000, and 7201.50.6000.

Pig Iron is equivalent to AISI categories 65 (pig iron).

[FR Doc.99–19395]

Filed 7–26–99; 12:20 pm

Billing Code 3510–BP–C

Presidential Documents

Executive Order 13131 of July 22, 1999

Further Amendments to Executive Order 12757, Implementation of the Enterprise for the Americas Initiative

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agriculture Trade Development and Assistance Act of 1954 (''ATDA Act''), as amended, the Foreign Assistance Act of 1961 (FAA), as amended, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1996 (Public Law 104–07), and the Tropical Forest Conservation Act of 1998 (Public Law 105–14), it is hereby ordered as follows:

Section 1. *Amendment of Executive Order 12757.* Executive Order 12757, ''Implementation of the Enterprise for the Americas Initiative,'' as amended by Executive Orders 12823 and 13028, is further amended as follows:

(a) The Title is amended by adding at the end thereof ''and the Tropical Forest Conservation Act of 1998''.

(b) The Preamble is amended:

(1) by striking the comma (''.'') after Public Law 101–624, and inserting instead ''and''; and

(2) by inserting ''and Public Law 105–214'' after ''Public Law 102–549''.

(c) Section 1 is amended:

(1) by striking ''and'' after ''sections 703'', and inserting instead a comma (''.'');

(2) by inserting '', 805(b), 806(a), 807(a), 808(a)(1)(A), 808(a)(2), 812 and 813'' after ''704'';

(3) by inserting ''and the corresponding determinations required by section 805(b) of the FAA,'' after ''FAA'' the second time it appears; and

(4) by inserting ''sections 808(a)(1)(B) and (C), and 808(a)(4) of the FAA, and by'' after ''The functions vested in the President by'' the second time it appears.

(d) Section 3(b) is amended:

(1) by striking ''also'' after ''Enterprise for the Americas Board shall''; and

(2) by inserting at the end of the section ''The Enterprise for the Americas Board, as constituted pursuant to section 811 of the FAA, shall also advise the Secretary of State and the Administrator of the United States Agency for International Development on the Secretary—s negotiation of Tropical Forest Agreements.''

(e) Section 3(c) is amended:

(1) by striking ''section 708(c)'' after ''the ATDA Act and'', and inserting instead ''sections 708(c) and 809(c)'';

(2) by striking ''and'' after ''environmental framework agreements'' and inserting instead a comma (''.''); and

(3) by inserting ''and the Tropical Forest Agreements, respectively'' after ''Americas Framework Agreements''.

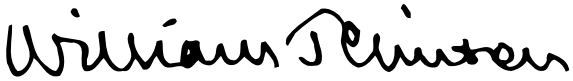
(f) Section 4(a) is amended by inserting at the end thereof ''The two additional U.S. Government members of the Enterprise for the Americas Board appointed pursuant to section 811(b)(1)(A) of the FAA shall be a representative of the International Forestry Division of the United States Forest Service and a representative of the Council on Environmental Quality.''

(g) Section 4(c)(1) is amended by striking ''section 708(c)(3)(C)'' and inserting instead ''sections 708(c)(3)(C) and 811(c)(3)''.

(h) Section 4(c)(2) is amended by striking ''Part IV'' and inserting instead ''Parts IV and V''.

(i) Section 4(d) is amended to read as follows: ''(d) The five private nongovernmental organization members of the Board appointed pursuant to section 610(b)(1)(B) of the ATDA Act and the two additional members appointed pursuant to section 811(b)(1)(B) of the FAA shall be appointed by the President.''

Section 2. Judicial Review. This order is intended only to improve the internal management of the Federal Government, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
July 22, 1999.

[FR Doc. 99–19396
Filed 7–26–99; 12:20pm]
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